LEGISLATIVE COUNCIL

Wednesday 6 March 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:17 and read prayers.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:18): I move:

That the sitting of the Legislative Council be not suspended during the conference on the bill.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:19): I bring up the 22nd report of the committee.

Report received.

SOUTH AUSTRALIAN BRAND

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:19): I table a copy of a ministerial statement made today by the Premier, Jay Weatherill, on the South Australian brand.

QUESTION TIME

SOUTH AUSTRALIAN BRAND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): My question is to the Minister for Agriculture, Food and Fisheries regarding the state logo. I note the—

The PRESIDENT: Are you seeking leave?

The Hon. D.W. RIDGWAY: I seek leave to make a very brief explanation.

Leave granted.

The Hon. D.W. RIDGWAY: I note the minister has just tabled a ministerial statement from the Premier in relation to the South Australian brand, so I would assume she will be across all the issues and able to answer the questions. My questions are:

1. Will the Department of Primary Industries be adopting the new state brand or logo—because there is no wording with it, we understand—across all its agencies?

2. Has the minister seen any costings regarding the logo's implementation and, if so, what is the budget for the adoption of this new logo?

3. Will the new logo be adopted immediately across primary industries, or will it be implemented progressively?

4. Can the minister guarantee that no government stationery, or other materials, will be binned simply because it doesn't include the new logo?

The Hon. G.E. Gago interjecting:

The PRESIDENT: The Hon. Mr Ridgway.

Members interjecting:

The Hon. D.W. RIDGWAY: She has started early, yes

The Hon. J.S.L. Dawkins interjecting:

The Hon. D.W. RIDGWAY: Yes, the Hon. John Dawkins interjects, 'Minister, open your ears.' Open your ears—although, if you did, the daylight would shine straight through. The fourth question is: can the minister guarantee that no government stationery or other materials will be binned simply because they do not include the new state logo?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:23): I thank the honourable member for his questions and articulating them in a way that they were comprehensible. You can always tell when he is in a defensive position because he hurls personal abuse at his opponents. You always know when he is on the defensive, you always know when he is in a weak position, you can always tell—

The PRESIDENT: We are three minutes into question time; let's get to the questions and answers.

The Hon. G.E. GAGO: —when the Hon. David Ridgway is in a position of weakness because he has to resort to personal public abuse. But, anyway, the answers are quite simple: in relation to his first question, yes; in relation to his second question on costs, the Premier will be advising further information on costs later on this evening; and, in terms of the adoption, it will be adopted as soon as possible.

SOUTH AUSTRALIAN BRAND

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I have a supplementary question. The Premier will be advising on costs—can we get an ambulance? I think the minister is having a fit or something; I am not sure.

The PRESIDENT: Do you have a supplementary?

The Hon. D.W. RIDGWAY: Mr President, the minister is having a fit.

The PRESIDENT: The Hon. Mr Ridgway, what is your supplementary question?

The Hon. T.J. Stephens: Get across and give her mouth-to-mouth, mate.

The Hon. D.W. RIDGWAY: No, I won't. Hang on!

The Hon. T.J. Stephens interjecting:

The Hon. D.W. RIDGWAY: No, that's the Black Rod's job, not mine. The question was—

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: I give up!

The PRESIDENT: You give up? Alright.

The Hon. D.W. RIDGWAY: Have you been drinking today?

The PRESIDENT: The Hon. Ms Lensink.

The Hon. D.W. RIDGWAY: No, no.

The PRESIDENT: You just said that you had given up. The Hon. Mr Ridgway has a supplementary question.

Members interjecting:

The PRESIDENT: Order! Let him get it out.

The Hon. D.W. RIDGWAY: In relation to costings, is the minister saying that she has no idea what it will cost Primary Industries to implement the new logo?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:25): Not only does he have trouble speaking, he also has trouble hearing. I said that the Premier will be making an announcement about further details about costings later on this evening.

The Hon. D.W. Ridgway: So, you don't know?

The Hon. G.E. GAGO: That does not assume that at all. What it says is that the Premier will be announcing details around those costing issues later on this evening. As I said, the Hon. David Ridgway needs to work on improving his articulation as well as cleaning out his ears.

INNES NATIONAL PARK

The Hon. J.M.A. LENSINK (14:26): I seek leave to make an explanation before asking the Minister for Sustainability, Environment and Conservation questions on the subject of Innes National Park.

Leave granted.

The Hon. J.M.A. LENSINK: The Innes National Park is one of the jewels in the crown of our coastal parks. It was rated in a regional tourism survey in 2003 as the most visited attraction on Yorke Peninsula, with some 140,000 visitors per annum. However, the mismanagement of the park by the environment department has caused a diminishing number of visitors to the park and, more recently, the closure of Rhino's Tavern and Innes Park Trading Post, which has been leased by the department.

For the benefit of members, Rhino's has provided guests with access to fuel, camping goods, restaurant meals and a social setting. However, due to actions by the department, including removal of rubbish bins from inside the park, removal of shower and toilet blocks and other amenities, increase in camping fees, the introduction of a ticket machine that does not accept notes and the department demanding payment on an outstanding lease after it had neglected to issue regular invoices for approximately a year, a large amount is owing.

The community has proposed purchasing Rhino's as a not-for-profit business—it has submitted an application to the department—and they understood that they had responded to all the queries the department requested. However, the department has declined the application without informing the applicants, and it has now closed. My questions for the minister are:

1. What communications have taken place with the applicants since?

2. How are these actions consistent with People and Parks, which was a budget measure first outlined in 2010, which flagged that there would be some $6 million raised from our parks, including Innes National Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:28): I thank the honourable member for her most important questions about Innes National Park and one of the businesses that was functioning on the park for a period of time. The honourable member makes the suggestion that Rhino's Tavern has closed down because of actions of the department. I reject that out of hand. To suggest that it is an outrageous presumption on the behalf of the department to demand payment on an outstanding bill for a lease is just crazy. Why would we not demand payment? If we did not ask for payment on a lease, you would be the first person in here asking why we did not. It is an obvious business decision that the tavern did not reinvest in its business, did not refurbish the premises. That is a reflection on their approach to doing a business in this area.

I am advised, however, that actions taken by the department in respect of bins and, indeed, showers were to avert vandalism and avert illegal dumping of rubbish. That has been my advice. Their showers were being misused by members by the public, and they were moved, as I understand it, to another part of the park where more family-orientated visitation occurs.

The Hon. J.S.L. Dawkins: Have you been down there, Ian?

The Hon. I.K. HUNTER: Not for a while, John.

RIVER MURRAY ECO ACTION

The Hon. T.J. STEPHENS (14:29): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question relating to the River Murray ECO Action group's campaign to implement 28 no-wash zones along the Murray.

Leave granted.

The Hon. T.J. STEPHENS: On 7 February 2013, in this house the minister was asked a number of questions regarding the River Murray ECO Action group's campaign to which he responded with advice on the Riverbank Collapse Hazard Program, showing a clear misunderstanding of the issue. The River Murray ECO Action group campaign is to implement no-wash zones which would restrict boat use at 28 sites along the River Murray under a government-backed plan to reduce riverbank erosion.

Since this issue was first reported on 9 January 2013, the River Murray ECO Action group's proposals have received considerable public backlash. Considering the minister's response in this house earlier this year, the government has done little to allay the fears of the public on this matter. My questions are:

1. Will the minister explain how the 28 sites were chosen?

2. Will the minister explain what funding assistance the government has provided the River Murray ECO Action group or associated groups, such as BIASA or KESAB, for the campaign's River Murray no-wash zones program?

3. Will the minister indicate what role the government plays in the River Murray ECO Action group and its campaign?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:31): I thank the honourable member for his most important question, although I don't understand why he did not understand my explanation at an earlier stage, so let me go to it again.

Riverbank collapse was declared a state hazard under the State Emergency Management Plan in September 2009, following a series of significant and hazardous landslides along the banks of the River Murray downstream of Lock 1. The Department of Environment, Water and Natural Resources is the riverbank erosion and collapse hazard leader under the South Australian Emergency Management Plan.

I am advised that the River Murray ECO Action campaign was created in response to community concerns regarding riverbank erosion and the loss of amenity. I am advised that the River Murray ECO Action campaign is the name of a joint initiative of the Boating Industry of South Australia and KESAB. As far as I am aware, there is no group called the River Murray ECO Action group; rather, this is a community campaign led by the boating industry and KESAB. The River Murray ECO Action campaign aims to:

- develop actions to better manage the impact of wash from vessels on banks, shorelines, users and the surrounding environment;
- apply a consistent approach to minimising the impacts of wash, whilst recognising local circumstances, and ensure that any strategy effectively addresses the needs of stakeholders;
- minimise environmental harm and improve the sustainability of riverbanks, through the reduction of bank erosion and the prevention of collapses;
- reduce the disturbance caused by high-energy activities to other users of the River Murray; and
- reduce pollution by promoting simple behaviour changes to the wider community.

I would have thought those aims would be welcomed by everybody in this place. The initiative is still, as I understand it, in its infancy, but it has so far highlighted the risk that vessel wash has on the riverbank environment and identified a number of priority areas ahead of a community consultation campaign.

The consultation process was short-circuited by a social media campaign against the program, I understand. There is no intention, on my part at least, to enforce or regulate no-wash zones; rather, the focus is on education and motivation for all users to care for and share the river—to share their river—in a sensible and sustainable manner.

The no-wash zone program currently includes, as I understand it, three trial sites at Griffen's Marina near Blanchetown, Greenings Landing near Mannum, and Riverglen Marina, close to Murray Bridge. At these sites, signage has been erected to highlight the no-wash zones and to encourage boating and skiing enthusiasts to be acutely mindful of the impact of wash on the riverbank and other users.

My department, and specifically the Environment Protection Authority, welcomes any program that provides environmental benefits to help minimise structural damage to the riverbanks and helps protect the sensitive and fragile areas of the River Murray. The EPA has long held environment protection concerns with the increasing number of vessel users, owners of shacks, boat ramps, marinas and other permanent residents seeking approval to dump sand into the River

Murray in a bid to re-establish the riverbank in front of their property, which they claim has eroded over time, caused, in large part, by vessel wake wash.

The EPA advises that some sections of the riverbank may not have shown evidence of erosion in the past but, due to the recent drought conditions, are at increased risk of destabilisation.

The government understands that managing vessel wash requires consideration of social, operational, safety and environmental factors, including the conflicting views and priorities of diverse stakeholders, and is satisfied that the Eco Action no-wash zone project reflects these diverse views. This project is all about raising public awareness, I am told, of the environmental damage that can be caused through recreational activities and provides some guidance on the role we can all play in avoiding that damage.

RIVER MURRAY ECO ACTION

The Hon. T.J. STEPHENS (14:35): I have a supplementary question. What scientific processes and data were used in establishing the no-wash zone sites, and what consideration has the government given to postponing the implementation of these no-wash zones to conduct a fair and equitable public consultation process?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35): I thank the honourable member for his supplementary questions. If he wants, I will ask the Boating Industry of South Australia and KESAB for answers to the questions he has just asked.

SOUTH AUSTRALIAN RURAL WOMEN'S AWARD

The Hon. R.P. WORTLEY (14:35): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the South Australian Rural Women's Award.

Leave granted.

The Hon. R.P. WORTLEY: Rural women who have shown a capacity for leadership or leadership potential are recognised and supported by this award. It provides a financial and professional platform on which women can further their contributions in their chosen field and out in the community, whilst also encouraging leadership diversity in rural communities and our primary industries. Can the minister tell the chamber about this award?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:36): I thank the honourable member for his most important question. I had the pleasure of attending the 16th Rural Industries Research and Development Corporation's (RIRDC) Rural Women's Award for South Australia today, and I was pleased to see there the Leader of the Opposition, the Hon. David Ridgway. It was a well attended forum and, as always, a very enjoyable one, which reflects the importance of the event.

This is a very important award that supports women with leadership potential who have the desire and commitment make a greater contribution to their industry and their community. The winner receives a $10,000 bursary provided by the Rural Industries Research and Development Corporation to implement a vision for their industry and support the winner's professional development through formal business management training, the establishment of business plans or designing things like pilot programs.

Both finalists will also receive a one week residential Australian Institute of Company Director's course to enhance their leadership capabilities. The course teaches the critical skills required around the duties and roles of board membership, along with knowledge in risk management, strategy development, and organisational and financial performance. The award is jointly sponsored by PIRSA, Westpac, ABC radio and Fairfax Agricultural Media. It is open to all women, regardless of formal qualifications, who are involved in natural resource management and primary industries.

This year's finalists were selected from a very strong field of applicants. Anna Hooper is a winemaker at Cape Jaffa Wines in the Mount Benson wine region near Robe. Very dedicated to science and the environment, she has been instrumental in developing one of the first certified biodynamic wine ranges in South Australia. Anna's vision is to see the South Australian wine industry recognised as a world leader in environmental performance, made up of environmentally savvy businesses valuing and investing in long-term sustainability and deriving associated benefits

from their efforts. I congratulate Anna on winning the event this year. She is certainly well qualified as a very dynamic woman.

The runner-up was Dr Mardi Longbottom, who grew up on a farm in Padthaway. She is a grape grower, viticulturist and viticultural consultant with 21 years' experience in vineyard management, technical viticulture research, education and extension. Mardi has enjoyed working with women across all areas of the grape and wine sector and is passionate about sharing her knowledge and experience to stimulate and encourage the next generation of female viticulturists. Mardi's goal is to showcase positive female role models who are actively engaged in a diverse range of careers in the viticulture industry and promote viticulture as an opportunity for varied and exciting career pathways to secondary and tertiary students.

As I said, I congratulate Anna on winning the event and hope that she will use her award bursary to explore how Australian wine companies can become global performers in environmental performance and investigate areas for improvement. I am sure all members of the chamber will join me in congratulating Anna on her goal and on winning the 2013 Rural Women's Award.

I acknowledge and thank PIRSA, for all their hard work in helping to organise the event, and also Roseanne Healy, the director from RIRDC. These events always require a lot of time and effort behind the scenes. The panel they established to peruse the applicants went through quite a rigorous process, and I appreciate all those people who have volunteered their time to assist in this important event.

WASTE COLLECTION

The Hon. D.G.E. HOOD (14:41): My question is directed to the Minister for Sustainability, Environment and Conservation. Has the government been approached by any representative of any metropolitan council regarding a proposal to collect waste—that is, excluding recyclables and green waste—on a fortnightly basis rather than a weekly basis? If such approaches have been made to the minister, when were they made and what is the government's position on this issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42): All metropolitan councils are, or have committed to, providing high-performing kerbside collections of waste. In order to achieve the target of 70 per cent diversion of municipal waste from landfill identified in South Australia's Waste Strategy 2011-2015, it is necessary to get food waste out of the waste bin and into the organics bin, where it will be processed into compost. Current high-performing kerbside collection systems, including fortnightly collection of green organics, achieve an average diversion rate of approximately 55 per cent from landfill. By including food waste into the green organics bin, diversion rates up to 70 per cent are achievable.

The South Australian government, through Zero Waste SA, has committed funding to help interested councils implement sustainable and efficient food organics recycling systems through the Kerbside Performance Plus Incentives program. To date, nearly $1 million has been awarded to eight councils. On 21 February 2013, I announced that up to $3 million was being made available over the next two years to support councils with household food waste recycling programs.

I understand that, in 2008-09, Zero Waste SA undertook a food waste pilot, involving 17,000 households and 10 councils across the state. Its purpose was to identify factors that contribute to the greatest diversion of food waste from landfill and incorporated a cross-section of South Australian home locations and household types.

I am advised that, during this pilot, fortnightly residual waste collections were trialled in nearly 1,500 households in Adelaide's eastern suburbs in 2009 and this, I am told, faced some resistance from ratepayers. No council was required to pilot fortnightly residual waste collection and Zero Waste did not fund the fortnightly residual waste component of the pilots. That is my advice. The primary aim was always to trial food waste collection.

However, concerns were raised by some ratepayers—and I must add that the member for Hartley in the other place (Grace Portolesi) was at the forefront of this campaign, as was, I think, the Hon. Dennis Hood. The Hon. John Darley I think was also very active in this area. Due to the actions of the local community members and the honourable members mentioned, the decision was ventilated at the highest level.

Both the public and environmental health general regulations and the Environment Protection (Waste to Resources) Policy now require, after that agitation, metropolitan councils to

provide residential premises with a weekly kerbside waste and recycling collection service. In answering the question the honourable member asked me and as far as I am aware, the government has not been approached by local councils to implement a fortnightly collection. To date, I have no intention of reviewing those laws. I would suggest to local government that if they are serious about this as a step in waste recycling they should first go out and consult and convince their communities, their ratepayers, that this is something they should be lobbying for. I am in possession of a letter written by Wendy Campana of the LGA, which apparently was submitted—

The Hon. J.S.L. Dawkins: Do you know what role she holds?

The Hon. I.K. HUNTER: I think she is the CEO, but I stand to be corrected on that. It is a letter she submitted to *The Advertiser*. I do not know whether it has been published yet, but I will quote from a few parts:

> *The Advertiser* ran a front page story on Saturday (2/3/13) headed (on its Adelaidenow website) 'Adelaide suburban Councils push for fortnightly rubbish collection'.
>
> This headline wrongly creates the impression that metropolitan Councils are currently seeking to implement fortnightly collections in opposition to a State regulation requiring weekly landfill collections.
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> This is simply not the case. The LGA is not aware of one Council considering this issue.
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> In response to questions submitted by [*The Advertiser*] reporter...the LGA advised her verbally on two occasions and via email that the issue was not currently on our agenda.
>
> The email read in part: 'The LGA has not tested the issue with metropolitan Councils since the regulation was made (2007) and Councils have not raised the issue with the LGA as a key issue since then.'

I am not aware of any attempt to raise the issue with me and I await with eagerness any brave council that wants to take that up. My position is this: if councils want to agitate for this change they should first convince their ratepayers.

COORONG AND LOWER LAKES

The Hon. G.A. KANDELAARS (14:46): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the house about the government's effort to restore the Coorong to health?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:47): I thank the honourable member for his most important question and for his ongoing interest in these matters. I am pleased to advise that after years of inadequate flows the work to restore the Coorong to health is progressing at full steam. What needs to be understood, however, is that getting the Coorong back into shape is not as simple as restoring flows. Whilst increased environmental flows are crucial, salinity has done a lot of damage to flora and fauna as well and this cannot be fixed by restoring flows alone. As a result, a number of complementary projects have been run with regard to supporting aquatic life and vegetation across the river, its flood plains, the Lower Lakes and the Coorong, and I am advised that the former minister for the environment has spoken about these issues in the other place.

Today, I am pleased to speak about a new project to restore the sea grass *Ruppia tuberosa* in the South Lagoon of the Coorong which has recently commenced. *Ruppia tuberosa* was once wide spread across the Coorong, providing an important food source for migratory water birds, including ducks. It also provides an important habitat for invertebrates and fish. As a result of low flows and salinity, the proliferation of *Ruppia tuberosa* decreased, with the biggest losses occurring in the South Lagoon. *Ruppia* has been described as a keystone species for the Coorong, so getting it back to recent historical levels is of some importance.

As a result, the Department of Environment, Water and Natural Resources Coorong, Lower Lakes and Murray Mouth program has commenced the *Ruppia* Translocation Project aimed at restoring meadows of seagrass. The project involves taking dry sediment containing *Ruppia* seeds from Lake Cantara (located a short distance away within the Coorong National Park) and sowing that sediment into mudflats on the eastern side of the Coorong's South Lagoon. It is anticipated that this will help increase *Ruppia* populations in the northern part of the South Lagoon during winter when migratory birds come to visit and feed and it should provide a habitat for fish and invertebrates.

Conducting the project now will take best advantage of our drier season, a critical stage in the growth and proliferation of *Ruppia*. The project is being conducted in conjunction with Associate Professor David Paton from the University of Adelaide. Associate Professor Paton has been involved in extensive monitoring and research work on *Ruppia* in the Coorong and he will be working with rangers from my department, as well as the traditional owners the Ngarrindjeri people. It is pleasing to see so many people coming together to work on these programs. It is these sorts of partnerships that will be vital to ensuring that the ecology of the Coorong improves but also remains for many years to come.

WORKCOVER

The Hon. A. BRESSINGTON (14:49): I seek leave to make a brief explanation before asking the minister representing the Premier a question on WorkCover.

Leave granted.

The Hon. A. BRESSINGTON: Alex Mericka, with whom this chamber would be very familiar by now, fronted the WorkCover tribunal in 2011 and Judge Olsson found in his favour. WorkCover has since appealed that decision. Mr Mericka was advised to file—and has subsequently filed—charges, which were accepted by the Legal Practitioners Disciplinary Tribunal, which advised him to serve the Premier personally. He attempted to do this today; however, Mr Blewett, the chief of staff at the Premier's office, would not allow this to occur. My questions are:

1. Has Mr Blewett in fact perverted the course of justice?

2. Will the Premier accept the charges sheet from me if he will not allow Mr Mericka to serve the documents personally?

3. If not, when will he agree to meet with Mr Mericka to be served?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:51): I thank the honourable member for her important questions and will refer them to the appropriate minister in another place and bring back a response.

COUNTRY HEALTH

The Hon. R.I. LUCAS (14:51): I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question on the subject of country health.

Leave granted.

The Hon. R.I. LUCAS: Last week a major public meeting was held in Penola in relation to the decision by the sole practising GP to resign. *The Advertiser* on the weekend carried a story with the headline, 'How Penola GP Dr Francois Pretorius was pushed to the edge'. I quote from the article:

> A rural doctor forced to work on call for 24 hours a day, seven days a week for 13 months has quit—and attacked the Health Department for providing unworkable conditions. Doctors' groups have used the case to highlight the extreme demands placed on GPs to serve the 450,000 people living in rural areas across South Australia.
>
> The sole GP in the South-East town of Penola, Dr Francois Pretorius, said that the final straw came when he was reprimanded by management for taking his children to Beachport, under an hour's drive away, one afternoon while being available by phone. He said: 'The expectation was that I be on site or within 20 minutes of the hospital at all times. There were (times) when I worked three nights in a row through the night and every morning I came back to the office.'

Then, finally:

> 'The bureaucracy involved with Country Health SA is absolutely ridiculous,' the fed-up GP said.

The article goes on to quote the AMA state president and others from the Rural Doctors Association supporting the position of country GPs. My questions to the minister are:

1. What were and are the travel time restrictions placed on a sole GP operating at the Penola hospital?

2. What action has Country Health SA taken to replace the GP at Penola?

3. When did Country Health SA commence working on the Road to Rural General Practice pathway and when it is expected to be completed and implemented?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:53): I thank the honourable member for his important questions. I undertake to take those questions to the Minister for Health and Ageing in the other place and seek a response on his behalf.

WINE INDUSTRY

The Hon. CARMEL ZOLLO (14:53): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the wine industry in South Australia.

Leave granted.

The Hon. CARMEL ZOLLO: As members would be aware, food and wine are key to South Australia's prosperity, and the food and wine sectors contribute $16 billion in revenue annually to the local economy. Can the minister tell the chamber about a recent development for South Australia relating to wine?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:54): I thank the honourable member for her important question. As members would know, the Jay Weatherill government has identified premium food and wine as one of our key priorities. Not only do we produce excellent offerings from our clean environment but also food and wine is an integral part of our identity in our state. As the Hon. Carmel Zollo points out, it is a very important economic driver, contributing about $16 billion in revenue each year, and employs about 150,000 people across the industry, so it is very important to our future.

As I know members are aware, many of Australia's great iconic wines come from South Australia and our many wonderful regions, for which we are highly renowned, like the Barossa, Clare, Adelaide Hills, Coonawarra, McLaren Vale—the list goes on. I am absolutely delighted to advise the chamber that Wine Australia, the national agency responsible for providing strategic support to the wine industry, has announced that Adelaide will host the global Australian wine forum from 15 to 18 September this year.

It is an inaugural forum, known as Savour, and will see hundreds of national and international delegates here in Adelaide. We anticipate possibly 800 delegates, including retailers, sommeliers, distributors, top Australian winemakers, journalists and other captains of the industry and wine and lifestyle media. Although it is a national conference, it is encouraging a number of international visitors. We certainly want it to reflect the entirety of what Australia has to offer in terms of food and wine and, as the host, we will have a unique opportunity to show these very influential delegates our very best food and wine against the backdrop of our unique tourism offerings.

The forum will also include a dinner showcasing our wonderful South Australian food and wine to delegates. The event has been won for the state through two of our key agencies—the South Australian Tourism Commission and Primary Industries and Regions South Australia—working together. They will obviously continue to work together through the coming months with Wine Australia and Tourism Australia to ensure that the state makes the most of this really valuable opportunity.

Savour will generate long-term benefits for the state by showcasing our premium food and wine, our lifestyle and our wine region tourism destinations. The bid to host the forum was a direct strategy supporting the state government's priority of premium food and wine from our clean environment. The vision of the government is to see global recognition of South Australia for its premium food and wine. Having Adelaide host this significant conference is a real feather in our cap, I have to say, and also a wonderful opportunity for us to spread the word about our quality South Australian produce.

Although we are of course already well known for our food and wine, it is my hope that this forum will bring even greater national and international recognition. It certainly fits very well, recognising that South Australia is indeed the wine capital of Australia, and of course that vision fits very well with the goals of our global Australian wine forum to experience the new era of quality Australian wine, in particular Adelaide, where important research work is carried out for the

Australian wine industry. Obviously, the state government looks forward to hosting this very important inaugural event in Adelaide.

WARRAWONG SANCTUARY

The Hon. T.A. FRANKS (14:59): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation on the topic of the Warrawong wildlife sanctuary.

Leave granted.

The Hon. T.A. FRANKS: Sadly, this week the Warrawong wildlife sanctuary in Mylor in the Adelaide Hills officially closed. In addition to the hundreds of species of birds and numerous species of native animals that live in the sanctuary, Warrawong is also the only place on mainland South Australia where the platypus reproduces in the wild. Last month, Zoos South Australia announced that animals currently residing at Warrawong which Zoos SA introduced to the property or which require special care would be relocated to Adelaide or Monarto zoos. This includes all kangaroos, wallabies, bettongs and quokkas, as well as all present—

Members interjecting:

The Hon. T.A. FRANKS: —yes, I'd like to hear myself as well, actually—as well as all presentation animals, including caged birds, insects and reptiles. However, as the minister is probably aware, the important platypus population will remain at Warrawong Sanctuary. My questions to the minister are:

1. Given that most animals are to be relocated to Adelaide and Monarto zoos, what safeguards have been put in place to ensure that Warrawong's platypus population will continue to thrive free from predation from feral cats and other pests?

2. What discussions has the government had with the Ngarrindjeri Regional Authority regarding the safeguarding of Warrawong Sanctuary's platypus population and the future of Warrawong Sanctuary itself?

3. Given Warrawong's important educational programs will no longer be available to many of the 100,000-plus yearly visitors who have previously attended, what alternative programs are being developed to educate people about Australia's native wildlife?

4. Is the government considering working with the Ngarrindjeri Regional Authority, so that visitors can continue to see a platypus population in the wild in our state?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:01): I thank the honourable member for her most important question and for her ongoing interest in these matters. As most members will be aware by now, the Zoological Society of South Australia's board has announced its decision to close the Warrawong wildlife sanctuary. I understand the society has been reviewing all of its operations, in line with its business plan, in order to identify savings and efficiency measures.

As part of this, it has determined that the Warrawong Sanctuary is not viable for a whole host of reasons which, I think, have been well ventilated in the media. Accordingly, the society has closed its operations at Warrawong as of 1 March 2013, I am advised. I understand that the Warrawong animals were moved to either Monarto or the Adelaide Zoo and that most staff transferred to one of these sites also, with a few electing to take separation packages. This is entirely a business decision for the zoo, as unfortunate as it may be.

While the society operated the business at Warrawong, the site is owned by the Ngarrindjeri Ruwe Contracting Pty Ltd group. It is now a matter for the Ngarrindjeri people to consider the future options for that site.

In relation to the platypus population, I recall seeing some advice that the platypus didn't require human intervention—they were getting along just fine without much help from anybody. I look forward to the outcome that that property will be kept in a way that the platypus will be protected from predation by foxes and other predators.

The PRESIDENT: The Hon. Ms Lensink has a supplementary.

WARRAWONG SANCTUARY

The Hon. J.M.A. LENSINK (15:02): Can the minister advise whether there is any means to ensure that the property is also kept free of weeds and that the fire hazards are minimised?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:02): As I advised the chamber, the site is owned privately by Ngarrindjeri Ruwe Contracting Pty Ltd. Those concerns will be issues of the private owner. Of course, where private owners contact my apartment for assistance with regards to pest management or fire management plans, we will help as we always would do.

MARINE PARKS

The Hon. J.S.L. DAWKINS (15:03): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the marine park sanctuary zones advertising campaign.

Leave granted.

The Hon. J.S.L. DAWKINS: The state government's marine park sanctuary no-take zones advertising campaign package was launched at the start of February with a total cost of $1.6 million, including $1.2 million allocated to television advertising. The minister stated at the time that the advertisements alerting South Australians that fishing will no longer be allowed within sanctuary zones from October 2014 would also be featured in cinemas, print media, on billboards, bus shelters and online.

Regional media outlets, particularly country newspapers, have covered the marine parks issue extensively, as it has a direct impact on communities in coastal towns dependent on seasonal tourism and commercial fishing. However, I understand, from the shadow minister for regional development (the member for Goyder) that many commercial regional media outlets have been excluded from the advertising program. My questions are:

1. What proportion of the $1.2 million TV advertising program has been allocated to regional TV networks in South Australia?

2. What proportion of the remaining $400,000 allocated to cinemas, print media, billboards, bus shelters and online has been designated to country newspapers?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:05): I thank the honourable member for his most important questions. I will take the opportunity to refer to my previous comments, which I think are in *Hansard*, of Tuesday 19 February, where you will find my previous response to a similar question, in part, about the marines park education campaign. The information contained a response, but I am prepared to summarise some of it again for honourable members who perhaps were not paying attention at the time.

The Hon. G.E. Gago: I want to hear it all.

The Hon. I.K. HUNTER: Indeed.

The Hon. G.E. Gago: It is a great campaign.

The Hon. I.K. HUNTER: It's a fantastic campaign.

The Hon. D.W. Ridgway: Clearly, the minister wasn't paying attention; she wants to hear it all, Mr President. What an insult to her ministerial colleague that she wasn't listening.

The PRESIDENT: And you're insulting the Legislative Council, the Hon. Mr Ridgway, with your interjection.

The Hon. D.W. Ridgway: She was thumbing her nose at you.

The PRESIDENT: Order!

The Hon. J.M.A. Lensink: People don't like marine parks, so they must be re-educated.

The Hon. I.K. HUNTER: Well, in fact, that's not the case; people love marine parks.

The Hon. R.L. Brokenshire interjecting:

The Hon. I.K. HUNTER: The Hon. Mr Brokenshire doesn't really get out with many people, is all I can say to him. He should move on from his cows and talk to some real people about this issue. I am sure that Daisy and Maisy have a different view about marine parks, but people out in South Australia value their marine parks. The establishment of the marine parks program is one of the most significant and important conservation programs ever undertaken in our state. Marine parks will provide for protection for some of South Australia's most iconic and ecologically important areas. The establishment of this network—

The Hon. J.S.L. Dawkins: I'm waiting to hear a reference about regional media.

The Hon. I.K. HUNTER: I'll get there, Mr Dawkins. I'll get there.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Perhaps if the Hon. Mr Ridgway stopped interjecting, you might hear it.

The Hon. D.W. Ridgway: Forty-five minutes of silence; that's a record for me.

The PRESIDENT: Well, go back to sleep. The honourable minister, you have 15 minutes to educate us.

The Hon. I.K. HUNTER: Thank you, Mr President; I won't take quite all of that time.

The PRESIDENT: That's a pity.

The Hon. I.K. HUNTER: Well, I could, but I won't.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: I have had two minutes because the Hon. Mr Dawkins can't control his leader. What sort of a whip is that, sir? When you were whip, Mr President, we all trembled in fear at your instructions.

The PRESIDENT: Order! You are misleading the house! The honourable minister.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: Steady! Marine parks will provide protection for some of the state's most iconic and ecologically important areas. The establishment of this network of 19 marine parks has been more than 10 years in the making, and it is a major investment in the long-term future of our environment and the prosperity of our state.

The aim of the Enjoy Life in our Marine Parks education campaign is to raise awareness of our marine parks in the South Australian community. As the honourable member said in his question, this issue has been extensively covered in the media in our country areas and, unfortunately, some of that media has been erroneous, repeating claims by people who didn't really know the final details of the marine parks. It is vitally important that we put the facts before the people of this state.

Over 35,000 people have been involved in consultations over the past few years, and there are many South Australians for whom marine parks may be a new concept. That is why we need this public education campaign. That is why we need it now—to make the broader South Australian community aware of the new marine parks, why they are so important to us and how they can use and enjoy them.

As I outlined previously, the marine parks education program includes television, print, digital and other outdoor advertising, as well as a range of educational resources, online information and community engagement activities, such as shopping centres, information days and regional roadshows.

The education program will help people understand that our marine parks are zoned for multiple uses, meaning that people can still use them for their favourite pastimes and activities, whether it be swimming, diving, boating or fishing. The education campaign will also make people aware that, in the sanctuary areas in the marine parks, which take up about 6 per cent of state waters, fishing won't be permitted from October 2014. However, they can still fish from all jetties and boat ramps and popular beaches, even if they are next to sanctuary areas.

We are confident that people will do the right thing once they know where the sanctuary areas are and where they can fish. As I have detailed in this place on both 5 and 19 February,

there are a range of resources available to show people where they can fish: maps, brochures, My Parx smartphone app, which can be downloaded, I am told, from the marine parks website. Unfortunately, I don't have a smartphone, so I can't do that, but I am sure that other members in this chamber have already done it.

In addition, a recreational fishing magazine has been developed with RecFish SA and the *Sunday Mail* to help people get to know some of the best places to fish. This will be a campaign that will be well received by South Australians and we do need to deal with the misinformation that has been put out there by some people and spread about, particularly in some of the regions.

As I said, South Australia has a right to know that parks are theirs to visit and to enjoy. This is a valuable educational program aimed at informing our community well in advance of changes that are occurring out there on our waters. In regard to the detailed questions about where that advertising buy is, I will take advice from my department and see if I cannot bring back a response for the honourable member.

The PRESIDENT: A supplementary question, the Hon. Mr Dawkins.

MARINE PARKS

The Hon. J.S.L. DAWKINS (15:10): In coming back to me, will the minister indicate exactly how much has been spent on this advertising campaign in country newspapers?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I think I did give that indication. I do not remember the figure the honourable member used in his question about how much the campaign is costing, but I sense that he was wrong. My advice is that the approximate total cost of the education campaign is $1.18 million.

RIVERINE RECOVERY PROJECT

The Hon. K.J. MAHER (15:11): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the house about the Riverine Recovery Project and, in particular, recent work going on at the Pike flood plain?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:11): I thank the honourable member for his incredibly perspicacious question and I do happen to be prepared for this question with a briefing just recently, so I can give him some response.

Members interjecting:

The Hon. I.K. HUNTER: It is, but I am immersing myself in briefings thoroughly day by day. The Riverine Recovery Project is a component of the Murray Futures program, a program that was announced jointly by the federal water and environment minister, the Hon. Tony Burke, and my predecessor, the Hon. Paul Caica.

Funding for a variety of projects under the Murray Futures banner included $78 million from the commonwealth and $8.7 million from the Jay Weatherill government announced in June 2011, and an early works injection of an additional $9.2 million from the commonwealth and state governments in March this year. I am advised that funding now totals about $100 million and under this banner, there are a number of projects that I am sure many in this chamber would find of incredible interest, if only they were to listen.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: Mine is a flat white, thanks David. But perhaps one of the most exciting is the major works occurring on three important flood plains including Pike's flood plain. Pike's flood plain is one of South Australia's oldest irrigation areas, first settled in the late 19th century. Widespread irrigation at Pike's occurred in the 1960s, I am advised, but even before then, landholders and irrigators were proactive in the management of salinity and environmental degradation.

Historically, the people of that region have always been interested in the health of the river and how their small part of it can be managed sustainably. I am pleased to advise that their foresight and their commitment to the region has got us to where we are now. Following the recent inundation in the area, most of Pike's flood plain is now accessible to vehicles, meaning important works can now commence. These works involve the creation of new infrastructure across the flood

plain that will manage water in a superior way. This will include upgrading the inlet regulators, improving bridge structures and reworking embankments.

Research has shown us that the existing embankments prevent water exchange, provide no fish passage and cannot be manipulated and managed to meet changing environmental outcomes. Therefore, the proposed new structures at banks—and these are very ingeniously named—at banks B, C, D, F, F1, G and H—

The Hon. G.E. Gago: A lot of thought went into that.

The Hon. I.K. HUNTER: —a lot of thought; maybe we will have a competition to rename them—and further works at Snake Creek Stock Crossing and Coombs Bridge—much more evocative names—will cater for native fish movement and deliver much more flexible management of water into and out of the flood plain. Most importantly, it will do so under a range of differing flow conditions.

This work is also accompanied by a three-year monitoring program by scientists to better understand fish species and habitat diversity throughout the flood plain. A local team of Aboriginal people have also been employed within the project assisting in pest, plant and animal control, revegetation, track rationalisation and the removal of disused infrastructure and refuse. Officers in my department are confident that these works will go a long way to restoring native fish stocks and some of the iconic vegetation species, such as river red gums, black box and the river cooba.

DOG MANAGEMENT

The Hon. R.L. BROKENSHIRE (15:14): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding dog control.

Leave granted.

The Hon. R.L. BROKENSHIRE: The Minister for Environment might also have an interest in answering this question, but I assure the minister that there is a strong local government element to the question and, given her experience in the environment portfolio, I ask her to respond to the issue I raise here.

I understand that the minister has received correspondence this week from Mr Fred Phillis, who is concerned about effective control of dogs along metropolitan beaches. I have been in contact with all metropolitan beachside councils and the Local Government Association about the policy responses to ineffective dog control, and I think is fair to paraphrase their responses as being that the councils feel powerless to rectify issues of ineffective dog control because their officers' powers have limitations in enforcing the law in these issues.

The primary issue my constituent raises is about the amount of dog defecation and the failure of owners to clean up after their animals, though unrestrained or ineffectively controlled dogs on beaches that attack or scare smaller dogs, owners and/or children are also of significant concern. My constituent has outlined to the minister that the LGA is looking towards a coordinated approach to legislation to address community safety concerns.

My constituent has referred at times to the situation on the Gold Coast in Queensland, where there are significant penalties for ineffective control of animals, and he claims that none of the ineffective control issues that arise on South Australian beaches arise there and, furthermore, that this is a boon to that state's tourism industry. My questions are:

1. Will the minister meet with my constituent and proactively communicate with the Local Government Association about reform on this issue (I am happy to organise the delegation)?

2. Will the minister liaise with her frontbench colleague and the Dog and Cat Management Board to ensure that there is a high priority on effective control of dogs and responsible dog ownership in public areas managed by councils?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:17): I thank the honourable member for his most important question. Indeed, cats and dogs are a most vexed issue and one that elicits a wide range of very strong and diverse views.

This issue does straddle a number of policy areas. The Dog and Cat Management Board keeps the Dog and Cat Management Act under review and provides the appropriate minister with advice in relation to improving dog and cat management in the state; that is the responsibility of

minister Hunter. I am advised that that board conducts a range of programs to support responsible dog and cat ownership.

Local councils are responsible for making by-laws in relation to dogs and cats as well as administering and enforcing the act within council areas. I also understand that councils undertake a range of programs to support responsible dog and cat management, including creating management plans for dogs and cats, reducing fees for desexing and/or training animals, desexing and microchipping programs, and owner and community education. I understand that councils are also responsible for operating dog pounds.

As we know, dog behaviour management is a very complex issue that needs to be considered in light of dog socialisation, genetics, learning experiences, education, physical and mental health, and the behaviour of the individual around the dog. We know that good dog behaviour is very strongly linked to responsible dog ownership, and in South Australia we have a very strong legislative regime that supports and underpins responsible dog ownership, with most people registering their dogs and acting, I think, in a very responsible and caring manner.

In relation to managing dog-related injury, there is obviously a range of views on best methods, so that often can be quite controversial as well. For example, there are some in the community who advocate a breed-specific approach. However, both the Dog and Cat Management Board and the Australian Veterinary Association have provided advice highlighting the limitations of a breed-focused approach.

The board and the association have identified a range of alternative options encompassing a combination of identification by: microchipping; training for dogs; comprehensive education programs for owners, breeders, parents and children; and an improved regime for control orders, increased penalties and compliance. The Dog and Cat Management Board has also produced, I am advised, a variety of excellent education and awareness programs, including We are Family and the new Living Safely with Pets education program, along with advice on responsible dog management and tools to match that.

In terms of correspondence from Mr Phillis, I have been advised that my office has received correspondence from him. I have not seen that correspondence as yet so I am not sure what issues he actually raises, and I obviously have not responded to him as yet. Basically, in terms of my responsibilities, the councils are responsible for the making of by-laws. Local council is an independent, constitutionally and democratically-elected level of government, and it is basically accountable to its constituents and that is, fundamentally, done at election time. Unless there is a breach of legislation, I have very limited powers to intervene so I am most reluctant to intervene.

I would ask Mr Phillis whether he has approached the council directly to deal with the issue himself. Where there are differences of opinion, councils have processes in place for members of the public to have decisions reviewed. Also, I would encourage the Hon. Mr Brokenshire to host a delegation with the local council involved. As I said, it is a democratically elected and constitutionally recognised independent level of government, I have limited powers to intervene and, basically, that local council is accountable to its constituents for its outcomes.

I would encourage both the Hon. Robert Brokenshire and Mr Phillis to go direct to council and, perhaps, if there are other ratepayers in the area who share his concerns, invite them along as well. There is nothing like power in numbers.

ANSWERS TO QUESTIONS

PETITION FOR MERCY PROCESS

In reply to the **Hon. A. BRESSINGTON** (7 June 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Attorney-General has provided the following advice:

1. Each and every petition seeking the exercise of the prerogative of mercy made to His Excellency the Governor is considered on its merits and treated in the following way:

Every petition received by His Excellency is forwarded to the Office of the Premier in order that His Excellency may receive the advice of his Ministers. The Premier forwards the petition to the Attorney-General who seeks the assistance of the Law Officers. The usual process involves the

preparation of an opinion by the Solicitor-General on the merits of the petition for the consideration of the Attorney-General.

Once the Attorney-General has received the benefit of the Solicitor-General's opinion, there are four options, depending on the relief the petitioner seeks, open:

(1) The Attorney-General could refer the whole case to the Full Court of the Supreme Court to consider the matter as an appeal under section 369 (a) of the *Criminal Law Consolidation Act 1935* or,

(2) refer any point in the matter for the opinion of the Judges of the Supreme Court under section 369 (b) of the Act.

(3) His Excellency, acting upon the advice of Executive Council, could exercise the prerogative of mercy so as to pardon a petitioner or to remit his or her sentence or,

(4) His Excellency, acting upon advice, could advise the petitioner that it is not proposed to take any further action in respect of the petition.

2. The history of Mr Henry Keogh's fourth petition dated 29 January 2009 is long and complex.

It is to be noted that the final submission made in support of that petition was not received by the Solicitor-General until November 2011. Over that period of time, the Solicitor-General was in communication with Mr Keogh's legal advisers on the material the Solicitor-General was to consider in support of Mr Keogh's petition.

On 20 September 2011, the Solicitor-General was informed that Mr Keogh had changed his legal team. The lawyers requested that work on the petition stop until such time as the material presented to the Solicitor-General in support of the petition had been re-assessed by counsel. On 15 November 2011, Mr Keogh's counsel wrote to the Solicitor-General identifying the issues the new legal team considered were relevant in addressing the petition. On 6 February 2012, the Solicitor-General received further advice from Mr Keogh's legal advisers on the information previously provided in support of the fourth petition and its relevance to the petition.

The work undertaken on Mr Keogh's petition is far advanced. It is also to be remembered that the prosecution case against Mr Keogh was circumstantial. This together with the nature of the complaints Mr Keogh makes results in a substantial task to be undertaken against the background of three previous petitions. At all times the intention has been to give Mr Keogh every opportunity to put the matters he considers relevant to his petition to His Excellency.

On the 19th of September, 2012 his legal team withdrew his fourth petition.

3. Every person who considers that they are wrongfully convicted of a criminal offence has the right to appeal to the Full Court of the Supreme Court of South Australia. That right is guaranteed by section 352 of the *Criminal Law Consolidation Act 1935.* From the Full Court there exists the prospect of an appeal to the High Court as provided for by section 73 (ii) of the *Constitution* if a grant of special leave is first obtained.

Where a convicted offender exhausts their appeal rights it is true that their only means of having their conviction further reviewed is by way of the petition process and the exercise of the discretion under section 369(a) of the *Criminal Law Consolidation Act 1935*. As indicated in answer to the first question, each and every petition forwarded to His Excellency the Governor is considered closely by the Law Officers who advise the Attorney-General. The Attorney-General will adopt whichever one of the four courses of action set out above he considers appropriate.

4. The question assumes that there has been a point arising in a case requiring the assistance of the Full Court to answer. This has not occurred and nor has any petitioner sought referral of a point under section 369(b) of the *Criminal Law Consolidation Act 1935*.

5. & 6. The process of a petition to His Excellency the Governor for the exercise of the prerogative of mercy does not involve the publication of detailed reasons for a refusal to exercise the prerogative of mercy in a petitioner's favour. This has long been the case and considered appropriate at this stage of the process by successive governments of all persuasions in this State. There are four primary reasons for this:

(1) The procedure contemplated by section 369 of the *Criminal Law Consolidation Act 1935* follows upon a process that includes the following

components, all designed to ensure that a conviction beyond reasonable doubt is as safe as humanly can be guaranteed:

- The burden and standard of proof being borne by the prosecution;
- The right to silence;
- The independent exercise of the prosecutorial discretion;
- The disclosure of the prosecution case;
- The availability of legal aid and legal representation;
- The committal process;
- The right to choose what evidence to adduce, what evidence to challenge, and what issues to contest;
- The right to apply for a stay of the matter and to have evidence excluded;
- The conduct of a trial before an independent judicial officer and, in the case of a matter triable before a jury, a jury;
- The right to appeal to the Full Court of the Supreme Court against conviction and sentence; and
- The right to seek special leave to appeal to the High Court of Australia.

(2) That process involves the independent judiciary and the people of this State, that is, the jury system. The administration of criminal justice is in no small part in the hands of the people of this State and the Executive Government should be slow to substitute any opinion it holds for that of the people of the State properly instructed by the independent judiciary after a fair trial in which the accused has chosen what evidence to call, what evidence to test, and what issues to contest.

(3) Allied to the second reason, our system should not be such that criminal convictions and the outcome of appeals to the Court of Criminal Appeal take on a conditional flavour.

(4) One must have regard to the victims of crime. The process we have in place is long and complex. It places great strain on all involved. For all involved and the victim, in particular, finality is important. That is not to say, of course, that the door is shut. It never is. As indicated, each and every petition is properly considered and if it is appropriate to refer a case or a point to the Full Court, that will be done.

ROCK LOBSTER FISHERY

In reply to the **Hon. J.M.A. LENSINK** (14 February 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I have been advised:

1. Prior to the start of the 2010-11 fishing season, the Aquatic Sciences branch of the South Australian Research and Development Institute (SARDI) and Primary Industries and Regions South Australia (PIRSA) Fisheries, informed industry that the Southern Zone Rock Lobster Fishery had been performing poorly for several years and management interventions were needed to address the problem.

The poor performance of the fishery was based on the following scientific data:

The fishery only caught 1,243.7 tonnes of the 1,400 tonnes total allowable commercial catch (TACC) during the 2009-10 season. This was the third consecutive year that the TACC had not been fully taken (it was missed by 50.4 tonnes in 2007-08 and 362.7 tonnes in 2008-09).

The commercial catch rate (which is a reliable measure of Rock Lobster stock abundance) for the 2009-10 season declined for the seventh consecutive year, to the lowest level ever recorded in the fishery. This reflected a 67 percent decrease from the catch rate of 2003-04.

The declines in fishery performance were not limited to individual locations; the decreases in catch rate during this seven year period were observed across all regions, depth and months of the fishery. Such decreases in catch rate reflected a decline in Rock Lobster stock abundance which in turn reflected low recruitment over this period.

At the same time, SARDI and PIRSA Fisheries also informed industry that indices used as an indicator of future catch suggested that a pulse of just-legal size Rock Lobster would enter the fishery during the 2010-11 and 2011-12 fishing seasons, but it was important that this new recruitment pulse was afforded adequate protection to rebuild the existing stock.

2. The former minister set the 2010-11 TACC at 150 tonnes lower than the previous fishing season (i.e. 1,250 tonnes) and closed the fishery for the months of October 2010 and May 2011 in order to constrain catch and contribute to the rebuilding of the Rock Lobster stock. In quota managed fisheries, it is common fisheries management practice to adjust the TACC level in response to increases and decreases in stock abundance.

3. Each year, SARDI Aquatic Sciences presents a mid-season and end of year report on the status of the Southern Zone Rock Lobster Fishery. In these reports, information on the indices used to predict the future catch of the Southern Zone Rock Lobster Fishery is always presented to industry.

An analysis of all the scientific information prior to the start of the 2010-11 fishing season indicated that the Southern Zone Rock Lobster Fishery had been performing poorly for several years. This information was conveyed to industry.

ELECTRICITY PRICES, COOBER PEDY

In reply to the **Hon. T.J. STEPHENS** (18 July 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Minister for Mineral Resources and Energy has provided the following information*:*

1. The government remains committed to providing a significant subsidy focussed on small to medium domestic customers who pay no more than grid price +10 per cent. The government is aware that one option for reducing electricity prices is to connect Coober Pedy to the national electricity grid. The government has assisted the District Council of Coober Pedy to engage KPMG to progress this option.

2. The most recent capital cost estimate for connecting Coober Pedy to the national grid is approximately $50 million as identified in the independent review of the Remote Areas Energy Supplies (RAES) scheme conducted by KPMG in 2011.

3. Preliminary analysis has been carried out by KPMG as a part of the 2011 RAES Review. The report indicated that the project might be feasible if significant Federal Government funding were available. Further work on the cost-benefit analysis depends on the attitude taken by the owners (BHP-Billiton and Oz Minerals) of the private networks that would need to feed a new line to Coober Pedy.

MATTERS OF INTEREST

MEN'S HEALTH

The Hon. G.A. KANDELAARS (15:24): Last week, I had the great pleasure to attend the Royal Flying Doctor Service annual men's health Pit Stop promotion event at the Adelaide Produce Market on behalf of the Minister for Health (Hon. Jack Snelling). The Pit Stop event invites men and women of all ages to come for a free medical assessment. The aim of the Pit Stop is to promote the importance of going to see your local GP regularly and maintaining a good and healthy lifestyle.

As I am sure members are aware, men are far less likely to consult with a medical practitioner on a regular basis to stay on top of their medical needs. On average, men live approximately five years less than women; the gap is also, unfortunately, significantly higher for Aboriginal men.

Here are some interesting statistics I would like to share with members: in South Australia there are roughly 638,000 males 18 years or older. It is estimated that of that population 8,294 have suffered a stroke, 47,212 suffer from coronary heart disease and 44,660 are suffering

from type 2 diabetes, something I can relate to. That is, 91,872 men, or 15.7 per cent of the adult male population have suffered or are suffering from conditions which can be prevented. Sadly, close to 3,300 men in Australia die of prostate cancer, equal to the number of women who die from breast cancer annually. About 20,000 new cases are diagnosed in Australia every year. While prostate cancer is most common in men over the age of 50, younger men with a history of prostate cancer in their family are at greater risk.

At last year's Pit Stop event there were almost 200 participants, with eight referred to their GP within 48 hours. This year, only one participant was referred to their GP for high blood pressure. At this year's event, a total of 52 per cent passed all tests, a rate which is up on last year. One gentleman who had attended last year's Pit Stop event weighing in at 200 kilograms, returned this year having lost 30 kilograms and he has pledged to the Pit Stop crew that they will not recognise him next year, which is a very positive result.

In South Australia, the major causes of premature death are: heart disease, lung cancer and suicide. Sadly, in most cases, these deaths are preventable through lifestyle changes, medication and treatment. One-third of the total burden that disease places on the Australian people is from preventable conditions. Things like smoking tobacco, alcohol misuse, poor diet, physical inactivity and obesity contribute to chronic disease and thus put extra strain on an already struggling health care system.

The link between lifestyle choice and chronic disease is clear. Events like Pit Stop are paramount if we are to educate our communities on the importance of seeing one's GP and maintaining a healthy lifestyle in order to reduce the amount of people suffering when they do not have to. One of the easiest and most effective ways that men can take care of their health is by getting to know their GP and having a check-up at least once a year. My hope is that we could host a Pit Stop event here in Parliament House and to that end I have written to the Hon. Jack Snelling, Minister for Health, seeking his support for such an event. This would allow members and staff to have their: chassis, torsion, extractors, fuels additives, oil pressure and duco checked.

Finally, I would like to thank and commend the Royal Flying Doctor Service for its exemplary work in organising and running Pit Stop 2013. I would also like to thank Glaxo-Smith Klein, the Adelaide Produce Market and the Australian Chamber of Fruit and Vegetables Industries for their incredible support in making Pit Stop a reality once again. This is a very important cause and one that is very close to my heart.

ELECTION MATTERS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:29): I am a Liberal. Many of my friends are in the Liberal Party and many of my friends vote Liberal, some vote Labor and others are apolitical. All of us were repulsed by what the ALP did last election. In several seats, most notably the marginal electorate of Mawson, the ALP cheated and rorted its way to victory through subterfuge and trickery. A little background first. Leon Bignell, the sitting Labor member, was as much a failure then as he is now. A *Sunday Mail* poll showed that only two in seven voters in Mawson even knew who their local member was. Bignell held Mawson by a handful of votes. Family First preferences were critical and Family First was directing those to the Liberal Party. So, if Bignell was not going to win the election by fair means he would try foul.

The PRESIDENT: The Hon. Mr Ridgway has been here long enough to understand that he needs to refer to the member in the other place by his seat or his proper title. He is a minister.

The Hon. D.W. RIDGWAY: Thank you for reminding me, Mr President. ALP members dressed in Family First T-shirts stood at polling booths and handed out how-to-vote cards purporting to come from Family First, telling supporters to give their second preferences to Labor. It was reprehensible. It was immoral. It was outrageous. It was no isolated incident: it was run in four seats.

The member for Mawson defended his then partner, Sandra De Poi, who handed out how-to-vote cards in that electorate. De Poi was a director of the WorkCover Corporation. WorkCover gets its legal work done by the law firm Minter Ellison. The member for Mawson's then factional mate, the member for Elder, the Hon. Patrick Conlon, is now a part-time member for Elder and a three-day-a-week, $100,000 a year, employee of Minter Ellison.

In Hartley, the Hon. Grace Portolesi, now state cabinet minister, sank to the bottom of the ethics barrel by employing the same tactics. The Hon. Tony Piccolo, the member for Light, who

himself has been involved in questionable land deals while mayor of Gawler, did it in his northern suburbs seat of Light. He too now sits at the cabinet table.

Respected Flinders University scientist, Professor Dean Jaensch, described this cheating as the worst example of its kind he had ever seen in his 40-year career. Preferences can win or lose elections. In every seat that matters, the Greens preferenced Labor. Not far from Mawson is the seat of Kavel, held by my friend and colleague Mark Goldsworthy, a passionate fighter for Mount Barker and its families. He had a lot to fight about. The ALP had fallen into bed with developers in a madcap plan to quadruple the population of Mount Barker, a charming rural township in the Adelaide Hills. The plan was to expand Mount Barker's boundaries by swallowing productive farmland and creating housing estates without infrastructure, libraries, proper sewerage planning, public transport or local jobs.

The Greens campaigned against such development, and I commend them for it. Quite rightly, they, like the Liberal Party, opposed the developers' land grab and the process that allowed it. However, on election day, which party did the Greens preference? Mike Rann's Labor, the member for Mawson's (Hon. Leon Bignell) Labor, the planning minister's (Hon. Paul Holloway) Labor Party, the party that wants to mine uranium, build superways, bulldoze St Clair, despoil Port Adelaide and sacrifice Mount Barker to development.

Not long after the election, which Labor won on Greens preferences, information came to my office which suggested grave misconduct surrounding the process which developed into the 30-year plan. That is the plan which allowed urban sprawl and unwanted development in Mount Barker. Specifically, I heard that a firm of planning consultants, Connor Holmes—a firm for which I have the highest regard, by the way—had been involved in preparing something called the Growth Investigation Areas Report. At the same time, the firm was also working for developers which had much to gain. In fact, the dollars they stood to gain were counted in millions, from this report.

Together with the member for Kavel (Mr Mark Goldsworthy) and the shadow attorney-general (the Hon. Stephen Wade), I visited the Ombudsman and spoke with him about instigating a formal inquiry. Back in parliament I formulated an amendment requesting such an independent ombudsman's inquiry. Labor wanted none of it and neither did the Greens. The Greens suggested that I scotch proposals for an independent inquiry and allow the Mount Barker affair to be handled by a parliamentary committee controlled by the Greens' Labor mates. Mr Parnell wanted Labor to investigate Labor. He wanted the government he helped elect investigate the issue he helped promote.

On this side of the chamber we said, 'No way.' Finally, seeing they were not getting support for their parliamentary inquiry, the Greens, kicking and screaming, finally backed the Liberals' move for an ombudsman's investigation. Infallible *Hansard* on 30 May 2012 shows the truth: Mr Parnell supported the Liberals' motion to set up an ombudsman's inquiry 'with a great deal of disappointment'.

SURF LIFE SAVING SA

The Hon. R.P. WORTLEY (15:34): As another summer on our glorious beaches draws to a close, I rise today to pay tribute and offer a vote of thanks to the men and women of Surf Life Saving SA. Surf Life Saving has a fascinating history and one that perhaps reflects the larrikin streak in Australian culture, because its beginnings lie in the actions of the very recalcitrant Mr William Gocher.

In 1902 Mr Gocher took to bathing at Manly beach during prohibited hours, those hours being daylight. Other renegades joined Mr Gocher and the sports of surf swimming and surfboard riding rapidly become popular. It seems that those familiar with the sport and its environment formed themselves into informal groups so as to assist novices and those who got into difficulties. By 1907 the New South Wales Surf Bathing Association had been formed, later to become Surf Life Saving Australia.

My research indicates that the first person to be rescued by a surf reel at Bondi was Charlie Smith, later to become the famous and pioneering aviator Charles Kingsford-Smith, and the rest of course is history. Surf Life Saving Australia has grown over the ensuing decades into the world renowned and professional organisation we know and depend upon today. Volunteer surf lifesavers are committed to the protection of others and to their motto 'Vigilance and Service'.

There are more than 300 surf lifesaving clubs in Australia, and in South Australia there have been clubs since 1930. They now stretch from Goolwa to Whyalla and some 8,000 volunteer

members, from nippers to the aged, collaborate with paid staff to provide an emergency service of the highest calibre. It is sobering to think that some 300 people drown every year throughout Australia, with many more hospitalised as a consequence of near drowning. So many of these events are entirely preventable.

In South Australia alone, surf lifesavers carried out 219 rescues during the 2011-12 patrol season. Meanwhile, preventative actions totalled 14,557 over that season. As well, life savers dealt with hundreds of marine stings, cuts and abrasions in addition to fractures and dislocations, suspected spinal injuries and major wounds, among other emergencies. Not only do they carry out these front-line beach patrol activities as required over the summer months, but year in, year out. Members of Surf Life Saving SA, just like their interstate colleagues, have youth development, education and training responsibilities, promote best practice to clubs and government, and engage the community in safety initiatives both at the beach and in relation to water safety.

On that last matter, I understand that our South Australian organisation is presently offering the community pool safety checks, pool lifeguard and first-aid courses and emergency care courses. This is their valuable work. All those associated with the rescue and/or treatment of people in difficulties in, on and in proximity to our waters are to be saluted. I am sure our community as a whole will be glad to join in acknowledging and commending the selfless work of our surf lifesavers and in expressing appreciation for the wonderful work they do in keeping our community safe.

DRUGS IN SPORT

The Hon. T.J. STEPHENS (15:38): I wish to speak about the recent findings of the Australian Crime Commission outlining the concerning presence of performance-enhancing drugs in our sporting codes and the alleged influence of organised crime. I do not want to doubt the findings and the great work of the Australian Crime Commission, as extensive research has gone into the report that was announced via a government-led press conference with the heads of the major sporting codes. However, I question the judgement of the commonwealth government for the announcement and its timing.

This very issue was raised by the Hon. Alexander Downer in his piece in *The Advertiser* on 18 February. In the article the Hon. Mr Downer highlights that the government's announcement that the use of performance-enhancing drugs and the resultant influence of organised crime was rife was not solely heard by a domestic audience, which the commonwealth clearly had overlooked. As a result Australia's stellar international sporting reputation has been irrevocably tarnished.

This revelation, enhanced by ministers Lundy and Clare's witch hunt-style rhetoric, has led to alarming and almost celebrity headlines in the British press. The government's rhetoric, coupled with the Crime Commission's inability to comment on the specifics of its investigation, has caused alarmism and assumptions in the absence of fact and information, the consequence of which is that suddenly all players and all sporting clubs are now under suspicion.

The vast majority of our athletes and sporting clubs, especially those of a community nature, have a right to be seriously outraged by the government's rhetoric, and deservedly so. As the Hon. Mr Downer has said, it is nothing short of incompetence for the government to put all of our sportsmen and women under a cloud of suspicion, and term what should have been a concerning report worthy of serious investigation into a reckless and gratuitous publicity stunt to distract the public from the festering sore that is the Gillard government.

The Hon. Jeff Kennett has also made comments critical of the commonwealth's actions. The seriousness of the situation is such that any further investigation or prosecution is now at risk due to the publicity generated. It now gives all established syndicates and guilty parties the opportunity to cover their tracks. This is not how criminal investigations work, so why would the commonwealth go about it this way?

The question then remains: is this a criminal investigation? If the situation is dire enough to warrant a press conference with Australia's top sports administrators, one would assume it is. Given the commonwealth's rhetoric, one would assume it is. As the Hon. Mr Downer points out, if drugs and organised crime in sport are so rife, why are the South Australian police authorities not flat out on this investigation?

Finally, the recklessness of the government's actions has concerned the sponsors of Australian sport. We have seen two sponsors of NRL teams reviewing their deals with the respective clubs. Renault admitted that they had second thoughts about their deal with the Port

Adelaide Football Club following the press conference, not to mention how concerned Essendon Football Club's sponsors would be at the moment.

This saga is a classic example of the consequences when government overreaches and when ministers begin to believe that they are crusaders rather than administrators and legislators. The chief executives of Australia's major sporting bodies make decisions in the best interest of their given codes. Drugs and organised crime are not a good image for their respective sports; accordingly, they will work hard to stamp them out.

Similarly, much of the time, the possession, consumption and trafficking of these substances are crimes, and therefore the nation's collective police forces, as well as the Australian Crime Commission, should also be investigating and apprehending the perpetrators. As for the ministers, I fail to see how grandstanding at a press conference with a holier-than-thou attitude about catching alleged criminals in sport is within their job descriptions.

SUICIDE PREVENTION

The Hon. J.S.L. DAWKINS (15:42): Today, I rise to speak further about a passion of mine, that is, suicide prevention. It is very important, I think, to continue the discussion throughout the community, and it is evident as I move around South Australia that more and more people are prepared to discuss this issue, particularly in relation to intervention and dealing with families who have been bereaved by suicide.

My work in this area was strengthened late last year when I was privileged to attend a Suicide Prevention Policy and Practice Forum in Sydney. There was a range of people there from around the country who spoke about the work they do in the area of suicide prevention and, more broadly, on mental health issues.

I was particularly impressed by an address from the editor of *The Border Mail* at Albury—a community which has been particularly impacted by suicide—and the way in which that newspaper did not have a knee-jerk reaction to its coverage of suicide but thought about the way in which it could best campaign in the community, and it did that by mounting a campaign to the federal government for a Headspace centre in Albury-Wodonga. It was certainly a very impressive campaign, and I appreciated that address.

Ms Coralanne Walker, the director of the CORES program from Tasmania—which I have spoken about many times and which has had a great impact in South Australia—spoke about the program and its work from Tasmania to North Queensland and many places in between. I was also very pleased that Mr Andrew Montesi from Adelaide spoke about the Talklife program, which is something that has been developed in a voluntary capacity by South Australians but has been taken up by many young people across the world and, I am told, particularly by young women, as a manner in which they can converse certainly about their mental health issues and just continue a conversation they may not otherwise have had.

Equally, I was pleased that Jonathan Nicholas from the Inspire Foundation spoke to the conference about ReachOut.com. Here again, ReachOut.com is an entity that works very well on limited resources in helping assisting young people in the community in their coming together and discussing with other people their mental health issues and, in many cases, suicidal thoughts.

As I said earlier, I have moved around the state very much in relation to suicide prevention, and I have had contacts in many country areas in recent times, including Strathalbyn, Port Augusta, Murray Bridge and a range of others throughout the Mid North, and there are many people in South Australia concerned about the mental health and suicide risk.

Last week, I was very pleased to assist in hosting a suicide prevention forum in Gawler. The co-host of that event was Mr Cosie Costa, who is the Liberal candidate for Light. Cosie spoke with great passion and sincerity about the impact of suicide in sporting bodies that he has been involved with. It was a very well attended forum. I was pleased that Ms Jill Chapman, who is the founder and chair of Minimisation of Suicide Harm Australia (MOSH) was able to be with us and be a guest speaker. Importantly, that forum did continue the discussion. We had lots of input from the audience. I look forward to running more of those forums throughout the state this year.

ASBESTOS VICTIMS ASSOCIATION

The Hon. J.A. DARLEY (15:47): I rise today to speak about the Asbestos Victims Association. The Asbestos Victims Association (AVA) was first formed in 2000, when a small group of individuals concerned about asbestos convened an informal meeting at Salisbury. Some had

been touched by asbestosis themselves while others had been affected when loved ones had been diagnosed with the disease. However, all held the common concern about the growing epidemic of asbestos victims.

Shortly after its inaugural meeting, the AVA became an incorporated association and began lobbying for dust disease legislative reform. The AVA played an integral role during the drafting and preparation of the Dust Diseases Bill. Countless man hours were put into this project and, needless to say, they were elated when the Dust Diseases Act finally passed in 2005. This ensured that victims of asbestos could access compensation in a more streamlined fashion. The AVA continues to monitor legislation for any pitfalls and to identify areas in need of improvement and to lobby against the importation of goods containing asbestos.

The AVA also successfully campaigned strongly for James Hardie to adequately compensate asbestos victims, and it persists in its efforts to educate and promote community awareness of asbestos. Members may recall a recent discovery where motor vehicles imported from China were found to have gaskets which contained asbestos. The AVA, together with other asbestos awareness groups, was instrumental in raising this issue publicly.

In addition to this, the AVA provides a crucial support service for asbestos victims. When a positive diagnosis of asbestosis and mesothelioma is made, people often feel lost and uncertain—uncertain about legal processes, uncertain about medical treatment and uncertain about what this means to them and their family. To be able to turn to the AVA for guidance in this time of need is priceless and a huge comfort for the dozens of families who have already been helped by the AVA. Whilst the AVA as a whole has done fantastic things, I particularly want to acknowledge the tireless efforts of their president, Mr Terry Miller. Terry is an extraordinary man who has used his personal experiences to assist others.

In 2002, Terry was diagnosed with asbestosis, undoubtedly as a result of working at James Hardie's Elizabeth pipe manufacturing plant for 20 years; yet despite his personal setbacks Terry continues to give up his time and resources to meet with victims, their families and to educate the wider public about the dangers of asbestos. I have heard many accounts from asbestos victims and their families about the countless ways they have been helped by Terry, and I am pleased that his efforts were recognised when he was awarded an Order of Australia in 2007 for services to the community.

Every year, on the last Friday of November, the Asbestos Victims Memorial Day is held at Pitman Park in Salisbury. A white memorial cross is made to commemorate each asbestos victim. It is incredibly sad that the number of crosses continues to grow every year and, unfortunately, the number of asbestos victims is set to increase even more in years to come, as those exposed to asbestos as children reach their 40s, 50s and 60s. As the number of victims increases, the work that Terry and other AVA volunteers (particularly Kat and Pam) becomes even more important, and I commend them for all their tireless efforts.

SOUTH AUSTRALIAN ECONOMY

The Hon. R.I. LUCAS (15:51): I rise today to speak about the state of the South Australian economy. We, in this chamber and publicly, have been exposed to both the Premier and ministers waxing lyrical about, in their terms, the health of the South Australian economy and quoting figures and claimed investment reports and other investments as evidence of their particular claims.

The stark reality, as opposed to the unreality of the Premier and the Labor government's position, has been revealed today by the Australian Bureau of Statistics figures, the independent figures of the ABS, on the health of the South Australian economy. They release figures which measure, in quarterly terms, economic growth in South Australia and each of the other states and nationally.

Sadly, for South Australia the reality is that the Australian Bureau of Statistics has indicated that South Australia is officially in recession—that dreaded 'r' word. It is not just the technical definition of recession—that is, two consecutive quarters of negative growth; indeed, one of their own heroes in Labor terms, former treasurer Kevin Foley, said on the public record on 14 August 2007:

> The ANZ's economists who wrote this report need to go back to 'Economics 101', where they would have learned that any recession must have at least two consecutive quarters of negative growth.

So, in Labor terms, and in economists' terms and in technical terms, this state of South Australia is in a recession. Our economy has gone backwards for this last three-month period and prior to that went backwards for the previous three-month period as well.

Sometimes, Mr President, the government, with its political spin (with which you would be very familiar) is wont to say, 'Well, if you look at the trend figures, or if you look at the seasonally adjusted figures,' and try to spin something better. But sadly for the government, sadly for our economy, and sadly for South Australian families, it does not matter whether you look at the ABS's trend figures or whether you look at the ABS's seasonally adjusted figures, on both those measures South Australia's economy is in 'recession', to use the words of Kevin Foley, because we have been going backwards for the last two years.

Embarrassingly for the Premier, in his most recent attempt to talk up his own performance and the performance of his own government he talked glowingly of a development and investment at Gilberton as an example of the health of the South Australian economy and how recent policy decisions that he and the government had taken had encouraged such developments. Embarrassingly for the Premier, and for the Labor government, and sadly for the people of South Australia, that development has had to be scrapped in the terms in which it was originally announced. That was a major high-rise, high-density development in the Gilberton area, taking advantage of stamp duty concessions.

That particular proposal is no more; it is a dead development, to use an adaptation of a Monty Python phrase. The developers will do the best they can, given the condition of the South Australian economy at the moment, but that development will not continue because of lack of investment support. Indeed, deposits have had to be returned to investors as a result of the development not proceeding. Similarly, today, the Australian Bureau of Statistics export figures demonstrated a further decline in terms of the economic performance of our South Australian economy.

So rather than the political spin and the unreality of the Premier, his ministers and this government, the brutal, independent facts, the reality of the Australian Bureau of Statistics figures, demonstrate that under this government, under this Premier and these policies, we are going backwards. What the people of South Australia want, what South Australian families want, is a fresh start under a new Liberal government post-March 2014.

MEMBERS OF PARLIAMENT, NON-PARLIAMENTARY EMPLOYMENT

The Hon. M. PARNELL (15:56): I move:

That this council—

1. Notes with dismay the decision of the Hon. Patrick Conlon MP to take on three days per week private employment in addition to his parliamentary and electorate duties;

2. Recognises the right of all South Australians to be represented in parliament by full-time representatives who are not distracted by outside employment commitments; and

3. Calls on the Premier to urgently develop comprehensive guidelines for appropriate behaviour of members of parliament in relation to outside employment and the performance of parliamentary and electorate duties.

On Saturday night I attended a production at Her Majesty's Theatre as part of the Adelaide Festival, a most excellent play entitled *One Man, Two Guvnors*. Little did I think on Saturday night, as I was enjoying that production, that that would be the news item of the day the following Monday morning. I refer, of course, to the decision of the Hon Patrick Conlon MP to take on three days' employment with a private law firm in addition to his parliamentary and electorate duties.

I think it is fair to say that that announcement has been received with close to universal condemnation amongst those whose opinions have been sought, whether they be members of the public or political commentators. What people are asking is: how is it possible for a member of parliament to devote himself or herself to their parliamentary and electorate duties and, at the same time, conduct a three-day-a-week outside employment arrangement? I think those commentators are right: I do not think it is possible for a member of parliament to devote themselves fully to their duties.

What was interesting about the Hon. Patrick Conlon's response to the criticism was that part of his defence was that he declared that in his electorate they would see more of him than they had over the past decade. He was, of course, referring to the fact that he had been a minister for a

considerable period of time and that his ministerial duties meant that he may not have spent as much time in his electorate as he would have had he not been a minister.

However, that is really arguing the point the wrong way around. Whilst he has not confessed, in so many words, that he has neglected his electorate—he has not said that—the fact that he is now a backbench member of parliament should mean that he has more time to devote to his electorate; in fact, he has at least a five-day standard working week to devote to his electorate plus whatever extra time he chooses to spend, as we all do.

The second part of my motion refers to the right of all South Australians to be represented in parliament by full-time representatives who are not distracted by outside employment commitments. That raises the issue of what level of outside commitments would be a distraction, what level of engagement in a private business or farm, or managing of investments, might be appropriate. A number of the commentators have referred to the rules and, whenever they talk about the rules, the first thing they say is, 'Well, there aren't really any.' In fact, the Premier has said, when his response was sought, that the Hon. Patrick Conlon MP is not breaking any rules.

Of course, as members here would be well aware, the only real rule that goes to a person's eligibility to remain a member of parliament is their obligation under the Constitution Act to attend the parliament on days that business is being conducted and, whilst there is an expectation to attend all days, the legal requirement, effectively, is to attend at least one day in 12 unless you have sought leave. That rule comes from the provision of the constitution which says that if you do not attend for 12 consecutive days without having obtained leave you lose your seat.

As members here know, attending parliament involves, effectively, attending for any part of the day and having your name ticked off. So, in terms of the rules for how much time a member of parliament must devote to parliamentary duties, when you do the sums it works out that if you turn up for five minutes once every two months you will probably avoid falling foul of the constitution and losing your seat. That is no rule at all, obviously. That is an ancient fallback position to make sure that we do not have people abandoning completely their responsibilities.

The question, then, is: if we are to have rules, how are they best devised and what should they say? That brings me to the final part of this motion which calls on the Premier to urgently develop comprehensive guidelines for appropriate behaviour of members of parliament in relation to outside employment and the performance of parliamentary and electorate duties. Of course, that is only one approach, the idea of the Premier preparing guidelines. We could seek to have a legislated approach, but I have no doubt that that would be a difficult thing to do.

One of the things we all discover as members of parliament when first elected is that there is no formal job description. There is no set of minimum hours in relation to hours of attendance or the proportion of time that a member should spend serving their electorate, as opposed to dealing with parliamentary business. There are no clear rules. But I think that the situation of the Hon. Patrick Conlon has reminded us that it is not good enough simply to leave it to people's own good judgement because that judgement can be found lacking, as I believe it has in this case.

I will refer to one comment I received from a Liberal member of the other house, whom I will not name because it was a corridor conversation and it is not my practice to repeat corridor conversations. This particular member of parliament thought that maybe members of his or her own side should lay off a bit on the poor old Hon. Patrick Conlon MP 'because we all have farms and other businesses'.

I must admit that I was surprised that that was the member's response because I certainly do not have a farm and I certainly do not have any other business, and I think that is probably the case for the majority of members. But we do need to make sure that we get rules in place that respect the primacy of the South Australian people and the fact that we are in an honoured position of trust to serve them and their best interests. In my definition, that means devoting oneself full-time to parliamentary duties. The idea of the part-time politician is an idea whose time has not yet come.

I certainly understand that in the old days, before members of parliament could draw a salary (they were not paid at all), you, in fact, had to be independently wealthy or maintain other employment simply to get by, but these days that is no longer the situation. We are paid, in my view, a more than adequate salary, and that should be enough for any person or any family to get by on.

With those words, I urge honourable members to support this motion, and I am hoping that at the end of the day we will see a set of rules that does put the primacy of the public ahead of the desire of individual members of parliament for personal return.

Debate adjourned on motion of Hon. G.A. Kandelaars.

LOCAL GOVERNMENT (WASTE COLLECTION) AMENDMENT BILL

The Hon. D.G.E. HOOD (16:04): Obtained leave and introduced a bill for an act to amend the Local Government Act 1999. Read a first time.

The Hon. D.G.E. HOOD (16:05): I move:

That this bill be now read a second time.

Members will be pleased to know that I will be brief in my contribution. The reason I will be brief is that I introduced a virtually identical bill in this chamber in 2009 and we discussed the issue then. I must say I was very encouraged by the minister's response to my question during question time today. To some extent the government may argue that there is not a direct need for this bill but I think if a bill was enacted it would put the matter to bed once and for all.

Members of the chamber may be aware of recent public debate about a proposal for councils to change the weekly collection of general waste to a fortnightly collection. Several waste management authorities, which are operated by councils, put forward the proposal. Minister Portolesi and myself spoke on radio (on the Leon Byner program) about the issue earlier this week. We were joined by the chief executive officer of the Local Government Association. I believe the Hon. Mr Darley made a contribution as well.

Public comments have generally been opposed to this change for various reasons. Firstly, many households, particularly those housing large families, generate sufficient waste to require a weekly collection. There is also the issue of the smell of household waste that remains in an outside bin, often left in the sun, for the period between collections. This concern particularly applies to food scraps and used baby nappies. Quite apart from the unpleasantness of such items being left for up to a fortnight, there is an obvious potential health risk from this.

This is not a new issue. As I said in my introduction, it was raised back in 2009. At that time, I introduced a bill similar to the present bill, that was seeking to insert new section 297A in the Local Government Act 1999. It required metropolitan councils to endeavour to ensure that waste collection occur on a weekly basis in any area of the council that is within metropolitan Adelaide. The terms of the present bill are more detailed in that the present bill makes it clear that this requirement only applies to general waste and not to recyclables or so-called green waste.

Since the 2009 bill was introduced, the government has made a policy under the Environment Protection Act 1993 called the Environment Protection (Waste to Resources) Policy 2010. This policy comprises a requirement of law on metropolitan councils to provide a weekly collection service, but the recent public debate indicates that, in some quarters at least, the matter is considered open for debate.

The purpose of the bill is to enact in clear terms in the Local Government Act a requirement for weekly waste collection. It only applies to metropolitan councils, thus excluding regional councils. Having this provision in the Local Government Act will make it clear beyond argument that metropolitan councils must provide this service. I understand from the minister's answer during question time that none are currently seeking to change that, so there should be no objection. Members of the public, and indeed members of councils, will be able to find this statutory obligation much more easily than a policy, which is neither a statute nor a regulation. My view is that the Local Government Act is the appropriate place to record the obligation of councils.

Whilst some might argue that this issue is a matter for local councils to decide upon and to answer to their electors for their decision, to me it is such an important matter of public health and amenity that it should be enshrined in legislation. In any event, the fact that the government has a formal policy indicates that it agrees with me that it is a proper matter for decision at state level.

If the bill is enacted, I would have no objection to the corresponding formal policy under the Environment Protection Act being removed, since it would then be, largely, superfluous. In summary, I regard this matter as one that justifies legislation. In my view, the appropriate legislation is the Local Government Act. The obligation of councils to provide weekly waste collection should be made clear for all to see and beyond any further debate. Just for an indication of members'

priorities, I will be allowing this to sit on the *Notice Paper* for some time so that members can consult, if required, but I will be seeking a vote some time later in the year.

Debate adjourned on motion of Hon. G.A. Kandelaars.

FIRE AND EMERGENCY SERVICES (FIRE RISK ASSESSMENTS) AMENDMENT BILL

The Hon. A. BRESSINGTON (16:09): Obtained leave and introduced a bill for an act to amend the Fire and Emergency Services Act 2005. Read a first time.

The Hon. A. BRESSINGTON (16:10): I move:

That this bill be now read a second time.

I am introducing this bill because over the period of the last 12 months I have been to a number of rural areas, mainly up in the Hills, where residents are complaining that natural resources management officers are interfering with their ability to have a fire assessment done and they are being blocked from clearing what has been identified by a number of fire experts as hot fuel for bushfires. This is creating quite a lot of angst for people in those areas.

It seems to me that we need to put into legislation that the management of bushfires must be the absolute priority and that nobody is able to override a direction from either the CFS or the MFS to conduct an assessment of a bushfire risk. This bill also creates an obligation to conduct a fire risk assessment.

As things stand at the minute, a member of the public can request their local CFS or MFS to attend their property and conduct a fire risk assessment. For various reasons, at times, these assessments are not conducted. We consider that, given the inherent fire risk associated with vegetation, and more specifically, native vegetation, it is imperative that all steps be taken to prepare properties for the fire season. Accordingly, this bill creates an obligation for the CFS or the MFS to conduct an assessment upon application from a property owner.

I am confident that the obligation for assessment that is created under this bill does not place any undue pressure on the organisations to further train individuals, and I can confidently say that for two reasons. First, there are currently prescribed people within the CFS and the MFS who are trained in the area of assessing fire risks in property and do so routinely as and when necessary. Secondly, as a further precaution for the CFS and the MFS, proposed section 105L is drafted widely so that, should a situation arise where the nearest CFS or MFS station is unable to send their officer to conduct an assessment, the chief officer of the CFS or the MFS can authorise another member to conduct the assessment.

The time frame for carrying out the request has been set at three months, as we believe that that is an appropriate time for either the CFS or the MFS to arrange an assessment in light of their other duties and obligations. A discretionary extension of time is also available on agreement of both parties, which would allow for extenuating circumstances that may arise, such as travel, sickness or injury, etc.

Importantly, the bill has been drafted so that a request for a fire risk assessment can only be made within the prescribed period, namely, from the day following the end of the fire season up until 1 October of that same year. We recognise that the MFS and the CFS are very busy serving and protecting this state during the high fire risk season and it would therefore be inappropriate and simply not feasible to ask them to conduct fire risk assessments during that period of time. In any event, it is anticipated that property owners would request a fire risk assessment prior to the fire risk season for obvious reasons.

Section 105O vests the power with the fire risk assessor to authorise the removal of fire risks, including vegetation, and that includes native vegetation, if that is the case. The provision also allows for the drawing of water as and when necessary to minimise fire risks, and the provision is drafted so that the fire risk assessor has the discretion to allow removal of fire risk without requiring further authorisation of any other law or body.

This section is what I would class as a common-sense section. People should be able to remove anything causing a fire risk to their houses and property, but it carries with it the requirement of authorisation by a trained assessor. Therefore, I would suggest the perfect balance between the desire to protect an individual's property, and the overarching need to remove anything that causes a genuine fire risk, is met.

Naturally, there are provisions that relate to the form in which the application should be made, the relevant fee and the requirement of the chief officer to report to the minister on or before 30 September each year. The overriding intention of this bill is to protect our citizens and their property from the devastating and traumatic effects of bushfires. This bill creates an obligation upon relevant members of South Australia's CFS and South Australia's MFS to conduct a fire risk assessment upon application by a property owner. The assessment would then make the relevant recommendations, including allowing the property owners to take any necessary precautions to reduce all realistic fire hazards.

I believe this is sensible and reasonable, given the high bushfire risk within this state, and anything we can do to protect our citizens and ensure they are safe during high fire risk times is important. I commend the bill to the house.

Debate adjourned on motion of Hon. K.J. Maher.

PUBLIC FINANCE AND AUDIT (DEBT CEILING) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (16:19): Obtained leave and introduced a bill for an act to amend the Public Finance and Audit Act 1987. Read a first time.

The Hon. R.L. BROKENSHIRE (16:20): I move:

That this bill be now read a second time.

This bill seeks to amend the Public Finance and Audit Act, to impose a debt ceiling on the state government—the present one or any future one—of $14 billion, indexed from this year. That allows the government to go out to its present forward estimates position of net debt in the non-financial public sector to $14.023 billion.

Family First does not accept that $14 billion across all of government is an acceptable level of debt, but that is the level which this government has forecast it will reach in the forward estimates out years and it will have budgetary, financial and even legal liabilities arising if we were to try to bring them back inside $14 billion. I seek leave to table information of a purely statistical nature that appears otherwise on page 22 of the Mid-Year Budget Review, indicating the latest available figures on where net debt in the non-financial public sector will go.

The ACTING PRESIDENT (Hon. R.P. Wortley): The Hon. Mr Brokenshire, if it is only statistical, do you want to insert it into *Hansard*?

The Hon. R.L. BROKENSHIRE: Yes, sir.

The ACTING PRESIDENT (Hon. R.P. Wortley): Do you want to seek leave?

The Hon. R.L. BROKENSHIRE: I seek leave, sir.

Leave granted.

Table 1.19: Key balance sheet indicators—non-financial public sector

As at 30 June	2012 Outcome	2013 Budget	2013 MYBR	2014 Estimate	2015 Estimate	2016 Estimate
Net debt						
$m	7,996	9,684	9,432	11,046	11,309	14,023
% of total revenue	47.4	59.9	59.7	66.9	63.9	74.5
Unfunded superannuation						
$m	13,523	11,821	12,804	12,662	12,489	12,284
% of total revenue	80.2	73.1	81.0	76.6	70.6	65.3
Net financial liabilities						
$m	24,500	24,312	25,331	27,014	27,308	29,951
% of total revenue	145.3	150.4	160.2	163.5	154.3	159.2
Net financial worth						
$m	-25,123	-24,658	-25,909	-27,626	-27,974	-30,625
% of total revenue	-149.0	-152.5	-163.9	-167.2	-158.1	-162.8
Net worth						
$m	37,199	37,933	37,360	36,911	37,329	38,277

As at 30 June	2012 Outcome	2013 Budget	2013 MYBR	2014 Estimate	2015 Estimate	2016 Estimate
% of total revenue	220.6	234.6	236.3	223.4	210.9	203.4

The Hon. R.L. BROKENSHIRE: For the benefit of honourable members, I advise that the net debt position went from an outcome of basically $8 billion last year to $9.6 billion this budget year. The review indicated it was now slightly under that at $9.4 billion, but then, in 2013-14, it will go to $11 billion, in 2014-15 to $11.3 billion and, at the edge of forward estimates, to $14 billion, as I have said.

Why net debt across the whole non-financial public sector and not just the general government sector? Before going further, I want to address one question that is bound to come up, as the government will claim its net debt is far lower by pointing to the general government sector. Here is why we are looking at the larger figure. First, look at the agencies we are talking about in that non-financial public sector:

- SA Water, which, I remind members, made no net contribution to government in 2011-12 but are budgeted to deliver a $150 million benefit to government this financial year thanks to the astronomical water price increases;
- the Urban Renewal Authority, which, I note, has directly benefited in its bottom line from a handover of swathes of former Housing Trust properties;
- SA Housing Trust itself;
- ForestrySA, or what is left of it, and, again, why would the government not be held financially responsible for that organisation when it has gutted its income-generating capability with the privatisation of the profit-making bulk of the forests?; and
- SA Lotteries, which, again, has been privatised by this government but, as with ForestrySA, because they have their 'no privatisation' pledge under former premier Rann when his government was elected, they will have to retain it in this section of the budget so they can claim it was not privatised.

So, why do we include that total figure? Firstly, and importantly, because both core government departments and public trading enterprises engage in borrowing activities, net debt levels are best analysed at the non-financial public sector level, not just general government. Secondly, government ministers are responsible for the whole public sector and the decisions they have made in relation to those instrumentalities of the Crown. It is also to avoid cost shifting and because the commentary on the budget is always looking at the headline figure for an indicator of how the government is travelling. The bulk of the growth in the net debt is in what is called the general government sector, with some growth of $4.6 billion in the current budget papers to the end of forward estimates, whilst in the non-financial public corporations, the net debt is steady at about $4.3 billion.

For the sake of completeness, the agencies that are not captured by this definition are the public financial corporations, which include HomeStart Finance, South Australian Asset Management Corporation, South Australian Government Financing Authority, Motor Accident Commission, Funds SA and WorkCover Corporation. These are not included as they never are in the discussion of net debt in the budget papers.

Why is net debt such a concern? Again, I table page 79 of Budget Paper 3 of the state budget, which is table 4.8 and purely of a statistical nature.

The ACTING PRESIDENT (Hon. R.P. Wortley): Do you seek leave to have that inserted in *Hansard*?

The Hon. R.L. BROKENSHIRE: Yes, sir.

Leave granted.

Table 4.8: Key balance sheet indicators—non-financial public sector

As at 30 June	2011 Actual	2012 Estimated Result	2013 Estimate	2014 Estimate	2015 Estimate	2016 Estimate
Net debt						
$m	6 541	8 410	9 684	10 781	10 849	13 011

As at 30 June	2011 Actual	2012 Estimated Result	2013 Estimate	2014 Estimate	2015 Estimate	2016 Estimate
% of total revenue	41.0	50.0	59.9	64.8	60.8	68.4
Net financial liabilities						
$m	18 273	23 009	24 312	25 489	25 635	27 756
% of total revenue	114.5	136.7	150.4	153.3	143.6	146.0
Net financial worth						
$m	-18 402	-23 292	-24 658	-25 875	-26 080	-28 215
% of total revenue	-115.3	-138.4	-152.5	-155.6	-146.1	-148.4
Net worth						
$m	40 958	38 158	37 933	37 582	37 993	38 981
% of total revenue	256.6	226.8	234.6	226.0	212.8	205.0

The Hon. R.L. BROKENSHIRE: What this shows is that net debt as a percentage of total revenue was projected to rise from 41 per cent in 2010-11 to a massive 68.4 per cent by 2015-16. That ratio was based on a net debt of $13 billion, not $14 billion, as the Mid-Year Budget Review revealed.

When the now former treasurer told the parliament that he was setting a goal of having net debt at 50 per cent of total revenue, I think that he was referring only to the general government sector. But the Mid-Year Budget Review showed that, in 2015-16, they were going to blow it, and we were told that there was in that year going to be an additional $1 billion in net debt. Family First knew it was time to act. We talk often in this place about numbers and arbitrary figures, but the overwhelming feedback from our constituents is that they want action now to rein in state government debt.

With respect to State Bank parallels, first, the Hon. Mr Bannon, the former premier and treasurer, appointed retired Supreme Court Justice Jacobs to review the State Bank situation. In his first report, the former judge made such damning findings about the then dual premier and treasurer's lack of oversight and control over Mr Tim Marcus-Clarke that Mr Bannon had to resign. I believe that the resulting electing outcome was forever burned into the Australian Labor Party psyche.

Secondly, we are now at those levels again, as I will reveal in a moment with my third and final table from the budget papers, and, thirdly, this is about preventing a third. We need to focus in this place on the second State Bank disaster in front of us right now. This measure is about, if the parliament agrees with us, curtailing the damage of the second State Bank disaster and preventing a third and subsequent one.

The following two tables are the last I seek to insert into *Hansard* but bring home the point in a powerful way. The first shows this government's major spending problem, and the last is a relative comparison of our net debt position. The first is table C.3, from page 85 of the Mid-Year Budget Review. I seek leave to insert that table in *Hansard*.

Leave granted.

Table C.3: General government sector receipts, payments and surplus ($million)(a)

	Receipts	Payments	ABS Cash Surplus
1979–80	1,891	1,671	220
1980–81	2,065	1,917	148
1981–82	2,210	2,122	87
1982–83	2,664	2,507	156
1983–84	2,988	2,734	255
1984–85	3,380	3,057	324
1985–86	3,634	3,161	474
1986–87	3,956	3,416	540
1987–88	4,307	3,858	449
1988–89	4,630	3,977	653

	Receipts	Payments	ABS Cash Surplus
1989–90	4,973	4,370	603
1990–91	5,260	4,796	463
1991–92	5,387	5,396	-10
1992–93	5,967	5,456	512
1993–94	6,087	6,024	63
1994–95	6,155	6,220	-66
1995–96	6,405	6,164	241
1996–97	6,379	6,282	97
1997–98	6,988	6,724	264
1998–99	7,165	7,041	123
1999–2000	7,676	7,915	-239
2000–01	8,278	8,387	-108
2001–02	8,698	8,748	-50
2002–03	9,522	8,864	658
2003–04	10,023	9,502	522
2004–05	11,252	11,059	193
2005–06	11,480	11,293	187
2006–07	12,090	12,116	-26
2007–08	12,932	12,552	379
2008–09	13,579	14,299	-721
2009–10	15,837	16,991	-1,154
2010–11	15,331	16,851	-1,520
2011–12	16,556	17,594	-1,038
2012–13	16,391	17,385	-994
2013–14	15,749	17,346	-1,597
2014–15	16,599	16,851	-252
2015–16	17,697	20,502	-2,805

Note: Totals may not add due to rounding.

(a) There is a break in the series between 1998–99 and 1999−2000. Data for the years before 1999-2000 are sourced from the Australian Bureau of Statistics (ABS) and are consistent with ABS GFS reporting requirements on a cash basis. Capital receipts and payments, including payments associated with the provision of financial support for state owned financial institutions (which were treated by the ABS as an 'investment in financial assets for policy purposes') are not included in the series before 1999–2000. After 1998–99, data are derived from an accrual ABS GFS reporting framework, with receipts proxied by receipts from operating activities and sales of non-financial assets, and payments proxied by payments for operating activities, purchases of non-financial assets and net acquisition of assets under finance leases and similar arrangements. Due to the associated methodological and data-source changes, time series data that encompass measures derived under both cash and accrual accounting should be used with caution.

The Hon. R.L. BROKENSHIRE: It is a remarkable table. For the benefit of honourable members, it shows that general government sector receipts have gone from $1.9 billion in 1979-80 to a whopping $17.7 billion in 2015-16. However, importantly, the trend line shows that up to 2008-09, in 23 out of 29 years the state government lived within its means; it spent less than it earned. On those six occasions when it went over, it is in the proportion of most of the 3 per cent of income that is barely worth mentioning compared with what I will outline in a second. The horizontal line you will see at 1998-99 is important. The government might complain that the comparison is unfair because different accounting methods applied before 1999-2000.

But let's look at this government's record. To their credit, they earned more than they spent for their first four years and for five out of their first six years, but for every year since then and into the forward estimates the government has spent more than it earned. In 2010-11, the government spent $1.5 billion more than it earned, another $1.5 billion more than they earned in next year's budget and a whopping $2.8 billion more than they expect to earn in 2015-16. That is a 15.8 per cent overspend on the $17.7 billion the government expects to receive that year. Anyone who runs a household budget or a business budget knows that, when you spend more than you earn, it goes onto your debt, on which you pay interest.

I urge honourable members to have a close look at those figures when they read the *Hansard* with these tables incorporated. They are frightening, sobering, and illustrate the need for this reform. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

ST CLAIR DEVELOPMENT

Adjourned debate on motion of the Hon. D.W. Ridgway:

That this council condemns the Weatherill Labor government for its continual arrogance in pursuing the St Clair 'deal', including a land swap which will destroy one of the few remaining open spaces for locals, ignoring the overwhelming message from the Charles Sturt election result and labelling the latest DPA under the deceptive title of 'Woodville Station Development Plan Amendment'.

The Hon. G.A. KANDELAARS (16:30): I rise to put the government's response, and it will be no surprise that the government opposes this motion. Four points need to be addressed in responding to this motion: (1) the land swap; (2) the perceived reduction of open space in the St Clair area; (3) the perception that the government has ignored the views of the local community and the City of Charles Sturt; and (4) the view that the title of the development plan amendment is deceptive.

On the first issue of the land swap, in 2008, the City of Charles Sturt began discussing a possible land swap with Woodville Joint Venture Pty Ltd (Woodville JV). The swap involved the Land Management Corporation (now Renewal SA) acquiring a 4.7 hectare portion of the former Sheridan site from Woodville JV to be developed as a public reserve. Renewal SA then swapped this land for 4.7 hectares of council-owned St Clair reserve, with the intention of developing this site for mixed use, residential and open space. In December 2009, the City of Charles Sturt revoked the community land status of the affected portion of the St Clair reserve and the land was formally transferred in August 2010 to the ownership of Renewal SA.

On the second point, the perceived reduction of the open space in the St Clair area, the land swap did not reduce the amount of open space in the area as it resulted in 4.7 hectares of land being swapped for an area of exactly the same size. In fact, Renewal SA has now agreed to add a further 1.3 hectares from its 4.7 hectares, adjacent the Woodville Railway Station, to open space. The net result is that the open space in the affected area will increase from 4.7 hectares to six hectares, an additional 15.7 per cent more than is required by the Development Act 1993.

The third point is whether the government has ignored the views of the local community and the City of Charles Sturt. As the land swap was jointly instigated by the Charles Sturt council and Woodville JV, and the master plan was initiated by council in conjunction with Renewal SA, these bodies were responsible for ensuring the community was given a full briefing on both these issues and that their views were actively sought. Both the land swap and the development of the master plan involved thorough and extensive community engagement processes.

In seeking the community's views about the land swap, council conducted a six-week community engagement process involving letters sent to landowners and residents within 500 metres (which resulted in more than 1,500 responses), letters sent to external stakeholders and community groups (which resulted in responses from 16 groups), full-page adverts and public notices in local newspapers, a large sign on the St Clair reserve, displays at the civic centre and the Cheltenham Community Centre, and information on the council's website.

The master plan was also subject to a thorough community engagement process. Residents, traders, property owners, school members, local service providers, and community and sporting groups were given a variety of opportunities to attend workshops, meetings, on-site discussions, and a six-day intensive design workshop about the master plan. Finally, the draft master plan was put on display for a four-week period, commencing with an open day.

Representatives of the St Clair Reserve Ratepayers Association participated in this community engagement process. Whilst clearly stating their continued opposition to the land swap, in the event that the development did proceed the association developed an alternative plan which emulates the design principles of Christie Walk, a sustainable, medium to high density residential development in Sturt Street, Adelaide.

To implement some of the key recommendations of the Woodville Village master plan that relate to the Renewal SA proportion of the land, the Department of Planning, Transport and Infrastructure then prepared the Woodville Station Development Plan Amendment. The community consultation for this DPA was conducted over an extended 12-week period from

22 November 2012 to 14 February 2013, four weeks longer than the statutory requirement. More than 300 submissions were received and are being considered. Importantly, the City of Charles Sturt has indicated its general support for the Woodville Station DPA.

The fourth point was whether the title of the DPA was deceptive. No; the Woodville Station Development Plan Amendment is so named because it seeks to implement the recommendations of the Woodville Village master plan as they relate to land adjacent to the Woodville Railway Station rather than the balance of the land being subject to the master plan. As I understand it, this is the subject of a council-led DPA. On that basis, the government opposes this motion.

The Hon. K.L. VINCENT (16:37): Because I support the motion I will not delay its passage for long, but I would like to make a few very brief comments. Rather than rehashing the comments already made in this chamber by my colleagues the Hon. Mr Ridgway and the Hon. Mr Parnell, I will simply say that the removal of this land from the community is a travesty. It is wrong. Many of the points they have raised about lack of process, lack of transparency and the community dudded by a majority of the local council and the Labor government are completely accurate and, again, very wrong. For these reasons I support the motion and commend it the chamber.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:37): I thank members for their contribution to the debate on this important motion. I think what it does indicate is how out of touch the government is. I note the Hon. Gerry Kandelaars' comments in relation to open space. Does he not recall (I spoke of it in my contribution) that a survey done by the LGA showed that in the City of Charles Sturt they are already significantly short of adequate open space? With the government's own population targets, they will be even further short of usable public space in all of the City of Charles Sturt. Of course, that includes the area around St Clair and the Woodville station.

Open space is an important part of our vibrant communities, an important part of liveable and walkable suburbs—all the things that the Labor government talks about at the moment. It says that this is an important part of it, yet it is quite happy for valuable open space to be lost. There are a number of areas, including old industrial land, in that particular council area that could be used for high-density housing.

The Liberal Party has always been supportive of greater density housing in the city but not at the expense of beautiful, open, public space. There are a number of industrial sites that could be rehabilitated, industries moved on, and we could actually have some high density housing near the railway lines, near public transport, without the loss of open space.

Just touching on the Hon. Gerry Kandelaars' final point, he talked about the title of the DPA not being deceptive. It talks about the Woodville Station Development Plan Amendment, and now they are saying it is actually the land adjacent to it. If they were not wanting to be deceptive, why could it not have been called the Woodville Station (Adjacent Land) Development Plan Amendment? That is not in the title and it is clear they were trying to be deceptive.

Whether it is the council, local government, Renewal SA, or a combination of all of them, at the end of the day, this whole process has been poorly handled. The consultation, clearly, has not been adequate right from day one with the sale of Cheltenham and right the way through. I think, because these projects are all linked, from day one, the consultation and the information that has been shared out there has been appalling and, of course, now we see that significant parts of valuable open space will be lost to the western suburbs. I commend the motion to the chamber.

The council divided on the motion:

AYES (12)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Franks, T.A.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Parnell, M.	Ridgway, D.W. (teller)
Stephens, T.J.	Vincent, K.L.	Wade, S.G.

NOES (6)

Gago, G.E.	Hunter, I.K.	Kandelaars, G.A. (teller)
Maher, K.J.	Wortley, R.P.	Zollo, C.

Majority of 6 for the ayes.

Motion thus carried.

FISHERIES MANAGEMENT ACT

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the regulations under the Fisheries Management Act 2007 concerning prescribed quantities, made on 27 September 2012 and laid on the table of this council on 16 October 2012, be disallowed.

(Continued from 28 November 2012.)

The Hon. J.S.L. DAWKINS (16:45): In November of last year, the member for Hammond, Mr Adrian Pederick, and I both introduced motions in this parliament to disallow the recreational fishing possession limits for King George whiting on the basis that the restrictive limits would have negative flow-on effects for small businesses, tourism and the regions. While the state Liberal Party recognises that recreational fishing possession limits are necessary to continue to manage South Australia's King George whiting fish stocks, the regulations were too strict. I am pleased to say that the government has now introduced new regulations which increase the possession limits from seven kilograms to 10 kilograms per fisher. This is a sensible compromise but one, I am sure, that would not have arisen if the disallowance motions had not been moved by the member for Hammond and me. Having said that, I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

PUBLIC TRANSPORT

Adjourned debate on motion of Hon. M.C. Parnell:

That this council—

1. Notes—

   (a) The packed public meeting on Monday night at the Blackwood High School called by the Greens to discuss alternative services for commuters on the Belair train when the train line is closed from 2013 for up to eight months;

   (b) The serious concerns expressed at the meeting about the impact of the closure of the Belair line (along with the Noarlunga and Tonsley lines) on traffic congestion on southern arterial roads and the subsequent reliability of the substitute bus timetable;

   (c) The range of positive alternative solutions proposed by the community, including boosting existing regular bus services along Shepherds Hill and Unley Roads, more scheduled express bus services and improved siting of the Eden Hills bus stop.

   (d) The deep disappointment expressed at the meeting that the transport department had failed to adequately talk to the community first about what alternative services would work best for commuters; and

   (e) That keeping the train running between Belair and Mitcham is not only technically viable, but cost comparable and delivers many benefits for commuters, and that this option, not surprisingly, remains the most popular alternative for Mitcham Hill residents.

2. Calls on the transport services minister to deliver on a range of options canvassed at the meeting, including—

   (a) More scheduled express bus services in a revised timetable that is both credible and reliable;

   (b) An increase in the number of scheduled existing bus services, including the G30 and 195/196 services;

   (c) A review of the location of the proposed Eden Hills station substitute bus stop; and

   (d) A commitment to consult better with affected commuters before, during and after the proposed rail closure.

(Continued from 28 November 2012.)

The Hon. CARMEL ZOLLO (16:47): I rise on behalf of the government to respond to the Hon. Mark Parnell's motion. I know all would appreciate that this government has embarked on the biggest transport infrastructure spend and upgrade seen in the state. However, with major works on our rail and roads comes inconvenience for rail and road users. I am certain we all appreciate that temporary closures and alternative arrangements are an unfortunate part of seeing such

upgrades. Certainly, no government enjoys upsetting or frustrating its constituency or putting them out in any way. I would like the opportunity to place on the record some brief history and then respond to the Hon. Mark Parnell's motion.

The latest stage of the overhaul to modernise Adelaide's rail network commenced on 20 January 2013 and is combining a number of projects to accelerate the upgrade and minimise inconvenience to customers. The works are being coordinated to complete major projects as safely and efficiently as possible. The following projects are being undertaken simultaneously: construction of a rail underpass at Goodwood junction, track upgrades of Adelaide's rail network and electrification of the Noarlunga to Seaford and Tonsley lines.

In relation to the Belair line, as we know it was closed in its entirety on 2 January 2013, while the Goodwood junction and Adelaide Railway Station are being upgraded. It will reopen in mid-2013. The closure will allow for the upgrading of the track between the junction of the Noarlunga and Belair lines and the city. During the closure substitute bus services are running between Belair and the city. Upgrades to signalling infrastructure are also being undertaken on the entire Belair line during the closure period, including the installation of the automatic train protection system. The option of maintaining a railcar shuttle service between Mitcham and Belair has been investigated but discounted on several grounds, and I will comment on that later.

During his contribution, the honourable member commented that rail closures disproportionately affect rail commuters with disabilities and also commuters with bicycles, so I would like to provide the following information for members. Due to the size and nature of the closure and the scale of bus substitute services required across the network, a separate fleet of age-exempt buses has been employed to supplement the regular Adelaide Metro fleet. These have been granted an age extension under the Passenger Transport Act 1994.

In addition to these buses, coaches are also being used to transport passengers, as well as privately owned buses in Adelaide Metro livery operated by Torrens Transit. The substitute buses used on the Belair and Outer Harbor lines are operated by Torrens Transit and I am told that they are wheelchair accessible. Nonetheless, I understand that, if for some reason this is not the case, customers are encouraged to contact the rail substitute bus provider as early as possible to request that an accessible bus be provided for their rail substitute service.

I understand that it is also preferable that the substitute bus contractor be notified on a date prior to travel. If an accessible bus is not able to be provided on request to the contractor, I am advised that an access taxi will be provided at no cost to the customer. I understand that this can be the case in other ordinary travel as well. On one occasion my office had reason to contact the transport authority in relation to somebody who was temporarily disabled.

In relation to cyclists, the department has again funded a service operated by Bicycle SA that transports bikes and riders between Mitcham and Blackwood on weekdays between 3.30pm and 6.30pm and on weekdays between 10am and 4pm.

In his contribution, the honourable member also commented in relation to keeping the Belair train line operating between Belair and Mitcham during the planned 2013 shutdown. The department looked at many options to have the rail line remain open between the Mitcham and Belair stations as part of the detailed planning process.

The necessity to close the entire Belair line during this period is based on a number of operational factors unique to the rail network. These include the lack of refuelling, inspections and required maintenance facilities, all of which require access to our purpose-built state-of-the-art maintenance facility at Dry Creek in Adelaide's north, which is physically cut off by the Goodwood closure. I am advised that even if these facilities were duplicated, should a railcar sustain damage or significant mechanical fault, there would be an inability to undertake repairs as such as the rail car would need to be left parked somewhere along the Belair line until it was somehow able to be moved to the Dry Creek depot.

I will attempt to respond to the motion of the honourable member as it calls on the government to address a number of issues. Hopefully I will not repeat information I have already placed on the record.

In relation to the honourable member's call for more scheduled express bus services and a revised timetable that is both credible and reliable, following feedback received from the community, an extra 14 specific express bus services were introduced into the timetable commencing 2 January 2013 in conjunction with the closure. These services included seven

express buses during morning peak times and seven express buses from the city during afternoon peak times. These buses service Eden Hills, Coromandel Valley, Blackwood, Glenalta and Belair to stop 23, with express travel to and from stop 23 on Belair Road.

Designated bus substitute stops were also established centrally in the city along King William Street, one closer to Rundle Mall and the other one near Victoria Square, to provide closer access for passengers at the centre of the city. In addition to the published B1X express services, the Belair bus substitute timetables deliver in such a way that more than one bus is operated on each service, where appropriate, to cater for demand. In instances where one of these buses reaches capacity at any station, it will then travel express, with the following bus servicing all remaining stops along the route.

Given this arrangement, the bus substitute timetables do not necessarily provide exact times for express services to the city or to the hills on the return journey. The reason is that, from the point at which the bus travels express, drivers will travel via the most timely and effective route available. Supervisors are also maintaining regular contact with all drivers to identify the most appropriate and quickest route. Therefore, as the route may change, depending on traffic flow, the actual journey time may also alter slightly.

Prior to the implementation of the timetables, Torrens Transit conducted numerous time trails for the express services. On average an express bus from stop 23 in Belair will take approximately 30 minutes, while an express service from Eden Hills will take approximately 55 minutes. It should be also be noted that, as buses cannot travel along a dedicated corridor, they will be impacted by traffic conditions, congestions and other unforeseen circumstances, such as accidents, etc., which may impact on the driver's ability to maintain the schedule.

Detailed planning was undertaken by the Department of Planning, Transport and Infrastructure when designing substitute bus services for Belair to ensure the most effective arrangements were implemented for passengers. Services are also being continually monitored by the department and the bus operators, including through the deployment of supervisors at all key locations to ensure services are operating effectively. Regular communication is also being maintained, with a traffic management centre to identify any potential traffic issues and optimise traffic flows where possible and appropriate.

From 17 January 2013, two additional services were implemented for the Belair bus substitute services. One extra morning service departs Eden Hills at 7.23am, while one extra afternoon service departs the city at 4.35pm to cater for demand. The department also is currently considering further service enhancements in consultation with Torrens Transit. Various other initiatives have also been implemented to facilitate passenger loadings and improve travel time from the city in the afternoon peak, including:

- splitting the B1 zone on King William Street to two zones (one for Noarlunga services and the other one for Belair (B2)) to spread the number of buses and facilitate passenger loadings;
- removing Belair bus services from Victoria Square and relocating this bus stop to F2 on King William Street (just north of Victoria Square) to help reduce delays; and
- utilising additional buses to commence some services from B2, rather than having all services commence from stop A on King William Road. This has reduced dwell times for vehicles, spread passenger loading on buses and ensures that services depart the stops on time.

These initiatives have been successful in improving passenger loading, reducing travel time along King William Street and enabling services to depart the city on time. In relation to the honourable member calling for an increase in the number of scheduled existing bus services, including the G30 and the 195 and 196 services, the department has been monitoring the G30 and the 195/196 very closely in conjunction with Light City Buses, the operator of these services. Patronage demand is monitored regularly and on-site supervisors have also undertaken surveys to identify any potential capacity issues on these services.

The department is aware that some passengers have chosen to use regular Adelaide Metro services, and this patronage shift has not been significant and existing services are meeting this additional demand. As an added measure, Light City Buses is also ensuring that articulated vehicles are being allocated to these routes, particularly during peak times. Based on the data received and the extra measures being put in place with Light City Buses, there is currently no

requirement to introduce additional vehicles or services on these routes. DPTI will, however, continue to monitor these services to ensure they continue to meet capacity during the closure period.

Concerning the call for a review of the location of the proposed Eden Hills station substitute bus stop, detailed consultation was undertaken with the Mitcham council when identifying potential bus stops for the substitute services. It should also be noted that this bus stop has been used for many years as an emergency train substitute bus stop and was also used as part of the previous closure of the Belair line.

This location provides the closest access for passengers while also taking into account manoeuvrability for buses which are attempting to provide access as close as possible to the station. This location was also chosen as the bus stop is adjacent to a park where seating is available and where, importantly for residents, it is not located directly at the front of a residential property.

In relation to a commitment to consult better with affected commuters before, during and after the proposed rail closure, the government is committed to providing timely and effective communication to all rail customers affected by the closure of railway lines for major infrastructure improvements. I can advise the chamber that to date it has:

- undertaken a comprehensive media and community information campaign advising of the closure and alternative services;
- distributed approximately 40,000 copies of the Adelaide Railway Station closure brochure;
- hosted a survey on DPTI's Rail Revitalisation web page that drew around 800 responses from the public: 44 per cent from Noarlunga line users, 30 per cent from Belair and 13 percent each from Outer Harbor and Gawler; and
- undertaken a study of around 500 rail customers three weeks before the closure, which found that 92 per cent were aware of the closure and that more than half (51 per cent) had already obtained their substitute bus timetable.

The government has enacted the following additional information campaign in the lead-up to the reopening of the Adelaide Railway Station to services in relation to advertising:

- press advertising—*Sunday Mail* on 27 January and 3 February and in the *Saturday Advertiser* on 26 January;
- Adelaidenow online adverts;
- radio advertisements—Australian Traffic Network on all major commercial stations and
- Facebook marketplace ads.

In the Adelaide Railway Station:

- voice and drivers' announcements and electronic screen displays;
- InfoCentre portrait, landscape and slat wall displays updated;
- Adelaide Metro electronic mailing list notifications;
- Adelaide Metro and DPTI websites;
- alert signage at stations;
- information signage at stations; and
- reopening fliers handed out by drivers and passenger service assistants.

The department also encourages feedback from customers via its website, social media and customer information line and takes into consideration the feedback provided by customers when planning its services. For example, following feedback received from the community, an extra 14 specific express bus services were introduced into the timetable on the Belair line. A full community information campaign will be undertaken in the lead-up to the resumption of services on the Belair, Noarlunga and Tonsley lines.

I understand that the minister in the other place, the Hon. Chloe Fox MP, attended the forum organised by the honourable member (and the honourable member is nodding his head). As

far as possible, following not just the forum but government community consultations, additional changes to the Belair line temporary closures were implemented prior to commencement of the closures. This included further refinement of a series of express services to and from stop 23 Belair and the city to further decrease travel times and provide a more train-comparable timetable. Other calls to continue to provide captive network services between Belair and Mitcham were rejected due to the overriding safety concerns, as I have already outlined.

For the stated reasons, the government cannot support the motion. I would like again to take the opportunity to remind honourable members that the modernisation of our rail network is obviously important and that no government—absolutely no government—wants to disadvantage commuters unless it is necessary and, as to be expected, for as little time as possible.

I hope that honourable members take into consideration the level of government consultation to minimise disruption to commuters and appreciate that new and improved public transport is an important responsibility of government; albeit that it needs to put contemporary plans in place whilst those upgrades are being implemented, those plans are based on sound advice to deliver safe and effective outcomes for commuters.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:05): On behalf of the opposition, I rise to speak to the Hon. Mark Parnell's motion. I indicate that the opposition will be supporting his motion, but I do wish to make a few comments about the rail revitalisation program, the constraints at the Adelaide Railway Station due to the Convention Centre and the lack of a transport plan. If you actually planned, Mr President, you probably could have avoided one lot of closures—on the Belair line especially.

I remind members that when I was elected in 2002, the Hon. Diana Laidlaw, who sat in this place, was transport minister. She had, just prior to the end of the Liberal government, started the resleepering of the Outer Harbor line especially, which had old wooden sleepers which had passed their use by time and the line was in bad repair. As I think many members of government have said, our rail network has not had any maintenance or upgrade for a couple of decades, and the Hon. Diana Laidlaw—the former Liberal government—had started that. It was their view at the time that you needed not to let it run right down. But following the State Bank disaster, the state had no money. There was an opportunity then to just start the works.

As we all know, if you are trying to maintain your house, you do not wait for everything to be falling to bits before you start; you keep at it a little bit at a time. But, sadly, once the current government came to power, they decided to abandon that; concrete sleepering was abandoned. The Liberal Party had started gauge convertible resleepering in a number of hotspots on that line. The reason I am highlighting that is that this whole rail revitalisation project—the resleepering project that needed to be done—could have been done incrementally over the last decade, in particular the Belair line. The Hon. Mark Parnell might know the time, but that line was completely rebuilt—

The Hon. M. Parnell: 2009.

The Hon. D.W. RIDGWAY: The Hon. Mark Parnell interjects '2009'. So, 3½ years ago; thank you very much. The line was closed while that work was done, and that was about the gauge convertible concrete sleepers, although that particular line is not going to be electrified. So, there was no need to do it right then.

The thing that I think is missing in all of this is something that this government has never admitted it should have, and that is an integrated transport plan that lays out for the community what is going to happen over a 20 or 30-year period and how things can be sequenced. Mr President, you could have got away with not closing the Belair line in 2009 and waited until now, knowing that the Goodwood junction work had to be done—it has been on the drawing board for some time—and that it would remove some congestion. I do not think that anybody is critical of the project or the outcome that will deliver.

What has happened is that, because we have not had a transport plan and an overall view of what needs to be done, we are now seeing that the Belair line has had to be closed twice in three years, once for its own upgrade and now again—after all of that work has been done and lying idle—while the Goodwood junction is being done. I think that demonstrates an absolute failure by the government to have a proper transport plan, where all of this work could have been done and sequenced properly. Again, I use the comparison to your own home: you would not put a new roof on your house and then pull the roof off to do some work on the internal structures of the

ceiling or the timber work; you would do it properly and in sequence—and that is what has not happened in this particular case.

Of course, then you end up with all the inconvenience the Hon. Mark Parnell talks about in his motion—the concerns for the residents of the Hills, where there are delays and inadequate services, and there are issues with disability access. There are a whole range of issues that he raised in his contribution. I do not wish to revisit them but, again, it is something that happens when you do not have a proper plan.

Of course, if you do not have a plan as the government of the day, or the Department of Planning, Transport and Infrastructure, it is something that is almost forced upon you quickly, as appears to have been the case. The consultation was short, the community was not notified, and the Hon. Carmel Zollo was trying to justify the government's consultation. But if it had been part of a plan where everybody knew, 'Well, look this is going to happen,' the community could have made adjustments and been well aware of it, and also the department would have had the time to do more adequate and thorough consultation.

I might quickly also touch on the closure at the beginning of the year that was to do with the Convention Centre extension and some work that needed to be done there. Again, it is interesting, but slightly off at a tangent, that we are spending $350 million on the Convention Centre, yet I have been advised recently that there is no money in the bid fund for the Convention Bureau to actually attract new conventions. Again, I think this is symptomatic of a government that has no overall plan anymore; they are just stumbling along from one project to another and from one issue to another.

I also remind members, of course, that the Liberal Party went to the 2006 and 2010 elections pledging to have an integrated transport plan but, as I have mentioned on a number of occasions in this place, sadly, we did not win. I remind members that, of course, the Hon. Mark Parnell's party, the Greens, did preference Labor in the seats that mattered to win in both those elections and, of course, we will support his motion today because we do feel for the people of Belair and the Mitcham Hills.

At the end of the day, had we been able to form government, we would have had a plan and these projects probably would have gone ahead, but we would have actually done it in a way that minimised the inconvenience to the community. With those few words, I indicate I support his motion.

The Hon. K.L. VINCENT (17:11): Once again, I will not speak for very long, but I want to place on the record my support for this motion. Unfortunately, the closure of the Belair line for eight months is one of a multitude of problems that beset public transport in Adelaide currently. Perhaps it is not surprising, since the government chooses not to have any sort of integrated transport plan.

My office has received a number of calls in recent days about the problems with our public transport, especially in relation to trying to exit the city on Friday and Saturday after Clipsal, Fringe and Festival events. We really need to do better. Frankly, it is an embarrassment, having interstate and international visitors—and, I would argue also, locals—unable to get anywhere when there are no buses, no trams, no taxis, and half the train lines are closed. However, perhaps I digress a little.

The substitute buses on the Belair line continue to cause headaches, to say the least, for many Adelaide Hills commuters, including those with extra access requirements. Traffic congestion is now a daily problem on the routes from the city into town, and I have been contacted by a commuter whose former 30-minute train ride has been turned into a one to two-hour daily bus ride, depending on traffic congestion and whether or not the bus breaks down. Surely, this is an embarrassment. So, I support this motion and commend it to the chamber.

The Hon. M. PARNELL (17:13): I would like to begin my summing up by thanking the Hon. Kelly Vincent for her support, and she clearly has her finger on the pulse of what is happening in relation to public transport at the moment. It is a woeful situation. I would also like to thank the Hon. David Ridgway for his support and also the Hon. Carmel Zollo for her contribution, which I cannot let pass without at least referring to a few things she said.

The Hon. Carmel Zollo was keen to put on the record what she sees as the government's comprehensive public engagement process. But, of course, we would not be in the position we are in had the government, in fact, engaged in a more timely manner, in a more comprehensive manner and in a more genuine manner with the people who are to be affected by these line closures. The honourable member refers to the extra 14 express buses that were, in fact,

announced at the public meeting the Greens called, a meeting to which the Hon. Chloe Fox attended. I would just make the point that if the Greens had not batted on behalf of this affected community, then it is unlikely we would have seen those extra express buses.

In summing up this motion, what I would like to do is report back to the chamber some of the feedback I have had from affected commuters. I wrote to a large number of people—I think it was 100 or 200 people, many of whom had attended the public meeting I convened—last month in the following terms:

> It's now a month into the substitute bus service and I'm keen to find out how it's going. We know that only about 5 per cent of former Tonsley line train passengers are using the substitute bus service. I'm keen to find out how you have responded to the shutting of the Belair line.
>
> My impression is that the alternative services during January were slow, but reasonably reliable. However, now that we have the school traffic and a big increase in commuter car numbers the reliability has been much poorer and times have blown out even further. Leaving the city during the evening peak hour in particular has been incredibly slow.
>
> Before parliament resumes for the year, I am keen to hear how you have responded to the closure:
>
> - How have you found the alternative bus services?
> - Do you use them, or have you made other commuting plans?
> - Do you have any suggestions for improvements?

Mr President, I certainly do not intend to put all the responses on the public record, but I will just give you a flavour of what people said to me in response to those queries.

Before I refer to the letters and the emails I will give a summary of the responses. Roughly one-quarter of respondents reported that they were driving cars instead; one-quarter of respondents had switched to other buses rather than using the official substitute bus; about a quarter did use the substitute buses and, on the whole, found them not up to scratch but were forced to continue to use those substitute buses because they had no viable alternative; and about a quarter were either satisfied with the substitute buses or a large number of them were cyclists who used the bike shuttle service that the Hon. Carmel Zollo referred to, a service first introduced back in 2009. These are some of the responses I got from Belair passengers:

> I have no alternative means of transport, so have to use the substitute bus service for the Belair line. However I find that the patronage is extraordinarily low compared with the people that I regularly saw at the [Coromandel] station and on the train.

Another commuter said:

> I have used the substitute buses around once a week coming from the city to Blackwood only, which is my normal use for the trains. I have found the buses to be reasonably reliable, but it is very variable as to whether they do get to their destinations on time (this is during peak time when traffic is very bad anyway). It is very bad currently and I expect will get even worse when events such as the Clipsal clog up traffic too.

Another response was:

> Well the bus travel is certainly very slow. My husband caught the express bus last week too a little later than usual—just after 8am and it was a one hour 20 minute journey—it was around an hour before the children went back to school but has become much longer since then, quite understandably.
>
> I have heard a lot of feedback that the drivers are too fast with too much braking going down the hill—a friend had to stand all the way down recently and found it very hard going. You can't blame people for trying something else rather than having just a long commute! The assertion that the bus would only take 35 minutes from Belair was always...a joke.

Another response from a person who did not use the Belair substitute but used the existing G30 service was:

> The morning G30 service is working well and pretty much on time—although this is surprisingly not well patronised. I have noticed several people walking up from the direction of Eden Hills Station and catching the G30 at 'my' stop. I am wondering what will happen next week when the substitute bus is no longer free. Will more people crowd on to the G30 in order to get home quicker?
>
> Getting out of the city in the evening is a different matter. I have discovered that the 4.45pm G30 is generally on time, but I have to leave work early and race to catch this one. However, my husband catches the next bus at 5.10pm and this one is always late. Two weeks ago he and several other passengers stood in 42º heat in King William Street for almost an hour. The 5.10pm bus eventually arrived at 5.50pm. One female passenger was so irate she refused to pay. Thursday last week—another hot day—the bus was an hour late again. I was speaking to a G30 passenger the other day and she said neither the 5.30pm nor the 6.05pm (the last bus) turned up one day and

she had to get a taxi home to Blackwood. When she rang Metro the next day to complain she was told, 'You can't rely on the 6.05pm.' Not an answer!

Another response was:

> The traffic into the city has increased enormously since school went back this week and the G30 takes an extra 10-15 minutes to get into the city. I also believe that the peak hour traffic in Blackwood/Belair in general is much heavier. I do know that several people I was catching the train with said they were going to drive into the city rather than use the substitute bus because (finishing work at 5pm) they couldn't get to Blackwood in time to pick up their children from day care or 'out of school care'. The penalty for being late is $5 per minute after 'closing time' at either 6 or 6.30pm.

Another passenger says:

> The 7.34am 'express' service from Eden Hills this morning arrived into Adelaide at 8.45am, a comically long journey time for an express service.

They also go on to talk about another revolution, if you like, on the buses where they were considering boycotting validating their tickets because they did not think they were getting value for money. I am certainly not going to name that person because I do not want them to get into trouble, but that is how frustrated they were. Another one says:

> I have been using the Belair substitute buses from Mitcham. They are usually on time but the trip down Goodwood Road is jammed and the city is jammed so on many trips it takes an hour to travel 6 kilometres! Quicker to walk. The B1 from the city is always late leaving by up to 20 minutes, so close to an hour to get back to Mitcham.

I would like to conclude with something that is a little bit more positive because I do want to be fair in terms of the responses that have been offered. This one says:

> I am happy to say that I have been quite pleased with the way things have been managed to date.

That pricked my attention. I thought, 'I wonder what time they are catching the bus.' It says:

> I catch the 7.04 express from Kenny Park—

which is the Eden Hills stop—

> and have done from day one. Very early on, TransAdelaide decided to run this bus straight down Main Road without the need to go all the way round the Belair mulberry bush. I gather the bus that leaves Coro at the same time as us actually starts at Coro, but does go up Laffers Road. The trade-off for them is that, unlike our bus, it by-passes Blackwood station. All the express buses then go straight down Belair/Unley Road. I find even now with the schoolchildren back, this bus takes between 35-45minutes...today it arrived at Victoria Square at 7.40.

This person is obviously happy, because they are getting a very early bus before the peak hour has kicked in—at 7am. However, it is not all roses. They continue:

> Coming home is a bit of a hit and miss affair, but that doesn't bother me so much. I also have to commend the bus drivers themselves.

I will leave the final comment to someone who I think has put their finger on the pulse. They say:

> Perhaps [the] present chaos will be the trigger for sensible overall forward planning—working towards frequent, accessible public transport for Adelaide and its suburbs. This would reduce growing frustrations, and bring on the benefits of clean, safer transport.

I sincerely thank all those people who chose to respond to my questions and took the trouble to write to me. I have certainly been summarising all of those submissions and making sure that the Minister for Transport is made aware of them. But, for present purposes, I am glad that this motion does seem to have the confidence of the house, and I thank all those members who have indicated their support for it.

Motion carried.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October 2012.)

The Hon. K.L. VINCENT (17:28): I do not wish to occupy too much of the council's time, as usual, but I have a few remarks that I would like to add to the record on this important bill. This bill has been brought on quite suddenly due to the recent failure of a government bill of the same name to pass in the Legislative Council following the failure of another identical bill in 2011. As I understand it, it is hoped that the discussion of this bill, which addresses the same issue in a substantially different way, offers some prospect of a compromise. It is clear at least, from the

contributions of members to the debate of the defeated bill, that there is a great deal of will to see the issue resolved, though we disagree to an extent on how to resolve it.

Members will already be aware of my feelings on this issue, which were outlined in my second reading speech on the government bill. I am highly supportive of the effort to see a greater diversity of identification evidence recognised by the state's justice system. However, I feel that an important part of this effort must ensure that the processes and procedures by which evidence is collected, presented and utilised is clear, precise and accessible to all. Given the failure of the justice system to make any measurable progress in this regard, I strongly believe that there is a need here for parliament to intervene.

This was a key consideration in my decision to reject the government bill and it is now one of the major considerations against which I seek to measure the bill before us now. While I have not had as long as I might like to consider this bill and the Hon. Stephen Wade's amendments thereto, I see a great deal of promise.

The amendments proposed to date—and I am sure there shall be others—gives scope for the parliament to be involved in setting important expectations about how evidence is collected through regulations. They also call the courts' attention to a witness's disability when considering whether or not to admit evidence collected by a noncomplying process.

I am yet to reach a final, conclusive decision regarding this bill but I, like other members, have a number of questions that I have referred to the Hon. Mr Wade. I understand that we will not be proceeding beyond the first clause today in order to allow some discussion on these matters, so I look forward to discussing this bill further and hopefully seeing some progress in addressing this broad issue.

The Hon. S.G. WADE (17:31): An indication having been given that no government members wish to speak on this matter, I will take the opportunity to sum up. The council is clearly united in its support to remove the traditional preference for line-up identification. The issue is what should be the starting point.

The government's evidence ID bill sought to remove the preference without changing the underlying framework. The opposition's response has been to support the removal of the preference on the condition that the opportunity was taken to enhance the quality of identification parades. Faced with that choice, the council yesterday declined to read the government's bill a second time. An identical bill was tabled in 2011 and rejected by this council by a vote of 12 to nine. Yesterday the 2013 bill was rejected again by a vote of 12 to nine.

Yesterday the Attorney-General was asked by radio FIVEaa's Leon Byner, 'What was their reasoning for knocking back this proposition in the first place?' The Attorney-General's answer was, 'I'm not sure they actually gave one other than they thought photos weren't very good.' Later on in the interview Mr Byner said, 'The photographs you can get now even if you're in an accident and you use the phone to take a picture, the digital clarity of these pictures now is very good.' The Attorney responded: 'Absolutely.'

In terms of the reasons the opposition has given, I refer members to my six-page contribution on the second reading of the 2011 bill and the two-page contribution on the 2012 bill. Amongst all the reasons given, I did not refer to pixilation once. The Attorney-General's misrepresentation of the facts is an insult to the South Australian listening community. It is also an insult to this place. It is absurd to think that this council, on a vote of 12 to nine on two occasions, would reject the bill on the basis of the pixilation quality of photographs.

This council has yet again indicated that it supports the removal of the judicial preference for line-up identification. Following the defeat of the 2011 bill, the government failed to act for 15 months. The opposition was left to act and, in 2012, the then leader, Isobel Redmond, released for consultation the bill which is before us today. In concluding the second reading on the government's bill yesterday, the government said:

> ...it will await the outcome of its bill before determining what approach it will take to the Hon. Mr Wade's bill and his amendments. Accordingly, the government may respectfully request that the honourable members here agree to an adjournment of the debate on Mr Wade's bill so that the government may consider the implications of the recently-filed amendments.

I share the disappointment of other honourable members that the government did not take the opportunity today to indicate its position on this bill. I certainly indicate that we look forward to that response in the not too distant future.

In the interest of giving South Australians the best law possible, I suggest that the council supports the approach proposed by the government; that is, I propose that we conclude the second reading on this bill today but that the committee stage of the bill be made an order of the day for the next Wednesday of sitting. I advise that I will be seeking to progress the bill on the next Wednesday of sitting, 20 March 2013.

I indicate to the government, to all stakeholders and to the community that I am open—as I always have been—to developing the amendments to make sure that South Australians have the best law possible. I thank all members for their comments on the bill thus far and commend the second reading of the bill to the house.

The PRESIDENT: Before putting that the bill be now read a second time, I acknowledge the presence of the Hon. Caroline Schaefer, a former minister and a former member of this place.

Honourable members: Hear, hear!

The PRESIDENT: I further advise that the Hon. Mrs Schaefer is ineligible to vote.

Bill read a second time.

CHILDREN'S PROTECTION (HARBOURING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 September 2012.)

The Hon. R.P. WORTLEY (17:38): I rise to give the government's response to the bill. The Hon. Ms Ann Bressington has introduced the Children's Protection (Harbouring) Amendment Bill 2012, which seeks to remove the authority of the chief executive of the Department of Education and Child Development to issue or prosecute an offence relating to a written directive pursuant to sections 52AAB and 52AAC of the Children's Protection Act 1993.

As honourable members of the Legislative Council are aware, the Statutes Amendment (Child Protection) Act 2009 came into effect on 1 August 2010 as a mechanism to legally protect vulnerable children and young people in the state. The Statutes Amendment (Children's Protection) Act was discussed and debated by the Hon. Ms Bressington in May and June this year. I believe these discussions have detailed the merit and due process required of the Department for Education and Child Development to appropriately utilise written directives to support the safety and wellbeing of children and young people in state care.

However, the honourable member has continued these discussions through introducing her Children's Protection (Harbouring) Amendment Bill to the Legislative Council in September last year. The power under sections 52AAB and 52AAC of the Children's Protection Act is exercised according to procedures developed with input from the Attorney-General's Department and the South Australia Police. It is not exercised without due consideration and consultation regarding the individual case, and all the options that may be available to ensure the safety and wellbeing of a child or young person.

First, the Families SA supervisor, who has oversight of the social worker for an individual child, must come to the reasonable conclusion that a written directive is necessary to avert a risk that the child specified in the notice will be abused or neglected, or to otherwise prevent harm to the child. Having come to this reasonable conclusion, the supervisor must then consult with one of the regional principal social workers, whose role is to provide clinical oversight and advice in important matters of the child protection practice. Only then can the supervisor engage in discussions with the senior solicitor from the Crown Solicitor's Office.

A critical role of the Crown Solicitor's Office, at this stage, is to ensure that the legal basis for issuing written directives, as set out under sections 52AAB and 52AAC of the Children's Protection Act, had been met. As I hope honourable members can see, the delegates of the chief executive of the Department for Education and Child Development are required to follow due process, as well as procedures developed in partnership with the Attorney-General's Department and South Australia Police. It is proposed by the Hon. Ms Bressington's amendment bill that the power of the chief executive officer to exercise his responsibility under those sections of the act should be transferred to the South Australian police. The government does not support this measure or amendment bill.

The current provisions in the Children's Protection Act are as recommended by the Children in State Care Commission of Inquiry, at pages 498 and 499, of the late commissioner, the

Hon. Ted Mullighan. He specifically identified that the power to issue written directives and to initiate prosecutions for breaches of written directives should rest with the chief executive of the department.

The government believes that the chief executive of the Department for Education and Child Development and his delegates remain best placed to be informed when a child or young person is being targeted and encouraged by an adult or adults to abscond from their placement and to engage in behaviours that are harmful to their physical, sexual, emotional and/or psychological wellbeing. Currently, both the South Australian police and the Department for Education and Child Development are able to progress the prosecution of an adult who contravenes the written directive. Again, this is recommended by commissioner Mullighan.

It is the view of the government that it remains appropriate for the chief executive of the Department for Education and Child Development, as head of the agency with responsibility for the Children's Protection Act, to exercise responsibility under sections 52AAB and 52AAC of the act; therefore, the exclusion of the said department, as proposed by the Hon. Ms Bressington, is not supported. Given the limited rationale provided by the honourable member regarding the necessity for the proposed amendments in the Children's Protection (Harbouring) Amendment Bill 2012, I cannot find a compelling reason to support this motion. If the honourable member has any future concerns regarding specific cases where a written directive has been issued or prosecuted, I encourage her to have direct communication with the Minister for Education and Child Development about such matters.

Debate adjourned on motion of Hon. G.A. Kandelaars.

LEGISLATIVE REVIEW COMMITTEE: CRIMINAL CASES REVIEW COMMISSION BILL

Adjourned debate on motion of Hon. G.A. Kandelaars:

That the report of the committee, on its inquiry into the Criminal Cases Review Commission Bill 2010, be noted.

(Continued from 5 September 2012.)

The Hon. S.G. WADE (17:43): I stand to support the motion that the report of the Legislative Review Committee on its inquiry into the Criminal Cases Review Commission Bill be noted. This reference to the Legislative Review Committee, obviously, emanates from the private member's bill of the Hon. Ann Bressington—the Criminal Cases Review Commission Bill. That bill was introduced into this place and then referred to the Legislative Review Committee on 8 June 2011. In July 2012, the report from the committee was tabled and I commend it to honourable members.

The primary conclusion of the committee was that a criminal cases review commission not be established in South Australia at this time. Certainly, the committee received very stimulating submissions in relation to the value of such a commission for South Australia, and considered that information, but decided that a commission not be established in South Australia at this time.

The committee, nonetheless, identified a range of opportunities to improve the criminal justice system in South Australia through the submissions it received. For example, recommendation 3 was that part 11 of the Criminal Law Consolidation Act 1935 be amended to provide that a person may be allowed at any time to appeal against a conviction for serious offences if the court is satisfied that the conviction is tainted or where there is fresh and compelling evidence in relation to the offence which may cast reasonable doubt on the guilt of the convicted person.

That recommendation, of course, was the stimulus for a government bill that is on the *Notice Paper* as we speak. The Statutes Amendment (Appeals) Bill 2012 is the government's bill in response to that recommendation. It does not follow the committee's recommendation word for word but, as the government acknowledged in its second reading explanation, the private member's bill of the Hon. Ann Bressington, shall we say mediated by the Legislative Review Committee, is the genesis of that bill.

As I indicated yesterday in relation to another bill, I think that this is a classic example of good parliamentary use of committees. As I indicated, the Legislative Review Committee is a standing committee of this parliament with a very proud history. I commend the Hon. Gerry Kandelaars, in spite of the fact that he is a relatively recent addition to the chamber, for ably continuing the traditions of that committee as being, shall we say, a low partisan committee—a

committee which very much focuses on the parliamentary role, particularly the role of this chamber as a chamber of legislative review. I appreciate that it is a joint committee; we do have members of the House of Assembly we allow.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: As the President would recall, it is a Legislative Council-administered committee, and we believe that helps maintain the quality of its work. Anyway, I digress. I should acknowledge, of course, that, in maintaining the traditions of the committee, the Hon. Gerry Kandelaars is following in the footsteps of the President, who has also served as the presiding member of the Legislative Review Committee.

If I can come back to the noting, recommendation 3, I think, is a good illustration of where the work of a parliamentary committee, even though it was on a bill which did not actually propose this measure, through its submissions and consideration of the issues identified an opportunity to improve the system.

Likewise, there are other recommendations that deal with the management of expert evidence and forensic services. There is a recommendation 6, for example, that deals with the Commissioner for Victims' Rights. That recommendation specifically says that the Commissioner for Victims' Rights and victims of crime, if they request, be notified of any post-conviction review to be undertaken under any act, that they be able to make submission to any such review proceedings and that they be entitled to information about the progress of such a review. Again, that is a reflection of the ongoing commitment of this house to ensure that the central role of victims in the criminal justice system be respected.

In conclusion, I thank the Hon. Gerry Kandelaars, as presiding officer, our research staff, who in the context of this report was Carren Walker, and also our secretaries, Leslie Guy and Adam Crichton, from time to time, and the other members of the committee for what I believe was a diligent and very useful committee consideration. I commend the report to the house.

The Hon. G.A. KANDELAARS (17:49): I thank the Hon. Stephen Wade for his comments. I put the motion to the house.

Motion carried.

POWERS OF ATTORNEY AND AGENCY (INTERSTATE POWERS OF ATTORNEY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 June 2012.)

The Hon. K.J. MAHER (17:50): I rise to indicate the government's support for this bill. The need for law reform in the area of financial powers of attorney, including enduring powers of attorney, has been raised over a number of years. Last year, cabinet approved the drafting of the bill to reform the laws regarding financial powers of attorney and instructions were provided to parliamentary counsel and a new bill has been drafted. This draft bill from the government includes a provision for mutual recognition of interstate enduring powers of attorney.

The government appreciates the difficulties faced by South Australians such as adult children managing one or both of their parents' financial affairs in their elderly years. The government also appreciates that these difficulties can be compounded in circumstances where a person is unable to manage the affairs of their parent on their behalf, such as bank managing, or accounts, or for nursing homes, because interstate enduring powers of attorney providing them with the necessary power is not recognised in South Australia.

The amendment proposed by the Hon. Michelle Lensink provides for a mutual recognition of interstate powers of attorney and, therefore, provides a practical solution to a problem facing South Australians. On this basis, we will be supporting the bill and, further, I am pleased that the government will shortly be introducing a range of reforms regarding powers of attorney which will include the regulation of how people use powers of attorney to manage their financial affairs in the event of the loss of decision-making capacity, enhancing the appointed representative's awareness of their obligations and making them more accountable, clarifying the law for third parties who must transact with incapacitated people through their appointed financial representatives, and

establishing an accessible dispute resolution process. I indicate the government's support for this bill.

The Hon. T.A. FRANKS (17:51): I rise on behalf of the Greens, very briefly, to indicate our support for the Powers of Attorney and Agency (Interstate Powers of Attorney) Amendment Bill introduced by the Hon. Michelle Lensink in this place and to commend her for doing so. I think it is testament to the strength of the bill that not only does it have the support of the Law Society of South Australia, the Aged Care and Community Services SA and NT, and a number of other relevant authorities, but it has, I believe, wide cross-party support. The Greens are happy to support matters such as this coming to this place, and certainly commend the government for its willingness to work with the opposition on this issue.

The Hon. S.G. WADE (17:52): I would like to briefly respond to the comments of the Hon. Kyam Maher on behalf of the government. As I understood his comments, the government is about to introduce, shall we say, a more comprehensive review of powers of attorney in the form of a bill. I am surprised to hear that because the Advance Care Directives Bill that earlier this year was a high priority for this government, we have not heard anything of it since. That bill emanated from an advance care directives review chaired by the Hon. Martyn Evans, and they specifically recommended that powers of attorney be updated in the context of the Advance Care Directives Bill.

I would urge the government to table their powers of attorney bill as soon as possible and that the opportunity be taken to consider to what extent they reflect the recommendations of the advance care directives review and whether those changes should be more appropriately dealt with in the Advance Care Directives Bill.

The Hon. J.M.A. LENSINK (17:53): I would like to thank speakers who have made comments in relation to this bill, the Hon. Kyam Maher, the Hon. Tammy Franks and the Hon. Stephen Wade, and thank the Attorney-General for responding by letter indicating that the government will be supporting this bill and recognising it. The current situation is causing ongoing hardship. I also place on the record an update which was referred to in the Hon. Tammy Franks' contribution that the Law Society has subsequently written to me post-June last year and advised that they do support the bill. I would also like to thank the people of Mount Gambier and other border communities for bringing this matter to our attention.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. J.M.A. LENSINK (17:57): I move:

That this bill be now read a third time.

Bill read a third time and passed.

[Sitting suspended from 17:58 to 19:45]

CORRECTIONAL SERVICES (GPS TRACKING FOR CHILD SEX OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May 2012.)

The Hon. S.G. WADE (19:47): I rise on behalf of the Liberal opposition to indicate our support for the Correctional Services (GPS Tracking for Child Sex Offenders) Amendment Bill 2012. The Hon. Ann Bressington introduced the bill in the Legislative Council on 30 May 2012. The bill seeks to ensure that child sex offenders who are either on parole or on a leave of absence from prison are fitted with a global positioning system device which will track their movements. It is intended that Correctional Services will monitor the GPS tracking service so that breaches of the child sex offender's release conditions can be identified and prosecuted.

GPS tracking for the most serious child sex offenders is not new in Australia. In early 2012, Western Australia introduced a similar scheme and, as of April 2012, 79 criminals in Queensland and 30 in New South Wales had been fitted with GPS tracking devices. The Victorian Coalition government committed to introducing a similar scheme during the 2010 election. The Department

of Corrections in Florida has indicated that their use of such technology has significantly reduced recidivism rates.

The Hon. Ann Bressington has tabled a petition with over 1,700 signatures supporting this scheme, and other Australian jurisdictions are actively utilising this technology. The Liberal opposition considers that South Australia should also take advantage of this new technological tool to enhance the protection of South Australian children. We understand the Police Association is generally supportive of the bill, although they did indicate concern that specifying the type of technology in legislation may hinder the scheme as more effective technology becomes available. The Liberal opposition commends the bill to the council.

The Hon. K.J. MAHER (19:49): I thank the Hon. Ann Bressington for this bill and acknowledge her interest in and commitment to reducing crime. The government indicates it will not oppose the bill in the Legislative Council. However, the government intends to introduce more comprehensive legislation in the near future. While the bill is a good starting point, the government wants to go further and intends to introduce stronger provisions. The honourable member's bill is well intentioned and provides for the electronic tracking of child sex offenders released on parole and the monitoring of prisoners convicted for child sex offences participating in approved pre-release and reintegration activities requiring leave from prison.

However, there are some limits on the drafting of the bill. While it is understandable that the focus is on prisoners and parolees who have been convicted of a child sex offence to be subject to heightened monitoring, the government has been considering the application of this type of technology in other jurisdictions and intends to go further and not limit this kind of supervision necessarily to this particular offence type but, rather, to look at prisoners and parolees who are assessed as requiring this type of supervision.

In fact, that is what the government has done with regard to parole amendments to the Correctional Services Act enacted in November 2012. One of those amendments provides for the Parole Board to consider as a condition of parole that the person be monitored by the use of an electronic device for the whole period or part thereof on parole. This means that all prisoners being released on parole can be considered for this type of heightened supervision regardless of offence type.

The new provision is not limited to a specific technology or just to child sex offenders. The new provision that was recently introduced could be used wherever it is appropriate for any offence. In the same manner, the government will be looking to extend the provision for prisoners on approved leave from prison and not limited to offence type. This would mean prisoners who are serious repeat violent offenders or people who have committed sex offences against adults or persons deemed to present an extreme risk to safety. Any of these types of offenders, including child sex offenders of course, could be considered worthy of the additional monitoring.

In addition to this, the title of the bill suggests that tracking is intended to occur through a GPS device, although the bill refers to an electronic tracking device of a kind approved by the minister. The bill, as drafted, limits the technology. Clearly the honourable member is referring to this state introducing GPS technology for the monitoring of offenders in the community. South Australia currently does not employ GPS technology for this purpose. Its potential was evaluated a number of years ago. At that time there remained a number of issues and other matters for consideration and an extensive implementation of GPS monitoring for offenders was not recommended and it was not progressed at the time.

It is probably fair to say that the technology has a high level of public interest, and confidence in this type of monitoring will be of some value in the further consideration of its adoption in South Australia as an additional monitoring and supervision tool for offenders assessed as presenting a risk to the community. The legislation should therefore allow for current and future technologies, not just current technologies.

The government proposes to introduce legislation to enable a broader scope for electronic monitoring and not restrict it to tracking, as all types of technologies could then be considered if and when the technology is adopted for use now and in the future.

The Department for Correctional Services currently uses electronic monitoring for certain offenders in the community and it has proved to be an effective tool. Its use directly contributes to improved public safety. Electronic monitoring is currently mostly used for the supervision of offenders on home detention and intensive bail supervision (often referred to as home detention bail). For example, regarding the number of offenders, I am advised that, as of January 2013,

385 electronic monitoring units were leased and, of these, 321 were being used—an average of 88 per cent of available units in daily use.

Opportunities to expand electronic monitoring are always appropriately considered. It is also worth noting that the honourable member's bill is limited to parolees in the community and prisoners engaged in activities outside of prison. The government would like to further consult and make sure it extends to include those who are ordered by the courts to be released on licence, for example.

While the Parole Board contributes to the conditions of such persons to be released on licence, to remove all doubt that these offenders can be subject to such electronic monitoring upon release, further consultation with the Parole Board and the Attorney-General is required, as those subject to indeterminate sentences (sections 23 and 24 of the Criminal Law (Sentencing) Act) are released by an order of the courts.

Similarly, persons detained in accordance with part 8A and section 269 of the Criminal Law Consolidation Act can be released on licence through a court order, and it would be prudent to ensure that electronic monitoring could be considered for these offenders on release.

The honourable member raised in her speech a particular prisoner who is currently subject to an order of indeterminate detention in accordance with section 23 of the Criminal Law (Sentencing) Act. Should he be released he will be released through a court order on licence subject to strict conditions. The government would like to make absolutely sure that any legislation will capture offenders such as the example given for consideration of electronic monitoring upon release on custody, which will require some further consultation and preparation of a government bill. I indicate that the government will not be opposing the bill.

The Hon. K.L. VINCENT (19:55): Whilst I would hope that it is no secret that Dignity for Disability takes the issue of child sex offences very seriously, I speak today against the Hon. Ann Bressington's bill. I, like other members of this place, appreciate the work she does in this area and her concern for the welfare of children, which is, I am sure, a concern we all share, but I do not believe that the answer is, in this case, to attach GPS tracking devices to sex offenders. I think that would be an incredibly expensive way to keep track of sex offenders and I do not think it would be truly practical in the real world. GPS tracking does not tell us, for example, what someone is doing in a particular location, nor what their motivations or intentions might be for being there.

The money that would be spent on GPS tracking, I believe, could be better spent on rehabilitation for sex offenders or, indeed, to make our courts more accessible to allow children as witnesses therefore making them less likely to be abused because the perpetrator is less likely to get away with it. This is, of course, something that Dignity for Disability has been working very hard on for a long time now. To ensure our children's safety we must improve other pieces of legislation, indeed all relevant pieces of legislation, and change the culture of a society that does not understand or respond to the vulnerability of our children. I do support the efforts, I support the general principle, but the method I cannot support and therefore I cannot support the bill.

The Hon. A. BRESSINGTON (19:57): I am pleased that the Liberal Party has chosen to support the bill and that the Labor Party is not going to oppose it. I was hoping this bill would be limited to sex offenders to start with, as a bit of a trial to see what technology could be utilised and how it would work. I have to say I am a little bit nervous about the government's intention to extend this technology to other areas first. I disagree with the Hon. Kelly Vincent about putting this money into the rehabilitation of child sex offenders because the evidence is that 98 per cent of these people cannot be rehabilitated. They are damaged human beings, probably from abuse suffered in their own childhood.

Emeritus Professor Freda Briggs quotes from research that states that before a child sex offender has been caught they have, on average, committed between 400 and 700 acts of child abuse. That would indicate that this is entrenched behaviour, foremost. I have also spoken with people from the paedophile taskforce and the FBI in the United States who have said that the rehabilitation of an individual requires them to admit that they have actually done wrong, that they have done harm to another human being. Child sex offenders are the hardest nuts to crack because, in their eyes, they believe this is how you show love towards a child, so it is very rare, according to a member of the paedophile task force in America, to be able to get them to admit that they have done harm.

I do not know whether other members in this place have had access to an interview that was done with a paedophile in Queensland. Not the one who committed suicide, but another. This

person was doing a media interview and when they asked him, 'Do you not think that a child aged two years old is too young to have sex with?' he said, 'No, they love it; they love it.' These are the sorts of individuals we are dealing with.

The Hon. Kyam Maher referred in this place to one particular person, Mark Trevor Marshall. I have raised concerns about Mr Marshall's release on a number of occasions. Justice Nyland put him on indefinite detention and then 12 months later lifted that, and it was only one week before he was due to be released that he was found with child porn in his cell.

I have met with well over 50 of Mark Trevor Marshall's alleged victims—he has been convicted numerous times. These people have never come forward. They have never pressed charges because they are damaged and afraid, but the stories they told me of what this man did to them as small children is heartbreaking.

I note that Mark Trevor Marshall is now up for release again, and that we are looking to house him in community housing. The last time he was released there was no court licence—there was nothing—and he went on to abuse two children. Actually, he was not released: he was in a resocialisation program and going to TAFE in Elizabeth.

He was getting a taxi from TAFE to a Catholic school in Elizabeth North, taking his stepchildren out of school, and taking them to a house where he would abuse them and then return them to school that afternoon. He threatened the children that he would kill them and their mother if they told anybody. This is the sort of man we are dealing with, and these are the sorts of people I wanted to be able to keep an eye on and keep track of through this particular piece of legislation.

The monitoring devices that we are using for home detention do not do that; basically, it is by ring-in. This particular system that I was referring to has no-go zones, where if the wearer steps inside an area that is dedicated to children or is known to have a lot of children, or where they have offended in the past, there is an alert. I do believe that in Western Australia there is a 10-minute response to that alarm. If they run, they are trackable, and it is back to gaol. There are no ifs, buts or maybes. If they breach those conditions, they are gone.

There is now so much angst in the community about our children not being able to go out and ride their bikes or go for a walk in the park, and just be kids, without being supervised. So many parents are living in fear that these maniacs are out there on bail, or they go to court and get a slap on the wrist; basically, there is no message sent at all.

I am not going to go on forever, but I will just remind members of a gentleman who rang in on Leon Byner's show when we were talking about another bill. He had served time in Yatala for a reasonably minor offence, but he was overhearing these paedophiles in gaol talking amongst themselves, and he said that the whole time they are in there they are plotting and planning how they are going to reoffend when they get out, and how they think they are going to beat the system to be able to do that. He said the conversations that you overhear make you want to throw up.

As much as I believe in treatment and rehabilitation for most sections of the community and for most people, I believe that 98 per cent of these people—and I stick with that; that is what research shows—cannot be rehabilitated, and to take a risk in our community for just 2 per cent of people who may be able to be rehabilitated is a huge risk to be taking.

I thank the government for considering this, and I thank the opposition and other members that I know have offered contributions and support for this. I will be interested to see the bill the government produces, and how long it will take.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.G.E. HOOD: I did not make a second reading contribution on behalf of Family First, but we support this legislation and believe that it is an important step in the right direction.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment.

The Hon. A. BRESSINGTON (20:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (MANDATORY IMPRISONMENT OF CHILD SEX OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April 2012.)

The Hon. G.A. KANDELAARS (20:08): I rise to put the government's position in relation to this bill, which intends to force the imposition of substantial prison terms on anyone convicted of a child sex offence and removes any discretion from judges when sentencing for these offences. This bill also takes a confused approach to sentencing, requiring a court to impose a minimum nonparole period before having considered what the appropriate total sentence should be.

These mandatory, long-term sentences of imprisonment would apply regardless of the age of the offender, the circumstances of the offence or the attitude of the victim. The government, despite its loathing for child sex offending, cannot support this bill. It holds the position that courts are the best place to determine the appropriate head sentence when a person is convicted of a crime, taking into account the maximum penalty set by the government in legislation. It is a highly valued principle in our legal system, as in the common law generally, that sentences should be imposed on a case-by-case basis to reflect the seriousness of the crime, taking into account the maximum sentence that legislators have indicated is appropriate in the absolute worst cases.

We appoint highly-qualified judicial officers to consider the entire circumstances of the offending, the history of the offender and the effect on the victim so as to impose a sentence that fairly punishes the wrongdoing. We do this because it is our best chance of delivering justice in each individual case. That is not to say that our judiciary always gets it right. Sentences may be handed down that the victim or his or her family or perhaps the general public might find disappointing but, for all its faults, our system of discretionary sentencing is, in the government's view, the right one. There is also an appeal process and sentences may be appealable.

It is important to understand that this bill, and the way it requires mandatory minimum nonparole periods to be set with no reference to a head sentence, in practice would not work in the way one might imagine. The setting of a mandatory minimum nonparole period that is completely unrelated to the appropriate head sentence removes any incentive for an offender to plead guilty because there is no longer any benefit to the offender and, with a guaranteed high sentence, there is no reason not to take their chances at trial.

This makes it highly likely that many more defendants will opt to go to trial rather than plead guilty as they have nothing to lose. This imposes a substantial cost on the public, which has to pay for the trial, the prosecution costs and, on occasions, the legal costs of the defendant. As there will be more trials, court backlogs will increase. Most importantly, more victims and witnesses will be put through the trauma of reliving the offending at the trial.

It may also happen that a jury is reluctant to convict where they know that it will result in a mandatory head sentence of many years. The jury might think that the defendant is guilty but might also think that the mandatory gaol term is too harsh a punishment in a particular circumstance. This could lead jury members to vote to acquit a defendant who should in fact be convicted and who would have been under our present laws.

Finally, we should not overlook the effect of such provisions on victims. We know that child sex offending occurs in families. Sad as it is, the offender may well be the victim's parent, step-parent, sibling, extended family member or another person who gains access to the child through family relationships or friendship. We should not forget that child victims in such cases may have mixed feelings.

Not uncommonly, child victims do not want to feel that they are responsible for putting their parent or siblings in jail. At present, a prosecutor can tell the child that this is up to the judge and that their relative will not necessarily go to gaol but rather the court will work out what it thinks is a fair punishment. The judge, not the child, is responsible.

If a prosecutor, as under this bill, must tell the child that it is certain that the perpetrator will be gaoled for some years if convicted, many children may not be willing to give evidence. For some, this is because they do not want to be responsible for this consequence; others fear the reaction of other family members if they are seen to cause this person to be gaoled. The

unintended effect of the bill would be to redouble that fear with the result that many prosecutions that are difficult today will become impossible tomorrow.

This bill not only confuses how sentencing is done in practice but it also confuses the role of the DPP. The DPP is the prosecutor and if a person is convicted it is the DPP who makes submissions and puts forward arguments to the court as to what is the appropriate punishment. The DPP should not be deciding what the appropriate sentence is—that is the role of the court. It is for the judge to weigh up all factors, including those presented by the defence and the DPP, and for the judge to decide an appropriate sentence. If the DPP disagrees, then the remedy is to consider an appeal. On that basis, the government opposes this bill.

The Hon. S.G. WADE (20:14): I rise to speak to this bill on behalf of the Liberal opposition. The bill proposes to introduce a mandatory minimum sentence of 10 years for those facing a maximum penalty of life imprisonment and not less than a third of the maximum sentence for any other prescribed offence.

The proposal of mandatory minimum sentences is really a reaction to the view that sentences do not reflect community expectations. When the community hears about short sentences for horrific crimes, they are quite understandably upset. The Hon. Ann Bressington made reference to a number of instances where the community's perceptions of short sentences have led to wide community outrage.

The offenders we are talking about here plumb the depths of depravity. They are criminals who have chosen to prey on some of society's most vulnerable and innocent people. The sentences handed down to them are not just mere punishments for a wrong caused, they are an expression of the community's standards and the community's abhorrence. They are also an opportunity to address some of the causes of the bad behaviour.

This bill aims to deal with the first two elements: punishment and community expectations. In relation to the first element of punishment, it says that, when this particular crime is committed, regardless of the circumstances, imprisonment will follow. The second element in sentencing is what the community expects.

In 2011, the government announced the creation of a Sentencing Advisory Council. The idea, of course, was taken from Liberal election policy. We had been calling for such a council since 2002. We proposed that the council be composed of people with a community background and perspective rather than a perspective dominated by the legal sector. The government's sentencing council, in contrast, has six public sector positions and as few as four from the community.

When a sentencing council works well, it brings together victims, police, correctional services officers, experts and members of the community to conduct research, collect evidence and gauge informed public opinion to make recommendations to the courts and the government. It acts as a bridge between the courts and the community it serves.

When we released our policy in 2006, we called for a review of all criminal penalties by the Sentencing Advisory Council. Unfortunately, like so many other Liberal ideas Labor has attempted to commandeer, Labor's implementation of the concept has fallen well short of what we promised as Liberals and what we believe should have been done. The Sentencing Advisory Council was meant to be a dialogue with the community about how their expectations could be met in sentencing decisions, but the implementation of the policy has itself failed to meet community expectations.

A proper, fully-fledged sentencing council, as is operating in Victoria and in the United Kingdom, maintains a dialogue with the community so that the courts have a clear picture of what the community expects and, just as importantly, so the community can understand the reasons for the decisions of our courts. For this to happen, there needs to be more than just the establishment of a board. Proper resourcing is needed so there can be an effective conversation and a two-way flow of ideas. The government has failed to do this. The community continues to be frustrated.

Mandating penalties and removing discretions from the courts, as this bill proposes, is in some ways a vote of no confidence in the courts. The Hon. Ann Bressington is making a strong statement that the courts should not be trusted with their exercise of discretion for the offences named in the bill but, rather, there should be a mandated minimum. With respect, the honourable member is saying that we should substitute the court's decision in sentencing with our own as a parliament. On this point, the Liberal opposition does not agree with the member's approach.

Sentencing is a complicated process. It is as complex as the events of life itself. As a parliament, we do not have all the information before us today to be able to decide the appropriate sentences for offences that have not even happened yet. We cannot determine what the appropriate punishment is without seeing the facts of the case, just as we cannot determine in this place what the community expects for all sentences handed down for these offences in the future.

In relation to the third element of sentencing that I referred to earlier—the opportunity to address offending behaviour—the Liberal opposition also believes the government should be criticised for its failure on this count. My office has received a regular stream of calls from concerned victims and families of offenders who report that offenders are spending years waiting to access sexual rehabilitation programs rather than receiving the treatment they need to address their offending behaviour.

The government's failures mean that offenders are being released at the end of their sentence without having undergone treatment which reduces the risk of them offending again. This kind of repeat offending is exactly what the Hon. Ann Bressington referred to in her speech. This should be a grave concern to every South Australian who is concerned about the safety of our children and the enormous burden placed by the failure to address reoffending.

Meeting community expectations in sentencing is an ongoing concern of the opposition, and we hope that we will have the opportunity to see the sentencing advisory process fully enhanced in the years ahead.

The Hon. K.L. VINCENT (20:20): Once again, I would like to say that, like all of us here, I believe the issue of child sex offence a very serious one, and I find it very difficult and troublesome dealing with the injustices and inadequacies within our justice system that see alleged sex offenders never brought to our courts. However, I have never believed that mandatory imprisonment is the answer for any type of offence, and this remains the case, I am afraid, for child sex offences.

Once again, I appreciate the intention of the Hon. Ms Bressington's bill, but I do not believe it is an effective way of reducing or preventing child sex offending. Many of the reasons for this have already been stated by both government and opposition members. Of course, it is not often that I find myself agreeing with both parties, let alone the government, so I wish to celebrate this by not rehashing everything that has already been said. However, we certainly do have a court system and we have judges for the very reason that they are trained and, I believe, trusted to consider the individual circumstance of each case before them. By and large, I think that is a job they do well.

Of course I want to see people who abuse children, particularly the most vulnerable in our society, such as those with disabilities or who are under the guardianship of the minister, for example, brought to justice and face charges in our court. I will continue to create a court system that enables them to do so thereby rendering them less likely to be abused in the first place. I will continue to work against child sex offences, but I just do not believe that enshrining mandatory imprisonment is the correct way to do this. I believe it goes against many principles of our justice system and natural justice and, therefore, I am afraid I cannot support this bill.

The Hon. J.A. DARLEY (20:22): I have sympathy for the bill that the Hon. Ann Bressington has put forward, but for the reasons already outlined by the Hon. Stephen Wade and the Hon. Kelly Vincent I cannot support the bill.

The Hon. A. BRESSINGTON (20:23): There are just a few points that I would like to address with the comments from everybody who has contributed to this. The Hon. Gerry Kandelaars said that a person under this legislation, regardless of their age, would be sentenced to this particular formula. That just is not the case. This bill certainly would go some way to protecting the rights of our most innocent and vulnerable—our children who are under the age of 14—but it would also additionally provide for mandatory imprisonment of child sex offenders who are over the age of 18.

So, for these young love, puppy love incidents that happen, there is no way that a young man of 15 could be sentenced under this legislation for having sex with his 15-year-old or 14-year-old girlfriend. There are quite strict provisions to this bill. What it does is outline a number of offences that occur sometimes in the lead-up to the actual sexual abuse of a child—the collecting and distributing of pornography, photos being taken, all that sort of behaviour that goes on, as part of the grooming process for a child to become conditioned sometimes to allow this to happen. I am not saying they give informed consent but we all know that grooming is a process.

I recounted in my second reading speech where people have received minimum sentences for heinous crimes and I do not believe that under any circumstances the community believes that a suspended sentence for a child sex offender is at all acceptable under any circumstances whatsoever. I would like to make the point that the information the Hon. Gerry Kandelaars put on the record about children not wanting to be responsible for family members going to gaol for their abuse is part of the whole grooming process to convince the child that they are to blame. When children grow up and pursue justice for themselves and they see people getting off with a suspended sentence or a slap on the wrist, it just reinforces the fact that they actually are to blame.

I have worked with many drug addicts who have been sexually abused as children and as they get older this becomes an overwhelming burden for them to wear, but when they get the right kind of counselling, when they get the right sort of attention that they should be getting therapeutically, they can reconcile the fact that they are not to blame and they want justice. To even consider that a five year old child would not want to see a sex offender in their family go to gaol because they do not want to be responsible for that is just utter crap. I do not know which psychologist or where the Hon. Gerry Kandelaars got that pop psychology from, because I can tell you that I have worked extensively with Bravehearts in Queensland and they have a program where they actually work with children who have been abused to put the burden of guilt and blame where it belongs—on the perpetrator. There are people out there who actually believe that these people cannot be rehabilitated.

On the drafting of this bill, I might say that this was a two-year project for me to get the formula right. I was approached by a person who works within the courts and that person was asked to approach me about putting this bill together from the courts themselves. The magistrates are more than happy for mandatory minimum reporting to go ahead for child sex offenders because, in the words that were passed on to me, the legislation does nothing more than limit what they can do. So, this was not just on a whim.

When we talk about mistrusting the courts, let's look at von Einem, for example, or let's look at those other serious offenders who come up for parole and the executive of government uses its power to override the recommendations of the Parole Board and refuse parole. Is that not showing distrust in the courts, distrust in the judgement of the courts, distrust in the Parole Board? We really do have mandatory minimum sentencing by executive government by default anyway. Some of these arguments that were put up are nothing more than to read well on the public record, I believe, to keep the legal profession happy. Of course, the legal profession would not like this at all. Of course, the legal profession would be opposed to this because it cuts their lunch, does it not?

If it is mandated and the crimes are there, there is no bargaining down. If you have committed six crimes of child abuse or in the categories that were outlined, which I might say were recommended by the person who approached me to include these, there is no barter. There is a one-third minimum sentence on each one of those offences and there is nowhere to go with it. Of course, the legal profession would not like that. But I am telling you now that the courts do not disapprove of this approach, and I have that on very good authority.

I am disappointed that, for this particular kind of offence, we cannot take these creeps out of circulation for as long as possible to keep our community safe. It is just another measure, I believe, to ensure and guarantee the safety of our children and communities and to restore just a little balance in favour of the most vulnerable in our community.

The council divided on the second reading:

AYES (3)

Bressington, A. (teller)	Darley, J.A.	Hood, D.G.E.

NOES (14)

Dawkins, J.S.L.	Franks, T.A.	Hunter, I.K.
Kandelaars, G.A. (teller)	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Maher, K.J.	Parnell, M.
Stephens, T.J.	Vincent, K.L.	Wade, S.G.
Wortley, R.P.	Zollo, C.	

Majority of 11 for the noes.

Second reading thus negatived.

CHILDREN'S PROTECTION (LONG-TERM REMOVAL REVIEW PANEL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November 2012.)

The Hon. J.S. LEE (20:35): I rise today to indicate further support on behalf of the Liberal opposition in relation to the Hon. Ann Bressington's Children's Protection (Long-Term Removal Review Panel) Amendment Bill 2012. The bill seeks to establish a panel that would review all applications by the minister for long-term guardianship before they go to court. My esteemed colleague, the Hon. Stephen Wade, made a very valuable contribution on 28 November 2012 regarding the bill. I thank him and place on the record my special thanks to Mr John Gardner, member for Morialta, for his diligent work as the former shadow minister for families and for the extensive background work and contributions he has made in relation to this bill.

It has always been the opposition's view that the panel created by this bill would not be necessary if the minister and the department were doing their job adequately. The current urgent need for action of this nature exists because a series of Labor ministers have shown a lack of interest and have been incompetent in the task of overseeing the department with responsibility for child protection.

As identified by the Hon. Ann Bressington in her own experience in dealing with child protection issues brought to her attention by constituents over the years, children and young people enter the care system for a variety of reasons. These young people have experienced adverse circumstances, abuse and/or neglect. Many ended up in awful and helpless situations. The feelings these kids experience can be confusing, mixed with grief and loss, particularly if they have also been separated from family members, their siblings and people they are familiar with. Many would have experienced a number of changes in their living arrangements, attended a number of schools and some may still be experiencing significant instability.

We are very concerned about children entering the alternative care system on a long-term basis when in some cases they would do much better living with their birth family. Who would have thought a country like Australia—supposedly a First World country, a country many consider to be the lucky country—would have so many unlucky children? Who would accept that there are so many young people who live their lives in neglect and abuse where the state care system has failed them? This is a system that is supposed to protect them from harm, yet it impacts on these children negatively. I agree with the Hon. Ann Bressington that this is simply not good enough.

The opposition is aware of the deficiencies and dysfunction within the child protection and alternative care system and acknowledges that this bill proposes sensible measures that have the good intention to bring about the improvement of the child protection system. The bill seeks to establish a panel that will review all applications by the minister for long-term guardianship before they go to the court. The minister may also refer any other matter relating to long-term guardianship of children for the consideration of the panel.

As we have heard from the Hon. Ann Bressington, there are many cases where parents have claimed that children have been inappropriately removed from them and put under 18-year orders. These children who have been taken away from their family become isolated and have no sense of belonging. The removal of children from a family can damage these young people long term. Currently, there are not sufficient steps put in place to ensure that such a removal is justified.

Parents, who are often in difficult hardship themselves and who do not have an adequate understanding of the legal processes, have no right of appeal and no ability to get help. They cannot get legal aid and are not in a financial position to engage a lawyer. Often the question of what is in the best interests of the child is not easily determined. Parents, foster parents, service providers, and government agencies are likely to provide different answers. A review mechanism such as the panel proposed by the Hon. Ann Bressington will allow all interested parties to present evidence to substantiate the underlying reasons which led to that removal order being sought.

The bill seeks to establish a clear and proper process of appeal that incorporates natural justice and procedural fairness principles for parents who believe they have been unfairly treated by decisions of government in relation to the care and protection of their children. The bill proposes

to provide a check and balance before an order for guardianship until age 18 is made to the court. The wellbeing, the development and the future of these young people will be impacted by this decision for the rest of their lives, and such a panel may well offer the parents and the children that second chance.

We must acknowledge that although there are many good, compassionate, hardworking social workers within Families SA, clearly some do not fulfil this description. There are regular claims by reasonable and informed people that there is some level of dysfunction in this department. This was certainly the finding of the select committee investigating the department in 2009. Hence the panel under this bill could be a valuable resource to a minister who wishes to refer difficult cases relating to long-term care issues. This would be particularly helpful in cases where social workers have removed children from long-term foster families—cases that are currently not reviewable by a court. It should be noted that the bill leaves such referrals to the minister's discretion.

The panel has power to compel attendance and the production of relevant documents, and appropriate confidentiality provisions apply. When making a decision to remove a child from their family and place them in state care, it is desirable to have a body with oversight over the full case file, not just whatever information the department presents to the court.

Members of the opposition have considered a number of papers on this important matter at various stages of the debate, and with the benefit of further consultation and new research findings in this area, we agree to support the bill and propose some amendments with the hope of strengthening the composition of the panel.

During our consultation with various stakeholders, concerns have been raised about the strict criteria suggested by the Hon. Ann Bressington in relation to the composition of the panel. The opposition proposes to move amendments that will relax the criteria, enabling a minister to appoint at least five (rather than strictly just five) members to the panel. The composition of the panel is too prescriptive the way it is now, and if a prescriptive approach to the panel's composition was desirable, then the omission of qualified and experienced social workers from the list would be an oversight.

My proposed amendments provide an opportunity to bring relevant professionals and experts onto the panel, including a social worker who has experience in social work involving children. While the expectation that members of the panel be independent of the department is retained (not having been employed by the department for at least two years), the qualifications would no longer be strictly prescribed, although there is still an expectation that there be at least one child psychologist and one lawyer.

The remaining members of the panel should collectively have the skills proposed by the Hon. Ann Bressington and any other skills nominated by the minister. Rather than just specifying a category of panel members in the bill—for example, a child psychologist appointed to the panel must be a person who has not in the preceding two years been employed or engaged by the minister or the department—the opposition believes a fairer process will have this provision apply to every member of the panel. My amendment will state that a person may only be appointed to the panel if he or she has not in the two-year period preceding the appointment been employed or engaged by the minister or the department.

The opposition indicates its support for the Hon. Ann Bressington in her advocacy for a better child protection system and believes that the panel may prove to be a better body for the review of the circumstances of a child under the long-term guardianship of the minister than the current arrangements. We ask the Hon. Ann Bressington and other honourable members to consider the opposition's amendments to strengthen the composition of the panel, and commend the bill to the council.

The Hon. R.P. WORTLEY (20:44): I rise to give the government's response to the Children's Protection (Long-Term Removal Review Panel) Amendment Bill 2012. The Hon. Ann Bressington introduced the Children's Protection (Long-Term Removal Review Panel) Amendment Bill, for an act to amend the Children's Protection Act 1993, in the Legislative Council on Wednesday 4 April 2012. This bill seeks to establish a long-term removal review panel whose function would be to review all applications to the Youth Court for an order of guardianship until the age of 18, prior to the application being lodged in the Youth Court.

Ms Bressington has put forward a number of statements by way of evidence in support of the proposed bill. These statements relate to the adequacy of current legislative, governance and

practice frameworks surrounding the removal of children or young people until the age of 18. They also relate to the conduct, practice and integrity of the work undertaken by Families SA with families when a child or young person is removed and placed in long-term care. These statements include:

- that Families SA wrongfully removes some children from their families and places them on orders to age 18;
- that children's relationships with their families are deliberately broken;
- that once placed on a long-term order, children's subsequent care is of a poor standard and exposes them to risk of further abuse in care;
- that some Families SA practice in these matters is based on evidence that is fabricated and/or that cannot be substantiated;
- that some Families SA workers engage in poor, unethical and illegal practices requiring the oversight of such a panel;
- that there is no independent authority willing or able to address these practices; and
- that parents currently have no legal recourse and no right of appeal in these matters.

The government does not support the statements made by the Hon. Ann Bressington in support of her bill. The process of applying for and being granted a legal order for the care and protection of a child, and the subsequent management of that child's subsequent care by Families SA, is regulated by legislation, legal processes and procedures, policies and practices, as well as being open to scrutiny by a number of external bodies

The Children's Protection Act establishes the safety, wellbeing and best interests of a child or young person as paramount considerations, and that every child or young person has a right to be safe from harm, a right to be cared for in a safe and stable environment, and access to opportunities that can be reasonably provided to promote development to his or her full potential. The act also recognises the family as a primary means of providing for the nurture, care and protection of children, and places a high priority on supporting and assisting the family to carry out its responsibilities to children.

Fundamental principles underpinning the act establish the desirability of keeping children with their own families, and preserving and strengthening relationships between children and their families as key elements in determining each child's best interests. The Children's Protection Act establishes clear aims and principles that must guide all decisions and actions under the act. Families SA operates within this framework and builds the framework, aims and principles of the act into it is policies, practice guidance and procedures to inform its staff in their work with children, young people and families.

Inevitably, when children or young people are removed from their parents for their own safety and wellbeing, at least some those parents will be aggrieved. It is imperative that we remember that the interests of aggrieved parents must never be put ahead of the safety and best interests of children or young people. This would introduce a fundamental compromise to the primary purposes of the Children's Protection Act.

In all decisions regarding removal of a child or young person through an order under the Children's Protection Act, the Youth Court, as an independent authority, is the decision-maker, not Families SA. In order to remove a child or young person from their parents, Families SA must apply to the court to seek an order that this will occur. In court the child's advocate, the parents, and the parents' representatives have the opportunity for matters to be heard, challenged and addressed to enable the court to reach an independent decision based on the evidence presented.

The Children's Protection Act 1993 provides that any party to the proceedings may make application to the court that a care and protection order be varied or revoked. The act therefore provides parents with clear legal recourse in relation to any previous decision of the court regarding removal of their child.

The act establishes that if Families SA is of the opinion that a child or young person is at risk, and arrangements should be made to secure their care and protection, Families SA should cause a family care meeting to be convened. The purpose of the family care meeting is to provide a proper opportunity for a child or young person's family, in conjunction with a care and protection coordinator, to make informed decisions as to the arrangements to best secure the care and

protection of the child or young person and to review those arrangements from time to time. The care and protection coordinator is nominated by the senior judge of the Youth Court. In addition, mechanisms are already in place to ensure integrity in Families SA processes:

- random review by the principal social worker of electronic case recording and case management in the electronic Connected Client and Case Management System;
- case review and consultation by the principal social worker and, as required, the principal Aboriginal consultant and the principal psychologist;
- accountability mechanisms including the Health and Community Services Complaints Commissioner, the Special Investigations Unit, the Adverse Events Committee, the Child Death and Serious Injury Review Committee, the department's risk management and audit review processes, the Ombudsman, and access to ministers by the community;
- family care meetings to review family care agreements provide a forum where Families SA actions can be measured against what Families SA has agreed to do; and
- monitoring by the Guardian for Children and Young Persons of the circumstances of children under the guardianship or in the custody of the minister.

The Youth Court and the judiciary provide an independent authority to test evidence and make decisions regarding who will have care of a child or young person, where a child or young person will live and contact arrangements with family. At any time a parent with a complaint can seek legal action through the offices of the Ombudsman, the Health and Community Services Complaints Commissioner and the Minister for Education and Child Development.

I would encourage all of those present not to support the proposed bill on the grounds that it is not well conceived, being based on a poor understanding of the existing legislation and its requirements for the practices of Families SA with children, young people and their parents; no demonstrated understanding of the role of the courts as an independent authority in testing evidence and decision-making; little understanding of the avenues of recourse open to parents and existing and well-established accountability mechanisms for the practices of Families SA; and unfounded claims about the practices of Families SA.

Natural justice, right of reply and due process for parents are an essential part of any system for the care and protection of children. These elements are already embedded in the child protection system, and I believe they are not further advanced in any way by this proposed legislation.

The Hon. A. BRESSINGTON (20:52): Well, what can I say? I honestly wish I lived in the Hon. Russell Wortley's world.

Members interjecting:

The Hon. A. BRESSINGTON: Well, absolutely. If we lived in Russell's world, then we would not even need a child protection system really, because it would be just a perfect world.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member should refer to the member by his proper title.

The Hon. A. BRESSINGTON: I know there is at least one member sitting on the other side of this chamber who had a very long battle with social workers from Families SA, and I know that there are other members within the Labor Party who have also had representations made to them by parents whose children have been rashly and wrongly removed and have been damaged in that process.

I would just like to make one point. I spoke on a previous bill about the research that goes into my legislation, and I do not stand up here and just parrot off the paper world policy of the government. I actually do research on this stuff. I also reread the report from the inquiry into Families SA that the Hon. Jing Lee referred to concerning high-ranking professionals; again, Professor Freda Briggs spoke about the fact that she proved that in a number of cases case files had been tampered with, that information had been removed and that false allegations had been made by social workers to build their case. Professor Dorothy Scott, who was also heavily involved in the child protection system, spoke of the same sorts of goings-on.

We had five social workers from Families SA who came in to give evidence at that inquiry who spoke of exactly the same kind of practices. I have had at least 15 ex-social workers, senior

social workers, who retired from the child protection industry because they could not work under the conditions that they were required to—and I am not talking about just their heavy workload: I am talking about the ethical misconduct that they were required to practise under, or the threat of being bullied or intimidated. When the Hon. Russell Wortley says there is no foundation for the need for this bill, I could go on all night countering that particular fallacy.

At the end of the day, this is about children and their right to be with their birth parents where and when possible, and a lot of these children are removed based on a snapshot of a family that may be going through a difficult time. I do not know of any family with children that does not at some stage have a rough patch, but these children are removed.

There is no legal recourse. I referred a number of cases to the office of the community services commissioner and got back a response that, although there are guidelines in place for child protection workers, they are not bound by those guidelines and there is nothing she can do about these cases. The Ombudsman takes the same long-armed approach because nobody wants to take the risk of going against the recommendations of child protection workers just in case something does happen to these children.

In my office, I have a policy that, when parents have been accused of abusing or neglecting their children, before I advocate for them—and I mean advocate: I do not just mean hear both sides of the story—I have them undergo a forensic FBI-approved polygraph test. We have one of only two people in the country who is qualified to do this kind of forensic testing, and I believe that he was engaged for a period under contract to conduct polygraph tests for recruiting of police officers.

So, it is not that the government does not have faith in this process because they have used it on occasion themselves. I do engage Gavin Wilson quite often to undertake polygraph tests of parents who deny that they have abused their children and, if that test comes back that it is 98 per cent likely that they are telling the truth, I follow through on those cases.

I try to be as careful as possible about the accusations I make in here about some social workers. I do not like to defame people. As the Hon. Jing Lee said, there are a lot of dedicated social workers within the child protection system, and they work their butts off and try the very best they can to do the best job they can. Unfortunately, there is a bullyboy culture, and it was described in the report as a toxic and invasive culture within Families SA that is going to take a long time to turn around.

Again, I am disappointed that the government has not been able even to confer with its own members and take notice of what they have had reported to them about the conduct of some within the department and that it is not prepared to take just the smallest step forward to try to rectify this.

I remind everybody of the Mullighan inquiry into victims of abuse in state care, when Ted Mullighan himself said the evidence he took was just the tip of the iceberg. I have said it many times in here and I will say it again tonight: we will have another one of those inquiries, maybe in a decade or so, and we will hear more evidence of a government that failed to act.

I would also like to thank the opposition for supporting this, and I do support their amendments. The Hon. Jing Lee and I have discussed it and what she has proposed makes perfect sense to me. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. K.L. VINCENT: Not having made a second reading speech, I would just like to indicate that having this debate and clarifying a few things with regard to the Hon. Ms Lee's amendments, I will be very strongly supporting the bill. As the Hon. Ms Lee said, in an ideal world a panel such as this would not need to exist, but as I am sure we are all aware we do not as yet live in an ideal world, particularly when it comes to child protection in South Australia and, of course, none of the measures, including guardianship of a minister are presently perfect.

I would just like to quickly point to one particular recent case where a mother who had disabilities, one of them being that she was deaf, was first ordered to attend a parenting class which she fronted up to, but because an Auslan interpreter was not provided she was not able to understand or participate in the class and subsequently, I believe, lost her children even though

she had demonstrated the right will and intent towards those children by showing up to this court appointed parenting class. Certainly there are shades of grey that need to be addressed, and while these things exist I think it is obligatory that panels such as this exist as well and therefore I support the bill and the amendments.

The Hon. D.G.E. HOOD: I would very briefly like to place on record that Family First also supports this legislation.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. J.S. LEE: I move:

Page 3—

Line 12 [clause 7, inserted section 44A(2)]—After 'consists of' insert 'at least'

Lines 14 to 20 [clause 7, inserted section 44A(2)(a) to (d)]—

Delete paragraphs (a) to (d) (inclusive) and substitute:

(a) 1 member must be a child psychologist; and

(b) 1 member must be a legal practitioner of at least 5 years standing; and

(c) the remaining members must be persons who collectively have, in the opinion of the Minister—

(i) knowledge, skills and experience in relation to family preservation models; and

(ii) experience in acting as an advocate for children at family care meetings; and

(iii) experience in social work involving children; and

(iv) such other knowledge, skills or experience as the Minister considers appropriate having regard to the functions of the Panel under section 44G.

Lines 21 to 23 [clause 7, inserted section 44A(3)]—Delete subsection (3) and substitute:

(3) A person may only be appointed to the Panel if he or she has not, in the 2 year period preceding the appointment, been employed or engaged by the Minister or the Department.

I have already provided an explanation earlier in my second reading speech. I do not believe I am required to provide any more information. I believe the Hon. Ann Bressington has already accepted those amendments.

Amendments carried; clause as amended passed.

Remaining clause (8) and title passed.

Bill reported with amendment.

The Hon. A. BRESSINGTON (21:05): I move:

That this bill be now read a third time.

Bill read a third time and passed.

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

Received from the House of Assembly and read a first time.

BURIAL AND CREMATION BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (21:08): I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the *Burial and Cremation Bill 2012* which represents a new era in the regulation of burial and cremation in South Australia.

At present there are a number of Acts and regulations governing different aspects of the industry. For example, burial in council areas and the establishment and management of council operated cemeteries is regulated by Part 30 of the *Local Government Act 1934*.

The disposal of human remains by cremation is regulated by the *Cremation Act 2000* and the *Cremation Regulations 2001*. The *Local Government (Cemetery) Regulations 2010* made under the *Local Government Act 1934* govern exhumations, re-interments and the powers of cemetery authorities.

The regulation of privately owned cemeteries, such as church cemeteries, is a different matter. Although the establishment of new 'private' cemeteries is regulated under the *Development Act 1993*, and their operation is subject to the general law, such as public health legislation, these cemeteries are largely unregulated in terms of cemetery management provisions and length of tenure for interment rights.

The Bill repeals the *Cremation Act 2000* and Part 30 of the *Local Government Act 1934* in order to create a single comprehensive and consistent regulatory scheme that will cover all cemeteries and crematoria, whether public or private, and better reflect modern technologies, community expectations and industry practice. It is also made clear at the outset that human remains are to be treated at all times with dignity and respect.

CONSULTATION

The review of the legislation governing burial and cremation in South Australia has been underway for many years and has been the subject of two Select Committee inquiries. In 1986, the Select Committee of the Legislative Council on the Disposal of Human Remains tabled its report in Parliament.

In 2003, the Select Committee of the House of Assembly on the Cemetery Provisions of the Local Government Act tabled its report in Parliament. The 2003 Select Committee made a number of recommendations for reform of the legislation governing the industry, including the creation of a single Act, the removal of the 99-year limitation on interment rights in public cemeteries and the creation of a better system for the identification of human remains before disposal.

This Bill is the culmination of work undertaken by the 2003 Select Committee, subsequent consultation by the Government on the Select Committee recommendations, and recent public consultation on a draft Bill.

Valuable contributions on the draft Bill were received from a number of interested parties including the Adelaide Cemeteries Authority, the Cemeteries and Crematoria Association of South Australia, the Australian Funeral Directors Association (SA Branch), the Local Government Association, Centennial Park, the Monumental Masons Association of South Australia, religious groups, the Hon Bob Such MP and government agencies.

Although there was broad support for a single Act to replace the disjointed approach taken by the existing legislation, there were objections to some areas of the draft Bill, including strong objection to the proposal that an interment right run from the date on which remains are first interred and not the date of issue. In light of the concerns raised by respondents, that provision has been amended so that an interment right will commence from the date of issue. Other amendments to the Bill have also been made after careful consideration of all of the submissions received.

DETAILS OF THE BILL

Having a comprehensive and consistent regime for the regulation of burial and cremation that recognises the diversity of the South Australian community is an important aim. This Bill achieves that aim by creating a single Act that builds on existing regulation and industry practice and provides greater transparency for the industry and the community.

I will now outline the key features of the Bill.

The only methods for the disposal of bodily remains contemplated by the current legislation are burial, which can include interment in a mausoleum or vault, and cremation. This has been carried over into the new legislation which makes it an offence to dispose of bodily remains by any other method.

That said, the Government understands that alternatives to cremation, such as resomation which is a water-based cremation process, are gaining popularity overseas and there have been inquiries about bringing these methods into South Australia. Any new method of disposal that is similar to cremation will need to be subject to strict regulatory requirements as the body is completely destroyed preventing any further examination for the purposes of a criminal investigation. What regulation is appropriate, however, is difficult to determine as these new methods are not yet in use in South Australia. The Bill has therefore been drafted so as to allow for any new methods of disposal to be dealt with in the regulations.

The use of natural burial as an alternative to more traditional forms of burial is recognised in the Bill. A natural burial ground is a place where human remains are buried in a shroud or biodegradable coffin and trees, shrubs or flowers are planted as a memorial instead of a headstone.

The current 99-year limitation on interment rights in public cemeteries has been removed. Cemetery authorities will be able to offer perpetual tenure if they wish but they will not be obligated to do so and may continue

to issue interment rights with limited tenure. This is because for many cemeteries, particularly those in the Metropolitan area where there is a shortage of available land, perpetual tenure on all grave sites is simply not a viable option. Without grave site re-use, not only would the active life of a cemetery be greatly reduced, but perpetual funding would need to be made available for the maintenance of the cemetery.

How and when an interment site can be re-used by a cemetery authority, and the notification and consultation that must occur prior to re-use, has also been clarified in the Bill.

A lack of notice or inappropriate means of communication about the expiry of an interment right can be distressing for families. The Bill imposes a requirement on cemetery authorities pre and post expiry of the interment right. At least 12 months prior to the expiry, a cemetery authority must take reasonable steps to give the holder of the interment right a written notice setting out the rights to renewal and informing the holder that if the interment right is not renewed any memorialisation on the site can be reclaimed from the cemetery authority.

Once the interment right has expired, the cemetery authority is entitled to re-use the site and remove any memorials on the site provided it has given notice of its intention to do so by public advertisement and by written notice to the relatives of the deceased and there is no objection to the re-use or two or more years have passed from the date of the notice and the right has not been renewed within that period.

There is a new requirement for a certificate of identification to be sighted before a person can dispose of bodily remains to provide greater assurance for families that the deceased is being buried in the correct site. This will be in addition to the current requirements that a cremation permit must be issued, and the remains identified, before a cremation can occur.

The Bill provides clarification in regards to processes for burial other than in a cemetery. Requests for burial on private land do occur from time to time, particularly in remote areas and on rural properties where the nearest cemetery may be hundreds of kilometres away or the person has a special connection to the land. The Bill allows this to continue subject to certain requirements being fulfilled, such as obtaining the written approval of the landowner and, if the land is within a council area, the written approval of the council. Other conditions will be able to be specified in the regulations, such as a requirement that the landowner not build or develop within a certain distance of the burial site.

Clear guidelines for the closure of cemeteries and natural burial grounds, and the conversion of cemeteries to park lands or public parks or gardens where it is no longer possible for the cemetery to continue to operate, will be introduced. A cemetery or natural burial ground may be closed if it has become unsuitable for the disposal of human remains or 25 or more years have elapsed since human remains were last interred. Before the closure can occur, the relevant authority must give notice of the proposed closure in a newspaper circulating throughout the State on two separate occasions. The Bill also sets out the procedures for dealing with exercised and unexercised rights of interment in the closed cemetery, including the issuing of any refunds.

The processes for the renewal, surrender, transfer and enforcement of interment rights are clarified in the Bill. A cemetery authority will be obliged to renew an interment right for a minimum of 5 years if the holder of the interment right requests it and has paid the fee fixed by the cemetery authority for the renewal.

Interment rights will be able to be transferred, but a transfer will only become effective once it is registered with the cemetery authority. Further, the Bill provides that if an interment right is transferred, the consideration payable cannot be for more than it would be sold by the cemetery authority. This prevents unscrupulous persons profiteering from grieving families.

If an interment right is no longer wanted, the holder of the interment right has the option of surrendering it to the cemetery authority that issued it and, if the site has not been used, receiving a refund for the surrendered right. As a result of an amendment moved in the other place, the refund will be an amount determined in accordance with the regulations.

The question of who is entitled to enforce or exercise an interment right if the holder of the right has died is also addressed by the legislation. This is currently a significant issue for cemetery authorities and the relevant person can be difficult to determine. The Bill provides that if the holder of the interment right has died, the right can be enforced by the personal representative of the deceased or, if there is no personal representative, a person determined in accordance with the regulations. Where there is no executor or administrator to deal with the interment right the regulations will set out an agreed order of precedence that can be followed by all cemetery authorities. For example, the spouse or domestic partner of the deceased would have first priority followed by the children of the deceased and then other relatives of the deceased in descending order.

Determining who is entitled to ownership of any memorialisation on an interment site has also created problems for cemetery authorities. The current law relating to ownership of memorials is complicated and confusing and relies on complex rules of descent that are part of the common law. In many instances it is not possible to determine ownership of memorials conclusively leaving cemetery authorities unable to deal with memorials attached to an interment site when the interment right expires.

The Bill changes the existing common law position so that a memorial is the personal property of the person who holds the interment right in respect of the interment site where the memorial is situated. This provision will make it easier for the cemetery authority and the public to resolve ownership issues.

The maintenance obligations of an interment right holder has also been clarified. Maintenance of a memorial will be the responsibility of the holder of the interment right unless he or she has entered into an agreement with the relevant authority under which the authority has agreed to maintain the memorial. In addition, if a memorial becomes unsafe, the authority may give the owner a notice requiring them to remove, repair or reinstate

the memorial. If the work is not carried out within the time specified the authority may have the work carried out and recover the costs from the owner.

Another feature of the Bill is the record-keeping obligations imposed on the relevant authority for a cemetery or natural burial ground to ensure the preservation and accessibility of historic records when the cemetery or natural burial ground closes.

Any person will be entitled to establish a cemetery, natural burial ground or crematorium, provided they have obtained all necessary approvals under the *Development Act 1993* and complied with any other relevant legislation such as the *South Australian Public Health Act 2011*and the *Environment Protection Act 1993*.

The Bill gives the relevant authority for a cemetery or natural burial ground general powers for the management and maintenance of the cemetery or natural burial ground, including the power to enlarge, improve or embellish the grounds or facilities or to restrict interments in any part of the grounds. It also imposes certain obligations, including a requirement that the relevant authority have due regard to the customs and needs of the various ethnic and religious communities that may resort to the cemetery or natural burial ground for the disposal of human remains.

This Bill is an important piece of legislation and I commend it to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for commencement of the measure by proclamation.

3—Interpretation

This clause defines terms used in the measure.

4—Application of Act

This clause provides that the measure does not apply in relation to tissue removed from the body of a deceased person in accordance with the *Coroners Act 2003* or the *Transplantation and Anatomy Act 1983*.

5—Relationship of Act with other laws

This clause makes it clear that the provisions of this measure are in addition to, and do not derogate from, the provisions of any other Act or law.

6—Human remains to be treated with dignity and respect

This clause expresses Parliament's intention that human remains be treated at all times with dignity and respect.

Part 2—Disposal of human remains

Division 1—Disposal by burial or cremation

7—Offence to dispose of human remains except by burial or cremation

This clause makes it an offence to dispose of bodily remains other than by burial (including placement of bodily remains in a mausoleum, vault etc) or cremation and fixes a maximum penalty of $10,000 or imprisonment for 2 years.

8—Offence to dispose of non-cremated human remains except in cemetery or natural burial ground

Subclause (1) prohibits the interment of bodily remains except in a lawfully established cemetery or natural burial ground. A maximum penalty of $10,000 or imprisonment for 2 years is fixed. However, no offence is committed if the person has obtained the approval of the Attorney-General to inter bodily remains in some other place.

Subclause (2) provides that it is permitted to inter bodily remains on land outside a township, Metropolitan Adelaide or in an area defined by the regulations if the person has the permission of the owner of the land, has the approval of the relevant council, and the interment is in accordance with the regulations.

Subclause (3) makes it an offence to bury bodily remains at sea or suffer, cause or permit this to happen, unless the person has the approval of the Attorney-General. A maximum penalty of $10,000 or imprisonment for 2 years is fixed.

This clause supersedes section 593 of the *Local Government Act 1934*.

9—Offences relating to cremation

Subclause (1) prohibits the disposal of bodily remains by cremation unless it is authorised by a cremation permit issued by the Registrar of Births, Deaths and Marriages. The maximum penalty is $10,000 or imprisonment for 2 years.

Subclause (2) prohibits the disposal of bodily remains by cremation except at a lawfully established crematorium. The maximum penalty is $10,000 or imprisonment for 2 years.

Subclause (3) prohibits the disposal of bodily remains by cremation if the person knows or is aware that a personal representative or parent or child of the deceased objects to this method of disposal (unless the deceased directed by will or other attested instrument that his or her remains be disposed of by cremation). The maximum penalty is $10,000.

Subclause (4) makes it an offence to dispose of bodily remains by cremation in contravention of an order under clause 11. The maximum penalty is $10,000 or imprisonment for 2 years.

10—Cremation permits

This clause empowers the Registrar to issue cremation permits authorising the disposal of bodily remains by cremation. It sets out who may make an application for a cremation permit, how the application is to be made, the documents required to support an application and the powers of the Registrar to refuse an application.

11—Power of Attorney-General, State Coroner or magistrate to prohibit disposal by cremation

This clause empowers the Attorney-General, the State Coroner and magistrates to make orders prohibiting the disposal of the remains of particular deceased persons by cremation.

Division 2—Documents to be provided before disposal of human remains

12—Documents to be provided before disposal of human remains

This clause requires a certificate of identification to be sighted and prescribed details relating to it to be recorded before bodily remains can be disposed of. Failure to comply with these requirements constitutes an offence punishable by a maximum fine of $10,000 or imprisonment for 2 years.

A person must also sight a partial certificate of cause of death, a disposal authorisation or an authorisation granted by the Minister or the Registrar, and must record the prescribed particulars relating to the certificate or authorisation before disposing of bodily remains. The maximum penalty for failing to do so is a fine of $10,000 or imprisonment for 2 years.

However, these requirements does not apply if a cremation permit has been issued for disposal by cremation

Division 3—Opening of interment sites, exhumation and re-interment

13—Offences

This clause regulates the opening of graves, the exhumation and removal of bodily remains and the re-interment of bodily remains. These activities require the approval of the Attorney-General. A maximum penalty of $20,000 or imprisonment for 4 years is fixed for engaging in such activities without approval.

However, it is not an offence to open an interment site to inter additional bodily remains if the existing remains there are cremated remains. In the case of non-cremated remains it is not an offence to open a site if additional remains can be interred without disturbing the existing remains or if a lift and deepen procedure is carried out in accordance with the regulations.

The clause also requires a relevant authority for a cemetery or natural burial ground to ensure that existing bodily remains are re-interred at a greater depth or dealt with in accordance with the regulations. The maximum penalty for not doing so is $10,000 or imprisonment for 2 years.

Division 4—Miscellaneous

14—Prohibition on giving certificate of cause of death in certain circumstances

This clause makes it an offence for a medical practitioner to give a certificate of cause of death if the death is reportable under the *Coroners Act 2003*. A maximum penalty of imprisonment for 4 years is fixed. The clause also prohibits a medical practitioner giving such a certificate if—

- he or she, or his or her spouse or domestic partner, has a pecuniary or proprietary interest in the hospital, nursing home or aged care facility where the person died; or
- he or she, or his or her spouse or domestic partner, has a pecuniary interest in the death of the person under a policy of life insurance or superannuation; or
- he or she, or his or her spouse or domestic partner, is entitled to a benefit in the form of property under a will or intestate distribution.

A maximum penalty of imprisonment for 4 years is fixed but there is a defence if the defendant can prove that he or she did not know, and could not reasonably be expected to know, that he or she, or his or her spouse or domestic partner (as the case may be) had such a pecuniary or proprietary interest, or was entitled to such a benefit.

15—Handling, storage and transport of human remains

This clause requires compliance with the provisions of the regulations relating to the handling, storage and transport of human remains. A maximum penalty of $10,000 or imprisonment for 2 years is fixed.

16—Authority to inter at particular site

This clause makes it an offence to inter human remains in a particular interment site other than those of a deceased person entitled to be interred at that site. A maximum penalty of $10,000 is fixed.

17—Religious and other ceremonies not to be interfered with etc

This clause makes it an offence for a relevant authority to prevent or interfere with religious or cultural ceremonies in connection with the disposal of human remains in a cemetery, natural burial ground or crematorium unless necessary to protect the health or safety of any person. A maximum penalty of $10,000 is fixed. The clause also requires a relevant authority to allow a member of the clergy of a religion for which a portion of a cemetery or natural burial ground is set apart to have free access and admission to that area to exercise religious functions. A maximum penalty of $5,000 is fixed.

18—Disposal of unclaimed cremated human remains

This clause requires a relevant authority for a crematorium to ensure that cremated remains are released only to the person to whom the cremation permit authorising the disposal of the remains was issued or a person authorised by that person. A maximum penalty of $10,000 is fixed. However, if cremated remains are not claimed within 6 months the relevant authority can dispose of them as it thinks fit.

Part 3—Cemeteries, natural burial grounds and crematoria

Division 1—Establishment of cemeteries, natural burial grounds and crematoria

19—Establishment of cemeteries, natural burial grounds and crematoria

This clause allows the establishment of cemeteries, natural burial grounds and crematoria by any person.

20—Power of councils to establish and manage public mortuaries

This clause authorises councils to establish and manage public mortuaries. It supersedes section 585(3) of the *Local Government Act 1934*.

21—Establishment of mausolea within cemeteries

This clause authorises relevant authorities to establish mausolea within their cemeteries.

22—Designation of natural burial grounds within cemeteries

This clause authorises relevant authorities to set apart natural burial grounds within cemeteries.

23—Power to set apart part of cemetery or natural burial ground for particular religions

This clause authorises relevant authorities to set apart areas within cemeteries or natural burial grounds for the interment of human remains in accordance with the customs and practices of particular religions. It supersedes section 591A of the *Local Government Act 1934*.

Division 2—Closure and conversion of cemeteries and natural burial grounds

24—Closure of cemeteries and natural burial grounds

This clause allows cemeteries and natural burial grounds to be closed if they become unsuitable for the disposal of human remains or if at least 25 years have elapsed since the last interment of human remains. The clause sets out requirements for notice to be given before a cemetery or natural burial ground is closed and makes it an offence punishable by a maximum fine of $10,000 or imprisonment for 2 years to inter human remains after the closure or to knowingly disturb human remains interred in a closed cemetery or natural burial ground. This clause supersedes section 587 of the *Local Government Act 1934*.

If there are unexercised interment rights, the relevant authority may, by agreement with the holders, discharge the interment rights and give the holders a refund or a new interment right free of charge in another cemetery or natural burial ground. In relation to interment rights which have been exercised, the relevant authority may, by agreement with the holders, discharge the interment rights and issue new interment rights free of charge or move human remains to another interment site and transfer any memorial to the new site.

If the relevant authority and holder of an interment right cannot agree, the relevant authority can refer the matter to an independent party for mediation.

The relevant authority is required to make an inventory of memorials before demolishing, removing, relocating or replacing any grave or memorial. The inventory must be made available for public inspection. A maximum fine of $2 500 is fixed for a failure to do so.

25—Dedication of closed council cemeteries as park lands

This clause provides that if a closed cemetery is on land held on trust by a council or includes dedicated land under the care, control and management of a council, the council may petition the Minister to have the trust determined and have the land dedicated as park lands. If a closed cemetery is dedicated as park lands, the council may remove, relocate or replace memorials. This clause supersedes section 588 of the *Local Government Act 1934*. If the closed cemetery is or forms part of a State heritage place this clause will not apply and the provisions of the *Heritage Places Act 1993* will apply instead.

26—Conversion of closed cemeteries into public parks or gardens

This clause allows the conversion of closed non-council cemeteries into public parks or gardens. It creates an offence of knowingly disturbing human remains interred in a converted cemetery and fixes a maximum penalty of $10,000 or imprisonment for 2 years.

The relevant authority may remove, relocate or replace memorials.

If the closed cemetery is or forms part of a State heritage place this clause will not apply and the provisions of the *Heritage Places Act 1993* will apply instead.

27—Powers of relevant authorities in relation to closed cemeteries

This clause provides that the relevant authority for a closed cemetery may, for the purpose of converting the cemetery into park lands or a public park or garden—

- construct roads and pathways on the land; and
- erect or construct buildings or structures on the land; and
- construct on or under the land any vault or other structure as a repository for human remains that are not to be removed from the cemetery for interment elsewhere; and
- erect lighting, seating and any other infrastructure or public amenity; and
- take such other action as the relevant authority thinks fit for laying out the land as park lands or a public place or garden.

28—Obligations of relevant authorities on closure of cemeteries etc

This clause requires relevant authorities to notify the Registrar of the closure of a cemetery or natural burial ground. It requires relevant authorities to notify the Registrar and the Environment Protection Authority of the closure of a crematorium. It also requires relevant authorities to forward records to the Libraries Board of South Australia if a cemetery, natural burial ground or crematorium is closed. The maximum penalty for failing to comply with these requirements is $5,000.

Division 3—Interment rights

29—Interpretation

This clause defines human remains for the purposes of this Division as including the remains of a human foetus.

30—Issue of interment rights

This clause deals with the issue of interment rights. It requires a relevant authority to first give a person a plain English statement setting out the matters required to be specified in the interment right. The clause sets out the obligations of a relevant authority in relation to an interment right.

31—Duration of interment rights

This clause provides that an interment right may be issued for any term or in perpetuity.

32—Renewal of interment rights

This clause confers an automatic right of renewal of an interment right for a period of not less than 5 years. A relevant authority must, at least 12 months before an interment right is due to expire, take reasonable steps to give the holder notice setting out the right of renewal and informing the holder of certain matters, including the right to reclaim a memorial if the interment right is not renewed. The maximum penalty if a relevant authority fails to comply is $5,000.

33—Transfer of interment rights

This clause provides that interment rights are transferable.

34—Surrender of interment rights

This clause provides that interment rights may be surrendered.

35—Exercise or enforcement of interment rights

This clause provides that if the holder of an interment right has died, the right may be exercised or enforced by a personal representative of the deceased, or if there is no personal representative, by a person determined in accordance with the regulations. If an interment right is held by more than 1 person it may be exercised or enforced jointly or severally.

36—Interment right not required for scattering of cremated remains

This clause provides that an interment right is not required to scatter cremated remains in a cemetery or natural burial ground.

37—Register of interment rights

This clause requires the relevant authority for a cemetery or natural burial ground to keep a register of all interment rights issued by it and specifies what records must be made. The maximum penalty for failing to do so is a fine of $5,000.

38—Re-use of interment sites

This clause permits relevant authorities to re-use interment sites in relation to which interment rights have expired. It sets out the requirements for notice which must be given prior to doing so.

Division 4—Memorials

39—Ownership of memorial

This clause provides that for the purposes of the law of this State, a memorial to a deceased person in a cemetery, natural burial ground or other place of interment is the personal property of the person who holds the interment right in respect of the interment site where the memorial is situated. However, a relevant authority may deal with and dispose of a memorial in a cemetery or natural burial ground in accordance with this measure.

40—Duty to maintain memorial

This clause makes the holder of an interment right in respect of an interment site in a cemetery or natural burial ground responsible for the maintenance of a memorial at that site unless he or she has entered into an agreement with the relevant authority under which the relevant authority has agreed to maintain the memorial.

41—Power to require repair, removal or reinstatement of memorial

This clause empowers a relevant authority to give the owner of a memorial that has become unsafe notice requiring the owner to repair, remove or reinstate the memorial. If the owner fails to carry out the work required the relevant authority can have it carried out and recover the cost from the owner. If a memorial becomes unsafe and urgent action is required, the relevant authority is not required to give notice and can go ahead and carry out the required works and recover the cost from the owner. However the powers conferred by this clause cannot be exercised if the relevant authority has itself agreed to maintain a memorial.

42—Power of relevant authority to dispose of unclaimed memorial

This clause allows a relevant authority to dispose of memorials that are unclaimed after notice has been given in accordance with the clause. It applies where 2 or more years have passed since an interment right has expired or since a cemetery is dedicated as park lands or converted into a public park or garden. The clause requires a relevant authority to keep prescribed records of memorials disposed of by it. The maximum penalty for failing to do so is a fine of $5,000.

Division 5—Miscellaneous

43—General powers of relevant authority

This clause provides that a relevant authority for a cemetery, natural burial ground or crematorium may—

- enlarge the cemetery, natural burial ground or crematorium; and
- improve or embellish the cemetery, natural burial ground or crematorium; and
- restrict interments in any part of the cemetery or natural burial ground, except as may be required by interment rights granted before the commencement of this measure; and
- take any other action that the relevant authority considers necessary or desirable for the proper management and maintenance of the cemetery, natural burial ground or crematorium.

44—Multicultural needs to be recognised

This clause provides that a relevant authority for a cemetery or natural burial ground must, in the establishment, administration, extension or improvement of the cemetery or natural burial ground, have due regard to the customs and needs of the various ethnic and religious communities that resort to the cemetery or natural burial ground for the disposal of human remains.

45—Power to restrict interments in any part of cemetery or natural burial ground

This clause empowers relevant authorities to may restrict interments in any part of a cemetery or natural burial ground (but not so as to breach the terms of an interment right).

46—Neglected cemeteries and natural burial grounds

This clause provides that if a cemetery or natural burial ground is in a neglected condition or fails to comply with the requirements of this measure, the council or designated Minister may give the relevant authority a notice requiring work to be carried out to remedy the condition of neglect or comply with the requirements. If the work is not carried out as required by the notice, the council or Minister can have the work carried out and recover the cost of doing so as a debt from the relevant authority. This clause supersedes section 589 of the *Local Government Act 1934*.

47—Right of review

This clause gives a relevant authority the right to apply to the District Court for a review of a decision of a council or Minister under clause 46. On a review the Court can confirm or reverse the decision and make consequential and ancillary orders and directions.

48—Power of councils to accept conveyance of cemetery or natural burial ground land from trustees

This clause allows a council to accept the conveyance of a cemetery or natural burial ground that is on land held on trust. However, a council must not accept a conveyance if under the trusts on which the council will hold the cemetery or natural burial ground, the use of the cemetery or natural burial ground is confined to the interment of the remains of deceased persons who belonged to a particular religion. This clause supersedes section 591 of the *Local Government Act 1934*.

49—Power of councils to assume administration of cemeteries and natural burial grounds

This clause empowers councils to assume the administration of a cemetery or natural burial ground if there is no existing relevant authority for the cemetery or natural burial ground, if the relevant authority is unknown and not reasonably ascertainable, or if the relevant authority for the cemetery or natural burial ground agrees to transfer it to the council. This clause supersedes section 590 of the *Local Government Act 1934*.

50—Public access to cemeteries, natural burial grounds and crematoria

This clause provides that a relevant authority must allow a person access, free of charge, at any reasonable time, to a cemetery, natural burial ground or crematorium—

- for the purpose of visiting graves or monuments or conducting or attending a funeral or religious service; or
- for any other legitimate non-commercial purpose.

A maximum penalty of $5,000 is fixed for a failure to comply.

If the relevant authority for a cemetery, natural burial ground or crematorium has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery, natural burial ground or crematorium, the relevant authority may require the person to leave the cemetery, natural burial ground or crematorium. A person who fails to comply commits an offence punishable by a maximum fine of $2 500.

51—Disposal of surplus cemetery land etc

This clause authorises relevant authorities to dispose of surplus land comprising or forming part of a cemetery or natural burial ground provided that they first discharge unexercised interment rights and give the former holders a refund or issue new interments rights free of charge in another cemetery or natural burial ground.

52—Disposal of land after closure of cemetery etc

This clause provides that if a cemetery or natural burial ground has been closed in accordance with this measure and all human remains and memorials have been removed, the relevant authority may deal with the land in the ordinary course of commerce.

53—Registers, records and plans to be kept by relevant authorities

This clause sets out the registers and records which must be kept by relevant authorities and fixes a maximum penalty of $5,000 for non-compliance.

Part 4—Miscellaneous

54—Minister responsible for Crown Land Management Act 2009 to facilitate exercise of powers, functions and duties under this Act

This clause provides that if a power, function or duty under this measure is to be exercised or performed in relation to land that is dedicated land under the *Crown Land Management Act 2009* or is subject to a Crown condition agreement under that Act, the Minister responsible for the administration of that Act must take such action under that Act as may be necessary or expedient to facilitate the exercise or performance of the power, function or duty under this measure.

55—Exemptions

This clause empowers the Minister to grant exemptions from specified provisions of this measure and makes it an offence for a person to contravene a condition of an exemption. The maximum penalty for a contravention is $10,000.

56—Power of Public Trustee to act on behalf of holder of interment right etc

This clause allows the Public Trustee, at the request of a relevant authority, to act on behalf of the holder of an interment right or owner of a memorial if reasonable attempts by the relevant authority to ascertain or locate the holder or owner fail. However, the Public Trustee is not required to assume any financial responsibility on behalf of the holder of an interment right or the owner of a memorial.

57—Approvals and authorisations

This clause requires approvals and authorisations of the Attorney-General or State Coroner under this measure to be in writing and allows conditions to be included. It makes it an offence for a person to contravene, or fail to comply with, a condition of an approval or authorisation. The maximum penalty is $10,000 or imprisonment for 2 years.

58—Authorised officers

This clause provides for the appointment of authorised officers by the Minister and councils.

59—Powers of authorised officers

This clause sets out the powers of authorised officers.

60—Hindering etc persons engaged in administration of Act

This clause makes it an offence punishable by a maximum $10,000 fine for a person to—

- without reasonable excuse hinder or obstruct an authorised officer or other person engaged in the administration of this measure; or
- fail to answer a question put by an authorised officer to the best of the person's knowledge, information or belief; or
- produce a document or record that the person knows, or ought to know, is false or misleading in a material particular; or
- fail without reasonable excuse to comply with a requirement or direction of an authorised officer under this measure; or
- use abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
- falsely represent, by words or conduct, that the person she is an authorised officer.

61—False or misleading statement

This clause makes it an offence to make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this measure. The maximum penalty is $10,000 or imprisonment for 2 years

62—Statutory declarations

This clause provides that if a person is required to furnish information to the Minister or the Registrar, the Minister or the Registrar may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have furnished the information as required unless it has been verified in accordance with the requirements of the Minister or the Registrar.

63—Self-incrimination

This clause provides that if a person is required to answer a question or to produce, or provide a copy of, a document or information under this measure and the answer, document or information would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless answer or produce, or provide a copy of, the document or information, but the answer, document or information will not be admissible in evidence against the person in proceedings for an offence other than proceedings in respect of the making of a false or misleading statement or declaration.

64—Offences by body corporate

Subclause (1) provides that if a body corporate is guilty of an offence against clause 9, each member of the governing body of and the manager of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the member proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.

Subclause (2) provides that if a body corporate is guilty of any other offence against this Act, each member of the governing body of the body corporate and the manager of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—

(a) the member or manager knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and

(b) the member or manager was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and

(c) the member or manager failed to exercise due diligence to prevent the commission of the offence.

Subclause (3) specifies the offences that are excluded from the operation of subclause (2).

65—Service

This clause sets out the methods by which notices and other documents may be served.

66—Regulations

This clause empowers the Governor to make regulations.

Schedule 1—Repeals, related amendments and transitional provisions

Part 1—Repeals

1—Repeal of *Cremation Act 2000*

This clause repeals the Cremation Act.

Part 2—Related amendments

Division 1—Preliminary

2—Amendment provisions

This clause is formal.

Division 2—Amendment of *Adelaide Cemeteries Authority Act 2001*

3—Amendment of section 8—Special provisions relating to Authority's powers

This clause amends section 8 to allow the Adelaide Cemeteries Authority to grant burial rights for any term or in perpetuity. Currently burial rights can only be issued for terms of up to 99 years.

4—Repeal of section 21

This clause repeals section 21 which provides that section 586 of the *Local Government Act 1934* does not apply to an Authority cemetery. This measure repeals section 586 so section 21 is redundant.

Division 3—Amendment of *Births, Deaths and Marriages Registration Act 1996*

5—Amendment of section 4—Definitions

This clause inserts a definition of *cremated remains*.

6—Repeal of section 50A—Documents to be provided before disposal of remains

This clause repeals section 50A which is no necessary because this measure sets out the documents that must be provided before human remains can be disposed of.

Division 4—Amendment of *Local Government Act 1934*

7—Repeal of Part XXX

This clause repeals Part XXX of the Act which deals with cemeteries.

Division 5—Amendment of *Transplantation and Anatomy Act 1983*

8—Amendment of section 34—Regulations for the control etc of schools of anatomy

This clause makes a minor semantic amendment.

Part 3—Transitional provisions

9—Transitional provision relating to existing interment rights

This clause makes a transitional provision with respect to the term of existing interment rights.

Debate adjourned on motion of Hon. T.J. Stephens.

At 21:09 the council adjourned until Thursday 7 March 2013 at 11:00.