# HOUSE OF ASSEMBLY

**Wednesday 24 September 2003**

**The SPEAKER (Hon. I.P. Lewis)** took the chair at 2 p.m. and read prayers.

## SHINE PROGRAM

A petition signed by 3 984 electors of South Australia, requesting the house to urge the government to immediately withdraw the trial of the Sexual Health and Relationship Education Program, developed by SHine, from all 14 participating schools pending professional assessment and endorsement, was presented by the Hon. D.C. Kotz.

Petition received.

## HOSPITALS, MODBURY

A petition signed by 61 electors of South Australia, requesting the house to urge the government to categorically declare that Modbury Public Hospital will not be closed, amalgamated or any current services withdrawn, including the new maternity wing, was presented by the Hon. D.C. Kotz.

Petition received.

## PAPERS TABLED

By the Minister for Urban Development and Planning (Hon. J.W. Weatherill)—

Interim Operation of the Rural B Zone (Concordia)—Waste Disposal Anomaly Development Plan Amendment Report

Interim Operation of the Rural City of Murray Bridge Heritage (Town Centre and Environs) Plan Amendment Report

By the Minister for Gambling (Hon. J.W. Weatherill)—

State Supply Board—Gaming Machines Act 1992 for 2002-03

By the Minister for Local Government (Hon. R.J. McEwen)—

Rules—

Local Government—Local Government Superannuation Scheme—Council Elected Member Present Day Super Benefit.

## FESTIVAL OF ARTS

**The Hon. M.D. RANN (Premier):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.D. RANN:** As Premier and Minister for the Arts, it gives me great pleasure to inform the house that earlier today Mr Ross Adler, the Chair of the Adelaide Festival of Arts, announced that Brett Sheehy will be the new Artistic Director for the 2006 Adelaide Festival of Arts. Mr Sheehy has been festival director and chief executive of the Sydney festival since 2002. He directed the past two Sydney festivals and will direct the 2004 and 2005 events. Prior to this, he worked as a lawyer, a drama critic and for 10 years with the Sydney Theatre Company. He is credited with attracting a younger, broader-based demographic to Sydney's annual arts festival and has built a solid platform on which to take that festival forward. He brings to South Australia a wealth of experience, a proven track record and a great enthusiasm for his new position. Brett Sheehy is well known for his enormous energy and passion for the arts. He is a self-confessed adrenalin junkie and his aim is to deliver a festival that is the best. In his words, he says he sees the Adelaide festival as 'the best—the shining gold—the best place, geography, population'. He says:

> Adelaide is the great festival city this in nation, the most adventurous festival in the country.

He believes his first responsibility is to the audience and his second to the artist. He aims to look at five areas; he wants to create a new audience of 18 to 25 year olds; and he wants to create a sense of accessibility, diversity, quality and legacy. I cannot think of anyone more fitting to follow in the footsteps of the Artistic Director of the 2004 Adelaide Festival, Stephen Page, and I welcome Brett to South Australia and wish him well in his new role.

## WORKCOVER

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.J. WRIGHT:** Yesterday, this house passed a motion to facilitate the release of the reports into WorkCover by the South Australian Government Financing Authority and the Office for Government Enterprises. They detail extremely serious issues such as the accountability gap under the WorkCover Corporation Act 1994, introduced by the former Liberal government. The reports also deal with the rebate and the reduction in the average levy rate. I have previously advised the house that these irresponsible and unsustainable decisions have resulted in a loss of revenue of approximately $135 million.

*Members interjecting:*

**The SPEAKER:** Order! The member for West Torrens will come to order.

**The Hon. M.J. WRIGHT:** That is the most recent advice that I have received. Members may have noticed that the reports refer to a figure of $125 million. After the finalisation of the reports, I was advised that the figure was incorrect and that the loss of revenue was approximately $135 million, composed of the rebate of $25 million, a revenue loss in the first year of the levy rate reduction of $53 million and a revenue loss in the second year of the levy rate reduction of $57 million. I draw this to the attention of the house to assist members' understanding of these issues.

Yesterday, the Leader of the Opposition asked the following question in relation to WorkCover:

> Why did the minister tell the House on 17 September that he did not have a draft copy of the June 2003 quarterly performance report. . .

On 16 September, the Leader of the Opposition asked me whether I or my office had received a draft or final copy of the June 2003 quarterly report. *Hansard* records—

*Members interjecting:*

**The SPEAKER:** Order! Too many people have had grumpy grumble beans for lunch, obviously.

**The Hon. M.J. WRIGHT:** —that I said:

> I will have to check that detail for the Leader of the Opposition, and I will get back to him after doing so.

As the leader well knows, I telephoned him later that afternoon and advised that my office had received a draft copy of the report, before also advising the house of that fact.

To summarise, *Hansard* records that, when asked in question time on 16 September, I said that I would have to check. I brought that information to the attention of the house and the leader that day. Yesterday, the leader alleged that on 17 September I stated that I did not have a draft copy of the report.

*Members interjecting:*

**The SPEAKER:** Order!

## MINISTER'S REMARKS

**The Hon. R.G. KERIN (Leader of the Opposition):** Mr Speaker, can I make a quick personal explanation in answer to an interjection?

**The SPEAKER:** Order! I will recognise the leader immediately after the presentation of papers, notices of motions and ministerial statements.

## GAMBLING

**The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. J.W. WEATHERILL:** In March 2003, I announced that the government intended to consider an early intervention scheme that would empower families to restrict further harm being caused by problem gamblers. Such a scheme would provide an avenue for families to intervene to help themselves and to restrain the problem gambler from wasting the family's income and savings. On 21 March 2003, I wrote to the Independent Gambling Authority, providing terms of reference for it to provide advice on the preferred model for the operations of such a scheme, including its legislative structure.

The legislative model that the authority has developed is based substantially upon the South Australian model to deal with domestic violence with two important differences: first, there is to be no criminal penal sanction for breach of orders; rather, breaches would be referred to the Chief Magistrate for hearing and determination and the Chief Magistrate has indicated the use of processes sometimes referred to as diversionary management of offenders; and, secondly, the initial application for a family protection from problem gambling order will be made to the Independent Gambling Authority in an atmosphere which will endeavour to encourage families to address the problem by counselling and mediation in the first instance.

The following summary identifies the key features of the draft legislative model. The model sets out extensive and detailed grounds for the making of an order, including particulars of the nature and duration of problem gambling behaviour. The model gives extensive guidance as to the sorts of conditions which might be placed upon an order to address or ameliorate the harm caused by a problem gambler's behaviour including high priority for counselling, mediation and rehabilitation. A wide range of factors would be taken into account when addressing applications. The process would commence in a relatively informal and supportive environment, but be escalated in formality if the circumstances require it. It would include a number of mechanisms for ensuring that mischievous and unreasonable complaints or applications are not entertained, and it would obtain compliance without imposing criminal sanctions. Finally, it would provide for families to obtain assistance in gaining access to the scheme from the Public Advocate or the Department of Human Services.

Under the proposed scheme, a breach or failure to comply with a family protection and problem gambling order would be reported to the authority. The authority would refer this matter to the Chief Magistrate to be dealt with by the court. In dealing with these issues the court would have regard to the provisions of this act and the Summary Procedures Act 1921.

Today, I have released the draft early intervention order scheme for further consultation with a wide range of interested parties in the gambling and concerned sectors. The AHA and the South Australian Heads of Christian Churches Gambling Task Force have both provided their support for the scheme. Legislation will be brought to the parliament following public consultation.

## MINISTER'S REMARKS

**The Hon. R.G. KERIN (Leader of the Opposition):** I seek leave to make a personal explanation.

Leave granted.

**The Hon. R.G. KERIN:** Earlier during a ministerial statement the Minister for Industrial Relations inferred that I had misrepresented him in the house, and the member for West Torrens openly said across the house that I was dishonest. To clarify the situation, the minister said that he never told the house that he did not have the WorkCover quarterly performance report. He stopped quoting early. I will read from *Hansard* what followed the part that he quoted to the house. At the conclusion of what the minister read, the Speaker said: 'Is the minister sure that he does not have that information?', to which the minister replied: 'I don't, sir.' So, the minister has basically misled the house.

*Members interjecting:*

**The SPEAKER:** Order!

## LEGISLATIVE REVIEW COMMITTEE

**Mr HANNA (Mitchell):** I bring up the third report of the committee.

Report received and read.

**Mr HANNA:** I bring up the fourth report of the committee.

Report received.

## MEMBER'S REMARKS

**Mr HANNA (Mitchell):** I seek leave to make a personal explanation.

Leave granted.

**Mr HANNA:** Yesterday, during the grievance debate, the member for Playford referred to me and said, 'The honourable member attacked the government for allegedly reducing funds available to victims of crime.' My first point is that that is inaccurate. I referred to the government's regulations effectively requiring victims to pay out of their pocket for specialist medical reports. That is a different matter. Secondly, the member for Playford went on to say, 'He said that victims would not be reimbursed for their medical costs. He should know that this is not correct.' The member for Playford then went on to quote two facts to support his contention. Those facts were spurious. My submission was reasonable, and I certainly did not, knowingly or otherwise, mislead the parliament.

# QUESTION TIME

## WORKCOVER

**The Hon. R.G. KERIN (Leader of the Opposition):** Will the Minister for Industrial Relations confirm that, when he became minister responsible for WorkCover in March 2002, the unfunded liability was $86 million, and now is stated in the June 2003 quarterly performance report to be $418.7 million?

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Premier will not inflame the passions of those other people in the chamber who have obviously also had some grumpy grumble beans for lunch. We will get through question time with more dignity—and that goes for the Minister for Infrastructure as well. He may find someone else answering his questions if he persists.

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** The government has been saying for a long time—in fact, we were saying it when we were in opposition—that the—

*Members interjecting:*

**The SPEAKER:** The honourable member for Bright is one of those people who should stay off genus Phaseolus.

**The Hon. M.J. WRIGHT:** The government has said, since it came to office, and was also saying in opposition, that there are significant problems with WorkCover. We have not wanted to hide behind that, because these are serious problems and it is important to explain to the opposition the fundamentals of the workers compensation scheme. Workers compensation schemes are long-term schemes. Liabilities are fundamentally an estimate of claims costs over the next 40 years. We have been demonstrating since coming to office that the root cause of this goes back to the former government, and the reason for that is threefold.

We have had a situation, as I have highlighted to the house time and again, as the result of a rebate and also a reduction in unfunded liability, where approximately $135 million had been taken out of the scheme. I have been able to highlight to the house the over-reliance on redemptions, and we must address these issues. Throughout the 1990s, WorkCover under the previous government lost its direction and, not only that, as a result of the policy settings and an over-reliance on redemptions, we are now seeing the effects of in regard to the long tail.

It is no secret that the nature of this problem, the root cause, goes back to when the current opposition was in government. It will take some time to turn around. It should also be drawn to the attention of the opposition that the government has done a number of things as a result of the concerns that it has about Workcover. That is why we put in place the SAFA review and the OGE review. As a result of those findings, we have introduced to the parliament WorkCover governance legislation to overcome the problems and the accountability gap that was identified in the SAFA and OGE reports as a result of the former government's legislation in 1994.

All these things are in the legislation that was before the parliament in the last session. We have also at the first available opportunity—at the expiration of the former Liberal-appointed board—appointed a completely new board; we have made a clean sweep. This is an excellent new board—they have only just come in.

*Members interjecting:*

**The Hon. M.J. WRIGHT:** There is no point in the opposition making cheap points that they are doing well. They will not turn around the root cause of years of neglect under the former government. This will take time to turn around, because of the nature of a workers compensation scheme. This is a long-term scheme. It will take time to turn around but, as a result of measures that have been put in place by this government, we will turn it around.

## TASTING AUSTRALIA

**Ms CICCARELLO (Norwood):** Will the Minister for Tourism advise how the national event Tasting Australia helps promote South Australia as a leading, food, beer and wine region?

**The Hon. J.D. LOMAX-SMITH (Minister for Tourism):** I would like to thank the member for Norwood, because I know she has a very keen interest in major and special events but also understands that a special event such as Tasting Australia is more than just a foody event with food stalls and catering. It speaks to a larger audience and has an impact beyond just the event on the day, because it is part of a strategic plan focused around food production, oenology, food science, hospitality and tourism on a holistic scale.

It is very easy to have special and major events which are just created and artificial but which have no authenticity or sense of place. Perhaps, of all the events we have in South Australia, this national food and wine event is significant because it resonates throughout our economy. In relation to that resonance, it is worth saying that it is a culmination of activities from PIRSA, in terms of food quality and production, and the generation of new types of food produce. It is related to SARDI and their research into aquaculture and seafood products and, in addition, is significant in terms of Education Adelaide, because it plays a role in promoting both the Regency TAFE Institute and the Adelaide Institute of TAFE, as well as the Cordon Bleu and the oenology and gastronomy courses at our universities. So, it has a broader and major strategic significance in our community. It also has a role in ACTA because it brings visitors to our state, and is promoted by the SATC through the AME branch of its organisation.

This year, in the process of Tasting Australia, the theme will be 'Tasting the Magic.' Each year there is a different theme and this year's will highlight the magic of our high quality food, the fact that we are a population with only 7 per cent of the Australian people but with 70 per cent of the fine wine, as well as the authenticity and quality of our products. As before, we will have world media awards called 'The Ladles' for journalists and writers around the world. Some 60 international food writers will converge on Adelaide to debate in the Hahn Premium Beer and Food Writers' Week. In addition, much in the way that the arts community has audience development, we will be dealing with young people to wean them off fast food, because young people between the ages of 10 and 16 will be allowed to indulge in food activities through the Young Gourmet Discover Good Taste tours. These will have the role of developing young people's palates and enthusiasm for food but, moreover, they will also encourage them to look at industry and business opportunities as well as training and employment opportunities in the hospitality sector.

Again, this year there will be a culmination of local government involvement with the City of Adelaide Feast of the Senses, with 30 000 people. But it is broader than

Adelaide, because food and wine production goes throughout the whole state and there will be events as far afield as Blinman. So, local government regional development boards and local communities will be part of what is effectively the strategic plan for our state and Food South Australia. It comes together with a special event that is more than just a festival.

## WORKCOVER

**The Hon. R.G. KERIN (Leader of the Opposition):** My question is again to the Minister for Industrial Relations. Even though the June 2003 quarterly performance report for WorkCover identifies unfunded liability of $418.7 million, has the minister received information that the annual report will actually show a significantly higher figure?

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** I do not believe that is the case and, as I have said to the house previously—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.J. WRIGHT:** What I have said previously to the house is that the government relies on the actuarial assessment that is adopted by the board, and I think just yesterday or the day before it was advised that that would be provided later in the year. That is done twice a year. The last figure that was provided—that is, the actuarial assessment adopted by the board—was done around six months ago, and that figure was $350 million. What we see as a result of the June quarterly report released today by WorkCover—as I said it would be—is a higher figure. But there is no moment of greatness here. We know that there is a serious problem. We also know that, by the nature of a workers' compensation system—a long term scheme and an assessment of liabilities over 40 years—that this is a prediction into the future.

When the Leader of the Opposition attempts to suggest that WorkCover was in good shape under the former Liberal government, he is living in fantasy land. The former board was big enough to accept and say publicly that the figures used under the Liberal government were wrong and may have been wrong to the tune of $100 million. They significantly understated the true level of liabilities. The Liberal figures were wrong. They underestimated the liabilities. That is a clear fact. I again remind the house that the government has put in place a number of measures, but this will not be cured overnight. It is not the nature of a workers compensation scheme. The former government did not adequately address the central issue of non-redemption discontinuance rates. It cannot hide behind the facts: they are plain for all to see.

## ENERGY, CONSERVATION

**Mr RAU (Enfield):** My question is to the Minister for Energy. Is there any one government building that has recently shown a significant result in reducing energy use that will contribute to the government's overall target of reducing energy use in government buildings by 15 per cent by 2010?

**The SPEAKER:** Order! Before the minister begins his reply, I ask him, as leader of business for the government, who will answer questions for the Minister for Social Justice and for the Minister for Environment and Conservation.

**The Hon. P.F. CONLON:** The Minister for Health, sir.

**The SPEAKER:** The Minister for Energy has the call.

*Members interjecting:*

**The Hon. P.F. CONLON (Minister for Energy):** Thank you, sir. I am not surprised that opposition members are making a noise because obviously from previous questions they love only bad news, even if they have to make it themselves. Even if they made it themselves in government, they love bad news! They do not like good news. I am about to present the house with good news, so they will not hear it.

*Members interjecting:*

**The SPEAKER:** Order, the member for MacKillop!

**The Hon. P.F. CONLON:** Recent modifications to the Art Gallery airconditioning system have proved highly successful, with early indications showing a further reduction of 20 to 30 per cent in energy saving over the past few months. These savings are additional to the 10 per cent savings achieved at the Art Gallery during an initial trial phase involving maintenance on airconditioning and monitoring of air-handling plant times.

*Members interjecting:*

**The Hon. P.F. CONLON:** As I said, they are not interested in this. They are only interested in the bad news they create. Fortunately, it will be a long time before they are allowed to create any more bad news in this state.

*Members interjecting:*

**The Hon. P.F. CONLON:** Don't I love it when they groan! The modifications to the airconditioning system in the Art Gallery extensions were proposed earlier this year.

*Members interjecting:*

**The Hon. P.F. CONLON:** I will persist with the good news, even if they do not like it. This has involved the installation of variable speed drives onto the fans and air-handling units. Works were completed in July this year and have been monitored over the past few months. Based on the energy savings observed to date, greenhouse gas savings of the order of 900 tonnes of carbon dioxide are expected. The North Terrace precinct more generally has proved to be a very good example of the government's energy efficiency target being achieved.

*Members interjecting:*

**The Hon. P.F. CONLON:** Apparently they are delusional: they believe that they did this work, but we started it this year. I know that the member for Bright has a web site that believes it is still 2001, but it is not. A series of initiatives have been implemented at the site over the last two years. Including those at the Art Gallery, energy conservation measures were implemented at the Natural Science Building, giving an outstanding 25 per cent energy use reduction over the trial period, and the installation of solar panels at the Museum and the Art Gallery—the beginning of the Premier's cherished North Terrace power station. I do not think even opposition members can manage to lay claim to that, but no doubt they will try.

The Art Gallery has made a great contribution to the overall energy efficiency target. I am looking at some numbers to bring back to the house on what it is saving in dollars but, when I get those details, people will be surprised and astonished, because it is a very good outcome, and the measures, which have cost a good deal of money to put in place, look like having a very short pay-off time. That is the sort of good news that we should hear in this house more often, and I am glad to see that the opposition is finally accepting it with some good grace.

## WORKCOVER

**The Hon. I.F. EVANS (Davenport):** My question is to the Minister for Industrial Relations.

*The Hon. P.F. Conlon interjecting:*

**The SPEAKER:** Order! The Minister for Infrastructure has completed his reply and ought not to be responding to interjections. The member for Davenport has the call.

**The Hon. I.F. EVANS:** Why did the minister tell the house yesterday that the reduction of the levy rate under the previous board to 2.46 per cent was 'irresponsible and unsustainable' when the minister himself had previously told the house that he was happy with the levy rate being at exactly the same rate of 2.46 per cent?

*Members interjecting:*

**The SPEAKER:** I hope your colleagues will grant you the silence you crave.

**The Hon. I.F. EVANS:** In parliament yesterday the minister stated:

> An irresponsible and unsustainable reduction in the levy rate occurred.

However, during estimates on 1 August 2002 the minister said:

> The board recommended to me that the average levy rate stay at 2.46 per cent and the government was happy to accept that advice.

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** Quite correct: there is nothing stunning there—nothing stunning whatsoever. The member for Davenport would be well aware that additional information has come as a result of ongoing work. This is why we put in place the SAFA report and the OGE report and why additional information has been provided. As a result of additional information, whether in those reports or in other information, we now know a series of things. We know, as I have said before—

*The Hon. I.F. Evans interjecting:*

**The SPEAKER:** Order! The member for Davenport has asked his question and he will hear the minister's answer in silence.

**The Hon. M.J. WRIGHT:** We know that there has been an over reliance on redemptions and this has cost the scheme. We also know, as a result of information we have received in recent times—I do not think it is Workcover's fault as it is part of a global downturn in investments—that this was not sustainable. The other thing we should be mindful of is that the previous government when in office knew full well some of the information we were not aware of in opposition and was instrumental in the average levy rate being dropped. I do not remember how long it was, but the other thing to remember is that this government was in office for a very short period—I do not remember the length of time, but it was very short—when that recommendation was put to me by the board.

## HERITAGE, LOCAL

**Mr CAICA (Colton):** My question is to the Minister for Urban Development and Planning. Minister, what are you doing to ensure that planning laws offer protection for buildings with local heritage significance?

**The SPEAKER:** I could not hear the question and I doubt the opposition did either, given the number of them that were barking. Will the honourable member repeat the question?

**Mr CAICA:** Minister, what are you doing to ensure that planning laws offer protection for buildings with local heritage significance?

**The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning):** I will tell you what I am doing. I am doing something the previous government did not think to do, namely, putting in place a regime which seriously protects our local heritage. Sadly, we are sitting here at this point with a system that does not provide that level of control. I think members opposite will be seeing from one end of the city to the other—whether it be Fernilee Lodge in the leafy suburbs or Ethelton Hotel in the port—that some of these magnificent icons are being lost to us simply because we do not have a policy environment within our development plans which is adequate to protect that local heritage.

Local heritage items are fundamentally a matter for local government, but there are ways in which the state government can assist, and there are three major ways in which we are attempting to do that. First, we are trying to shift the focus of attention for community activity away from the notion of development assessment as a way of protecting heritage items towards policy making. So, we have to ensure that our plans are up to date at a local level and that they protect the things that the community regards as important.

The reason that is important is that when a developer buys a particular property they should know what they can and cannot do with it. At the moment, we have the unfortunate situation where a number of councils have not conducted heritage surveys or, if they have, they have not translated those surveys into their local development plans. So, there is an undeveloped policy environment. Further, we are looking also at ensuring that there is state government—

**The SPEAKER:** Order! To my amazement and surprise, I look up and find, barely out of the centre of my vision when I look at the minister, a mobile video phone switched on in the chamber. Whoever it belongs to will now bring it to the chair and switch it off—the member for West Torrens or the Minister for Infrastructure.

In a few short seconds, and with the indulgence of the house, can I get the house to understand the seriousness of this situation. As a chamber, we do not allow cameras to be brought into this chamber without their complying with requirements that have been here nearly as long as I have. If we begin to abuse our standing orders by, in the first instance, having mobile phones switched on in the chamber and, in the second instance, broadcasting the proceedings from that camera within a mobile video phone to somewhere else, we are in serious trouble of losing parliamentary privilege completely. I thank the honourable member for West Torrens. The minister has the call.

**The Hon. J.W. WEATHERILL:** As I was attempting to set out, the state government is taking a number of its own steps to assist councils in this regard. One is to provide its own resources to assist them—especially some rural and regional councils, which have a number of important heritage items that need to be protected. They need to be analysed and put on the list. The other factor is dealing with the structural issue of the way in which we deal with heritage items in South Australia, and that is to overcome the situation where, if an owner automatically objects, they come off the list. There may be some public interest that in a proper case could be said to overwhelm the particular interests of the property owner in their wanting to demolish a particular building. So, we have to place more attention on our structures to ensure that they can more adequately protect local heritage items.

This is part of a broader scheme of reform to try to ensure that the policy environment that exists in our local development plans is more sophisticated, because that is the best protection for the community, and it also provides certainty for developers.

## WORKCOVER

**The Hon. I.F. EVANS (Davenport):** My question again is to the Minister for Industrial Relations. Given the minister's statement that the WorkCover levy rate was unsustainable at 2.46 per cent, why was the minister happy to accept the Workcover board recommendation to keep the levy at 2.46 per cent?

**An honourable member:** A very good question.

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** It is a very poor question: it is not a very good question. The simple answer is: because it is the WorkCover board's decision.

*Members interjecting:*

**The SPEAKER:** Order!

*Mr Williams interjecting:*

**The SPEAKER:** Order! The member for MacKillop might care to pay attention to the chair. Any further transgression will result in the member for MacKillop—or any other member in the parliament barracking during the remainder of proceedings today—being named.

## STORMWATER

**Mrs GERAGHTY (Torrens):** My question is directed to the Minister for Transport. Given the government's policy on water conservation, are any steps being taken to use the water that collects on our roads when it rains?

**The Hon. DEAN BROWN:** I rise on a point of order, Mr Speaker. I know that it is an offence to ask a question twice. However, the minister read the answer to this question in the house just yesterday.

**The SPEAKER:** Order! I am entertained by the notion that it may have been so. However, until I have evidence of the fact, I cannot order that it is so. Whilst the house may expect the chair to have profound wisdom, it cannot expect the chair to have divine insight.

**The Hon. M.J. WRIGHT (Minister for Transport):** That is a very good question indeed. I am delighted that the honourable member has asked it. I just wish she had asked me yesterday. This is an important question, and the government is concerned about water conservation and is keen to promote sustainable water use. With that in mind, a grant of $20 000 has been provided to the University of South Australia to research methods for collecting rainwater—

**The Hon. DEAN BROWN:** I rise on a point of order, Mr Speaker. I happen to have a copy of the answer that the minister gave yesterday, and it is also verbatim—exactly the same answer as he gave to the house yesterday.

**The SPEAKER:** Order! Regrettably, I have to uphold the point of order. It is almost 5 500 years since Pharaoh said, 'So let it be written, so let it be done.' It has already been said.

## GENERATIONAL HEALTH REVIEW

**Ms RANKINE (Wright):** Has the Minister for Health met the federal Minister for Health and Ageing, Senator Kay Patterson, to brief the minister on the Generational Health Review reforms to be implemented by the state government, and has the minister sought commonwealth government support for these important initiatives?

**The Hon. L. STEVENS (Minister for Health):** Following the decision by the Prime Minister to refuse to include the national reform agenda in the 2003-08 Australian health care agreement, I believe it is vital that we seek cooperation from the commonwealth in the reform measures flowing from the Generational Health Review. I recently met with the federal minister and the Chief Executive of her department to brief her on these reforms. As a result of that meeting, it was agreed that the chief executives of our departments, with other officials, will work out the specifics of projects that the commonwealth may consider to support. Subsequently, the Chief Executive of the Department of Human Services wrote to the Secretary of the federal Department of Health and Ageing on 28 August 2003, detailing these projects, including GP services in the southern suburbs, primary health care networks, transitional and step-down care, a health call centre, hospital avoidance strategies and information technology initiatives. The federal minister expressed strong interest in our reform proposals, and I look forward to her advice on how the commonwealth might assist us.

## WORKCOVER

**The Hon. R.G. KERIN (Leader of the Opposition):** My question is directed to the Minister for Industrial Relations—and I wish him well! Will the minister confirm whether the WorkCover Corporation has had to sell investments in the June 2003 quarter to allow it to meet costs? WorkCover started the quarter with a cash balance of $26.38 million and finished with $22.6 million. The quarterly performance report shows an alarming deterioration in cash flow to a negative $40.1 million. It is therefore believed that approximately $36 million of WorkCover's investment portfolio has had to be converted to cash to ensure that it can meet its immediate needs.

**The SPEAKER:** Order! The Leader of the Opposition engaged in debate in that explanation. If members want to engage in debate, I wish they would change the standing orders to enable them to get on with it rather than abuse the standing orders and leave the chair to sort out the mess. With those few observations I invite the minister to address the substance of the question rather than the debate that followed.

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** Thank you, sir. Obviously, as I have said before, a new board will make changes in direction. That is why we appointed a new board and deliberately had a clean sweep. The term of the former board (which was appointed by the former Liberal government) has expired and it has now gone. The new board is charged with the responsibility of turning around the mess that was created by the former government. As part of their responsibility—

**The Hon. R.G. KERIN:** I rise on the point of order of relevance. This has absolutely nothing at all to do with the question.

**The SPEAKER:** Order! The leader takes exception to the response the minister is giving, even though I directed the minister to address the substance of the question and not the remarks made in the leader's explanation. As I recall it, in simple terms, the question was: have you flogged off some assets to create the cash position as reported? I invite the minister to address the question.

**The Hon. M.J. WRIGHT:** Of course the new board will have a change in direction as a result of coming to office, and it will make decisions accordingly.

## EDUCATION, RELIEF TEACHERS

**Ms BREUER (Giles):** I ask the Minister for Education and Children's Services: what steps has the government taken to address the need for additional relief teachers in Whyalla, Port Pirie and Port Augusta?

**The Hon. P.L. WHITE (Minister for Education and Children's Services):** I acknowledge the honourable member's interest in and advocacy for schools in her area and some of the issues they face—and this is one of them. For a long time, the education department has faced difficulties in attracting and retaining teachers for some of our harder to staff areas of the state. Certainly, Whyalla, Port Pirie and Port Augusta are at the sharp end of those difficulties. I am pleased to inform the house that the government has just provisionally appointed an extra eight teaching graduates from Flinders University who will be employed as full-time relief teachers in those three cities next term to help to address this problem. I say 'provisionally' because they have just finished their examinations and the university has cooperated with the department and agreed to fast track the evaluation of their results so that they are able to be employed sooner. So, we have taken some early action to employ those eight people. That is in addition to six teachers who have already been appointed for next year, and very shortly we will advertise for a further 16 permanent jobs at Port Augusta.

The state government is also offering teachers allowances for travel and accommodation to Port Augusta, Whyalla and Port Pirie to undertake relief work. A number of strategies are being trialled in an effort to attract teachers to schools in those areas. This year, the flu season has hit particularly hard and has put pressure on the number of relief teachers that we have living in country towns. From time to time, schools need to make alternative arrangements when that happens. I hope this initiative will help to ease the pressure currently being experienced in that part of the state. Port Augusta also has five permanent relief teachers for the start of term four to cover short to medium-term absences. The most accurate figures show that Whyalla has six of its seven teachers on board, and Port Pirie has six, with one more starting next term.

For a long time, schools in that part of the state have been amongst our hardest to staff. The state government recently introduced cash incentives of up to $29 000 over five years as part of its effort to attract teachers to hard to staff schools. The education department has asked principals to put forward all their anticipated vacancies for next year now, so that we can appoint people as soon as possible and have those positions filled quickly. Some longer-term strategies have also been put in place to address this issue—most notably, the Country Teachers Scholarships Scheme that I introduced this year. In that scheme this year we are training 95 new teachers, who will take up positions in country schools. The scheme is worth up to $10 000 and, on successfully completing their training, those teachers will be offered permanent positions.

So, several new strategies have been put in place to address the short and long term, and they have all been very well received and have had a very good impact on addressing this issue. But, of course, this is a very difficult problem, which we have faced for a long time. The government is taking action and will continue to do everything that it can to address the issue.

## SUPPORTED RESIDENTIAL ACCOMMODATION

**The Hon. DEAN BROWN (Deputy Leader of the Opposition):** My question is directed to the Minister for Health, representing the Minister for Social Justice. Now that Monsignor Cappo, Chairman of the government's Social Justice Committee, has confirmed that there is a crisis in supported residential accommodation, when will the government provide financial support to these facilities? Today, Monsignor Cappo, in talking about supported residential facilities, said:

> We have a crisis on our hands and need short-term financial support.

He went on to say:

> It is a complex problem. The system is overburdened with numbers and complexities of people's mental disorders.

**The Hon. L. STEVENS (Minister for Health):** I am delighted to answer this question on behalf of my colleague. The government's position on this very important issue was outlined very clearly by the Minister for Social Justice a couple of days ago in this house. Of course, the government recognises that there are serious issues—which, I might add, did not come about in just the last 18 months; they are serious issues which have arisen and which manifest themselves now, having been caused by the ongoing neglect of this area by the previous government under the stewardship of the member for Finniss. As I said before, the social justice minister has outlined the government's position, and we will make that known when we have finally determined our response.

## EQUAL OPPORTUNITY COMMISSION

**Mr KOUTSANTONIS (West Torrens):** My question is directed to the Attorney-General.

*Members interjecting:*

**The SPEAKER:** Order! The honourable member for West Torrens has the call.

**Mr KOUTSANTONIS:** What improvements has the Equal Opportunity Commission made to investigate complaints handling and resolution?

**The Hon. M.J. ATKINSON (Attorney-General):** I know that one of the concerns of the public and business has been the time it takes for a complaint to be finalised by the Equal Opportunity Commission. I am pleased to report that the average time to finalise complaints has steadily decreased to about six months. This has been a result of a concerted effort by the commission to improve the complaint handling process over the years. Some years ago, the average time to finalise a complaint was about 14 months, and I am told that hundreds of complaints were held over from year to year as being 'under investigation' or 'not commenced'. For example, in July 1996 some 800 complaints were held over. In 2001-02, the actual average time taken to deal with a complaint was about six months.

*An honourable member interjecting:*

**The Hon. M.J. ATKINSON:** I am sorry?

**The SPEAKER:** Order! The honourable the Attorney-General may wish to oblige, but is it highly disorderly to respond to interjections. I remind whoever it was from the opposition who made the interjection that they are disorderly.

**The Hon. M.J. ATKINSON:** Mr Speaker, let me share with the house the member for Bragg's interjection. It was,

'Whom have we appointed?' The answer is that as each new District Court judge is appointed that judge is made a deputy presiding member. That is entirely routine: it occurred under the previous government and it is occurring under this government. I cannot imagine what point the member for Bragg is trying to make.

**The SPEAKER:** In any case, both the minister and the member are out of order. It is an embarrassment.

**The Hon. M.J. ATKINSON:** In 2002-03, the targeted average time to complete a complaint was six months; and the average result for 2002-03 is five months, the lowest it has ever been at the Equal Opportunities Commission. This is a good result for the commission and marks an improvement on previous results. The calibre of the staff and their commitment to continuous improvement is demonstrated in the figures.

## TRAINING ADVOCATE

**Mr O'BRIEN (Napier):** My question is to the Minister for Employment, Training and Further Education. Since the state government established the new office of the Training Advocate this year, how many people has it assisted?

**The Hon. J.D. LOMAX-SMITH (Minister for Employment, Training and Further Education):** I would like to thank the member for this very significant question because, while many of us consider the significance of higher education as university training, those young people involved in our vocational training sector through apprenticeships and traineeships are also of major significance, for both our economy and our communities and, most importantly, to our industries and employers who need skills of high calibre in order to trade, grow and create wealth.

Currently, we have 31 300 young people involved in new apprenticeship schemes. The ratio is 2:1, male to female, but about a third of them are under the age of 19, meaning that this is often their first taste of employment and their first experience of the job market. Many of them are insecure and unable to make personal complaints, or even understand their rights.

We have debated at great length during the replacement of the Vocational Education, Employment and Training Act—the Training and Skills Commission—the problems that young people have in our desire to remove AWAs. I have, however, given a commitment to both young people in training and to the union movement that we should have some methods in place whereby we could protect young people in their employment and training situations.

Those 31 300 people in training often experience high quality education and very good work places but, where there are difficulties, it is particularly important that they have access to independent advice that will give them information about their rights and obligations. Similarly, the employers should know their rights and obligations under the contracts of training and, where there are questions of inadequacy of either training or the employment situation, there should be an opportunity for people to gain information.

During the first few months of the operation of the Training Advocate's Office, working on freecall number 1800 006 448 at 31 Flinders Street, Adelaide, where there is a shop frontage, we have been both pleased and amazed by the numbers of inquiries and problems that have been brought to our attention. In the 35 days between 14 July and 29 August, we had 501 inquiries. These were from people seeking help and assistance in their day-to-day lives, many of whom were quite distressed and many of whom we were able to help very simply.

Subsequently, the Training Advocate has dealt with 370 students from Prides Centre of Excellence, which members will know has had significant problems in the last few months. We have been able to offer assistance in giving competency records and in helping the people organising the registered training organisation to find ways forward for those young people. I am particularly pleased to say that the office hours and the 1800 number will continue as they presently operate. Obviously it is a service that has been needed by the community. I encourage all members of parliament to disseminate the information about how young people in this very important system may be helped because, whilst the numbers of people with difficulties are quite small—indeed, only 1 500 cancellations of contracts of training occurred in the last quarter—this is an unacceptably high number and it would be better if issues were dealt with quickly, with a resolution that would be for the good of the employers and the employees.

## GENERAL PRACTITIONERS

**The Hon. D.C. KOTZ (Newland):** Will the Minister for Health advise the house of any action she has taken to address the significant and serious shortage of general practitioners in the north-eastern suburbs? It has recently been reported that 26 doctors' clinics have been closed in the north-eastern suburbs in the past two years—a drop of almost 40 per cent. I am also advised that some existing clinics have closed their books to new patients. The executive officer of the Adelaide North-East Division of General Practice has stated that that division has no specific recruitment programs to attract doctors to the north-eastern suburbs.

**The Hon. L. STEVENS (Minister for Health):** I thank the member for Newland for that question, because she raises a very important issue in terms of care and access to health services. There is a significant shortage of general practitioners not only in the north-eastern suburbs but also in other areas of Adelaide. I believe the southern area, for instance, is in an even worse position in terms of general practitioners, and certainly there are the country areas. As the member for Newland would know, the issue is primarily one for the federal government, and I hope that she has taken it up with the member for Makin.

*An honourable member interjecting:*

**The Hon. L. STEVENS:** No, but you do need to understand that the federal government has jurisdiction over the numbers of general practitioners, both in terms of the numbers who are trained and accredited and also—

*Ms Rankine interjecting:*

**The Hon. L. STEVENS:** Just listen and you will learn something about how health works. Not only does the federal government have jurisdiction over the training and accreditation of general practitioners but also it has jurisdiction over the payment of them. I have raised this issue on a number of occasions, as have other health ministers nationally, because it is a national problem. I spoke to the federal minister just recently about the issue, and the issue is also tied up with new ways of providing primary health care, of which general practitioners will be a major provider. We need to work with the federal government to provide incentives and new ways of working for GPs that will encourage them—

*Ms Chapman interjecting:*

**The Hon. L. STEVENS:** It has nothing to do with that, the member for Bragg. You don't know anything about this and you should keep your mouth shut.

**The SPEAKER:** Can I underline the last remark of the minister, but remind her that I do not really need her assistance.

**The Hon. L. STEVENS:** Finally, I would like to say that the member for Newland might also note that the package that the federal government has put up, the package that took money away from public hospitals in the Australian health care agreement—

*The Hon. D.C. Kotz interjecting:*

**The Hon. L. STEVENS:** I seek your protection, Mr Speaker.

**The SPEAKER:** Order, the member for Newland!

**The Hon. L. STEVENS:** Thank you, Mr Speaker. I would also like to say very clearly that the $900 million or thereabouts that the federal government removed from public hospital funding to put into a GP package—

*The Hon. D.C. Kotz interjecting:*

**The SPEAKER:** The member for Newland is warned.

**The Hon. L. STEVENS:** Thank you, sir. The significant amount of money that was taken from the funding of our public hospitals by the federal government, supposedly to enhance general practitioner services across Australia, has been resoundingly rejected as a mechanism to do just what she has asked. Again, the issue lies at the feet of the Prime Minister of this country, and the member for Newland should take up that matter with the federal government. Perhaps also the member for Finniss, instead of barracking for the federal government against the state government in relation to the Australian health care agreement, should take up this issue with the government whose responsibility it is.

## CODE OF CONDUCT

**The Hon. G.M. GUNN (Stuart):** In view of the Premier's desire to have a code of conduct for members of parliament, will he instruct members of the parliamentary Labor Party to refrain from using the Parliamentary Library to collate inaccurate, misleading information about Liberal members of parliament? At the last state election—

*Members interjecting:*

**The Hon. G.M. GUNN:** The honourable member ought to listen. At the last state election, the Parliamentary Library was used to compile misleading and inaccurate information. A mock cheque was circulated around my electorate. It was authorised by one Ian Hunter of 11 South Terrace, and its authority was the Parliamentary Library. It implied that I was entitled to $1 300 000. In view of the Premier's desire to have members of parliament conduct themselves in an honourable manner and given his code of conduct, will he ensure that it applies to his own colleagues?

**The Hon. M.D. RANN (Premier):** This is a time for statesmanship. I believe that every single member of this parliament and this house, whatever their political persuasion, leaning or party affiliation, should refrain from using the Parliamentary Library for anything other than accurate research. It should not be used for political polemics. I believe that the honourable member is not only genuinely upset but also has a right to be upset that the Parliamentary Library has been used by people from both sides over the years in ways that it should not be.

We need to make sure that the research section of the Parliamentary Library is used to assist us on research on legislation and other matters before this parliament. I believe that information then so gained must be used in a principled as well as an accurate way. I have a longstanding friendship with the member for Stuart, and I believe that he is right to raise this matter in this parliament. This should never happen again.

## EXPORTS

**Mr HAMILTON-SMITH (Waite):** My question is to the Minister for Industry, Trade and Regional Development. As the minister responsible for developing our trade, can he explain how it is that, since the Labor government came to office, the value of South Australia's experts has slumped by nearly 10 per cent? Figures released by the Australian Bureau of Statistics in September 2003 entitled 'South Australia's economic indicators' confirm that there has been a decrease of 8.9 per cent in the value of South Australia's exports in the 12 months to June 2003. Even allowing for the drought, the statistics show that the slump in exports is across the board and includes: cars, car parts and accessories, down approximately 12.5 per cent; metal industry exports, down around 5.1 per cent; and fish and crustaceans, down 5.5 per cent. What is going wrong, minister?

*Mr O'Brien interjecting:*

**The SPEAKER:** Order! The member for Napier clearly understands what he believes to be a legitimate answer to the implicit proposition contained in the question, but he is not the minister. Equally, the member for Waite is highly disorderly to seek to explain the question in the fashion in which he did by engaging in debate. If the explanation had been factual it would have also noted the deterioration in currency exchange rates and the like as well, but I will leave that to the minister.

**The Hon. R.J. McEWEN (Minister for Industry, Trade and Regional Development):** I wonder whether the Clerk will make available to the member for Waite *A Framework for Economic Development in South Australia*, an autographed edition—I hope he reads it. The member for Waite would know from many of his country colleagues that we have a saying in the bush that 'There's no dollars in dust, but mud's money.' He knows that something like $800 million worth of the drop in exports is accounted for by cereals exports and another $80 million by livestock and that the entire reason for that is the drought. He claims to have an MBA, would understand exchange rates and could do a very quick calculation on the other bit in the margin.

But, far more fundamentally, it is time the member for Waite told the South Australian community whether or not he and his colleagues back that document. It has been said publicly before and they need to say it publicly again. Unless they are part of this team we will not deliver the commitment we have all given to South Australia to triple exports in the next 10 years and match it with the federal government's proposition to double the number of exporters. His federal team said that it will double the number of exporters. We are prepared to come in behind that and do all we can to triple the value of exports in 10 years.

**Mr Hamilton-Smith:** What has gone wrong?

**The Hon. R.J. McEWEN:** You, Mr Speaker, would appreciate, as you have been helpful in going overseas and assisting us develop export markets, that this is a 10-year strategy and not a one-drought strategy. The drought is over there. It is a 10-year strategy. South Australia wants to know

whether or not members opposite are serious. Of the 72 recommendations, the Economic Development Board removed one and left 71. Of those 71, we have come out and said that we back 70, and we are in the process of putting in place detailed plans to deliver them. Are members opposite behind this or are they not? This is about procuring exports?

**Mr HAMILTON-SMITH:** On a point of order, sir, I refer to the issue of relevance. The question specifically asks the minister to explain why exports have decreased. The minister is talking about the Economic Development Board's report and I ask you, sir, to draw him back to answering the question.

**The SPEAKER:** There is no point of order.

### SURF LIFE SAVING SA

**Mr BROKENSHIRE (Mawson):** My questions to the Minister for Emergency Services are:

1. When will the minister and his office finalise the 2003-04 budget for Surf Life Saving SA?

2. When will his office provide the savings from the cancellation of the 2002-03 shark patrol to Surf Life Saving, as his office announced in the media at that time?

3. When will his office support surf lifesaving, as I understood the minister said in the house he would, with respect to the current Surf Life Saving SA budget deficit?

**The Hon. P.F. CONLON (Minister for Infrastructure):** I assure the house that our dealing with the budget for emergency services will not be based on the amateurish verballing of the member for Mawson about how we intend to do it. There are long-standing issues concerning what surf lifesaving believes it should be paid by the government. I point out that it is more heavily funded by this government than it has ever been in its history; the total contribution from government is some $1.2 million a year. There have been delays in providing some further assistance that we were to make available, because it took a very long time for Surf Life Saving SA to provide audited reports to us. We know how the member for Mawson used to do it, but we do not spend government money without proper audited information. I will get some further information on the provision of the support to bring back to the house.

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## GRIEVANCE DEBATE

### WORKCOVER

**The Hon. R.G. KERIN (Leader of the Opposition):** I rise today to highlight some of the issues to do with WorkCover that we have seen unfold over the last few months. It has become perfectly obvious—

**The Hon. K.O. Foley:** Boring!

**The Hon. R.G. KERIN:** Well, the Treasurer says it is boring. The sum of $330 million—

*Members interjecting:*

**The SPEAKER:** Order! How many leaders of the opposition do we have here? The leader has the call.

**The Hon. R.G. KERIN:** Thank you very much, Mr Speaker, for your assistance. We have a Treasurer who just said that it is boring to hear about a $330 million blow-out in the unfunded liability of WorkCover. That is typical of the attitude of this government to this whole issue. We have been highlighting this since back in April when it became obvious that the minister had not been keeping an eye on what was going on in WorkCover and had not been taking notice of what was a major blow-out and a major problem for employers, employees and, ultimately, the people of South Australia. He was ignoring the problem.

We have a Treasurer who was also chief of staff and involved during the time of the State Bank. I suppose he found that was boring at the time. Some real parallels with the State Bank can be drawn. He sat on his hands then. But, with regard to the State Bank, we had a Liberal opposition raising what turned out, as history shows, to be very valid concerns for the future of the financial wellbeing of this state. They did nothing. They criticised the opposition at the time—they probably made comments such as 'boring' and played games—rather than take notice. We are seeing exactly the same thing now. We have been raising this issue for six months.

In the last few days we found out that the minister had the vital report that we have been asking about for a long time sitting in his office for a month, and he had not even checked to see whether it was there. His level of attention to any detail, or level of any interest beyond a philosophical interest, in the whole WorkCover and industrial relations area is absolutely appalling. To bear the responsibility for the financial position of a body such as WorkCover on behalf of this parliament and the people of South Australia is very important, but the minister takes no notice whatsoever of its financial position and is interested only in what politics he can play. He has scored about six own goals in the last week. Yesterday we saw him answer the wrong question from that side. I think a couple of times today he also answered wrongly the questions that we asked. He did not even go near the answer.

I would like to highlight one thing about the minister's attitude. We have heard him bleat loudly over the last several weeks about this being all the Liberal Party's fault. What an absolute rewrite of history! It is typical spin. The criticism he is making of the board decision during a Liberal government goes back to the setting of the rate for 2001-02. At the start of that year, we had a WorkCover scheme which had been doing extremely well and was fully funded. The board made the correct decision at the time. We then had September 11 and the fund went from being virtually 100 per cent funded to only 87 per cent funded. One should remember that it is supposed to stay over 90 per cent. One would have thought we would see an increase to ensure that that deterioration did not keep going—remember the effect of September 11. Yet, it did not: it stayed at 2.46 per cent. The minister stated the following post September 11, despite what he is now saying about the 2.46 per cent rate before September 11:

> The board, via Keith Brown, recommended to me that the average levy rate stay at 2.46 per cent, and the government was happy to accept that advice.

What a hypocrite! He criticised 2.46 per cent before September 11. Once again, he has forgotten what he said; he has forgotten what he has read; and he cannot remember whether he interfered with certain things. If you go back through *Hansard*—

**The SPEAKER:** The leader needs to acknowledge the chair, not turn his back on the chair.

**The Hon. R.G. KERIN:** The minister needs basically to start paying some attention to the responsibility he has to South Australia for WorkCover.

## LOCAL GOVERNMENT

**Mr RAU (Enfield):** I rise today to talk about a matter that I believe is very important, and that is a matter relating to local government. It may or may not have come to the attention of other members of this parliament that local government bodies in South Australia have progressively over recent times taken to using the provisions of the Development Act when dealing with matters relating to planning. One of the side effects of using the Development Act is that councils are able to avail themselves of what amounts to secret meetings.

The background to this matter is that I wrote to the relevant minister about this some time ago and, by virtue of my correspondence, he is on notice about these remarks. I have also written (as a result of a request to do so) to the Chief Executive Officer of the City of Charles Sturt, Mr Peter Lockett. Mr Lockett, in response to a letter that I sent to him yesterday reminding him that I had not received a response to my letter to him of 10 September, sent me a very lengthy and well considered reply, and I am grateful to him for his efforts in preparing that reply. However, Mr Lockett and I remain somewhat in different corners about this very important matter. I said to Mr Lockett in my correspondence:

> These development assessment panels have the great advantage of being able to conduct their proceedings in secret. Not surprisingly, this may suit various individuals in whose interests it is to have a council's activities removed from public scrutiny. None of this, of course, is for the public good and it raises potentially serious questions about decision making. Even if decisions are properly and lawfully made, the fact that they are made in secret is appalling. The public should be able to see what is going on.

In response, Mr Lockett, on behalf of the council, defends this on the basis, first, that they are allowed to do it by the act—not that they must, but they are allowed to. Well, so what? He then goes on to state:

> As the act explicitly envisages planning determinations occurring without public scrutiny, one would assume that parliament, at the time it passed the bill, thought the public interest was best served if this part of the assessment process was not observed.

The bill does not say the process should be in secret: it is simply silent as to whether it should be in public, unfortunately.

I am perturbed about the fact that a concern has ben expressed by council to this effect: some members of the planning authority feel a little timid about actually making a decision in front of the assembled multitudes—their electors. It seems to me to be quite outrageous that members who are elected to local government bodies should not be prepared to stand up and cast their votes in public in front of the people who elected them. After all, people have to make a choice every three years whether they will return these characters to local government seats. They should hear and see what these people are doing.

If it is said that these people are incapable, either by reason of their aptitude or the fact that they are too scared to stand up and do what they have to do in front of the public to do that job, I suggest that the whole of the planning assessment function should be removed from local government altogether and given to a development court (if we are going down the path of the court model rather than the elected citizen model) so that these hothouse flowers do not have to put up with public scrutiny and do not have to answer for their conduct every three years when they go to the local government elections.

Prior to the recent local government elections, Charles Sturt City Council, for example, did have a public process and some of the members did not like the fact that members of the public came along. But, members of the public have a right to go and agitate their elected members of local government for outcomes they want.

If local government members find it is difficult to exercise both a quasi judicial and an elected function, they should say to the government, 'Please take this quasi judicial function off us.' They should not be doing it in private. Public government requires transparency. Sunlight is the best disinfectant. If we are going to continue to hide these people behind closed doors, we will allow corruption and maladministration to creep in, and we will also encourage what is almost a total domination now of many local government bodies by council staff to become complete domination of local government bodies by council staff.

## CAMPBELLTOWN CITY SOCCER CLUB

**Mrs HALL (Morialta):** Today I want to congratulate one of my local sporting clubs, the Campbelltown City Soccer Club, for its victory in the state league grand final at Hindmarsh Stadium several weeks ago. Campbelltown City—known as the Red Devils—defeated Cumberland United 2:1 in what was a very skilful and entertaining game. While Campbelltown City opened the scoring in the first half, Cumberland United soon levelled. However, Campbelltown City was able to regain the lead with a magnificent piece of teamwork then holding onto its lead in a most determined effort and thereby winning the game. The Red Devils' victory will see the club rise to the premier league for the 2004 season, which is, of course, where they belong. Being a proud patron of the club, I am pretty pleased about that.

Fittingly, the club's latest victory comes in the year of its 40th anniversary. I was fortunate enough to attend its 40th anniversary celebration dinner earlier in the year. It was a very special occasion, where the theme for the evening was 'Soccer and the community.' For more than 40 years now the club has acted as a community centre where people can meet, socialise, and form memories and long-term friendships. I would like to pay tribute to the six originals who established the club. They are: Mr Giuseppe Natale, Luigi Mitolo, Pierono Centofanti, Don Ciccocioppo, Giuliano Centofanti and Serafino Tirimacco. These six gentlemen, through enormous personal commitment and determination and their love of the international game of football, took on the idea for a team to play for the state competition. The first committee contributed £5 each toward the formation of the club and, with the then support of the Campbelltown City Council, which has been very supportive, the club now has the most impressive facilities transformed from an original artichoke patch to their home base at the Newton Sports Complex on Stradbroke Road.

The dinner was a memorable evening, and there were numerous reminiscences and outrageous stories told by some of these older gentleman. I thought it was a great preliminary celebration to the win that we celebrated just two weeks ago in the state league grand final. It is sporting organisations such as this that help to build a community and to give the people of the local area the sense of a team to identify with

and support. It is a great tribute to all those original people who were involved that Newton now boasts a magnificent facility that is shared with a number of different sports. This club has certainly come a long way from its very humble beginnings, and today offers a wide range of activities for men and women of all ages, enabling those of us from the soccer family to offer our advice and support from the sidelines and to leave the hard work to the players.

Of course, it is through efforts such as those involved with volunteers, members and sponsors that clubs like Campbelltown are able to operate. I would like to pay tribute to the senior coach, Maurice Natale and his charges, and in particular to Captain Adrian DiLorenzo and his team, in congratulating them on the success in the state league and to thank them for another great season. Also, I want to put on the record my warmest wishes and thanks to the Campbelltown City chairman, Panfilo Ciccocioppo, and his dedicated team and members of the committee, whose tireless work sees the club in a very strong position to remain among the top clubs in the state when it returns to the premier league season next year. I also give notice to other clubs that to demonstrate the long-term strength of Campbelltown City Red Devils, the club's under 23 team also took out the grand final in a very tense penalty shootout, and the under 19 team also made the grand final, only to be unfortunate on penalties. It seems to me that the future of the club, both on and off the playing field, is in great hands, and I wish Campbelltown City Soccer Club good luck and good fortune for 2004 and beyond.

## SCHOOLS, FLOREY DISTRICT

**Ms BEDFORD (Florey):** It is the time of year when finals are in the air. I want to let the house know about a final that was on last night in the Wakakirri, which is the music and dance performance similar to the Rock and Roll Eisteddfod for primary school children in South Australia. Wakakirri 2003 has provided two schools in my electorate of Florey with great rewards for their efforts. As we said, the children are given the opportunity to emulate the feats of the older students at high schools, and the experience at both levels enhances self-esteem and fosters teamwork, whilst facilitating involvement in the arts, giving an outlet for creative expression.

In a similar way to the performances we saw at the Primary School Music Festivals recently, it enables our young people to be showcased in a very professional way, in a setting that most of us enter only to watch performances. The stage of the Festival Theatre, Her Majesty's, or the Entertainment Centre must be a very daunting but exciting atmosphere, and something that each performer will never forget, and perhaps careers in the arts will be fostered from that very early memory of performing.

Wakakirri is now in its 12th year. In 2002, over 25 000 students were involved in performances. Each school must have a minimum of 20 students, from either the same grade or a combination of grades, in their performing team, and they must tell a story using a blend of creative movement and acting to prerecorded music for between three and seven minutes. Three to seven minutes might not sound like a long time but, when you see the amount of energy that goes into those performances, you can appreciate the amount of work that goes into putting them together.

Last night, Modbury West Primary School won the New Schools Division with its rendition of the story that it successfully performed at Her Majesty's Theatre in its heat in August when they were the last of seven acts on the night, and everyone was pretty well stressed out by the time the curtain went up on its performance. The school has always impressed me with its community feeling. It fundraised for nearly everything I have seen at the school over the seven years I have been a member and have worked with the school councils and principals and the 10 years prior to that. They have an enormous amount of energy and do their very best for each of the students that attend the school.

Over 100 parents, staff and students cheered them on in their heat at Her Majesty's, and I can only imagine how many people went along last night to cheer them on at the Entertainment Centre. Unfortunately, we sat in the house last night, and I know I would rather have been at the Entertainment Centre; but I was there with them in spirit. It is such a fantastic result, I send them my heartiest congratulations. There were 50 students from years 4 to 7 involved in the item, where they danced to music with the theme of bullying, under the title of 'Fears and phobias: bullies have them too'. I understand the story was about a young person—the bully—who was scared of spiders, and the students were able to reach the bully at his own level by teaching him to understand how to handle spiders and how lots of people are scared of spiders as well.

The specialist drama teacher was Daryl Maher, and she was assisted by her daughter Larissa Maher, who is a student teacher doing her Bachelor of Education. Larissa worked as the choreographer. Larissa and Daryl's work in drama and dance is legendary in the north-eastern suburbs, and I must acknowledge their dedication and commitment to their craft, and the students who give them their all because of the wonderful direction they receive from this very talented duo. There was a high participation of boys in the item, which is very unusual, but I understand the boys related very well to the theme of bullying in the program.

The students and the school community were involved in a great deal of after-hours work with rehearsals and costume making. The sets were built by a student's grandfather and painted by parents and students. Wakakirri entrants must, of course, make use of recycling where possible, and this was done with the sets and costumes. They had a shoestring budget of about $1 000 taken from budgets from within the school. This was the first time that Modbury West had been involved in Wakakirri, and they won the state grand final for beginners and will now be judged nationally. A video of their performance will be shown on Channel 10 on 6 December.

The whole school community is naturally very excited and thrilled at their success. Daryl commented this morning on the tremendous team spirit that was evident last night when they won a prize of $2 000 for their school. I congratulate everyone involved: the staff of Modbury West Primary School, the students and their parents. There are so many people involved that I cannot begin to name names, but they all know who they are. Well done!

## RAILWAYS, NURIOOTPA CROSSING

**Mr VENNING (Schubert):** Yesterday, I presented a petition to this house on behalf of 2 588 people (mainly from my electorate) in regard to the railway crossing at Railway Terrace and Angaston Road, Nuriootpa. It is not common practice to speak to petitions tabled in this place, but I am pleased to highlight this issue, as it is one of obvious importance to the people of my electorate. Mr Simon Knispel,

after an accident caused the death of his work colleague Matthew White at this intersection, has worked tirelessly over the past few months on this petition. When Mr Knispel first approached me about this petition, I thought that they may end up with 400 to 500 signatures on the petition. To achieve over five times this number shows that this issue is of significance to a great deal of people in my electorate.

The petition calls for the provision of adequate lighting at the intersection so that a similar accident does not occur. Unfortunately, it took a death to highlight the necessity of lighting this intersection, but I hope that the Minister for Transport and the government take the petition on board and respond. There is a simple solution to this issue. The provision of adequate signage and lighting is surely not difficult to organise. One death in recent times is enough. I hope something can be done expediently. In an article in *The Leader*, Mr Knispel stated:

> I have been really pleased with the response, but was slightly disappointed with the attitude of some people who would not sign the petition because they thought that nothing would be done about the lights.

I charge the government with proving these doubting Thomases wrong. Mr Knispel went on to say in this article:

> Signing this petition is an opportunity for them to stand up and be counted and hopefully get something done about this dangerous problem.

Obviously, 2 500 people believe in the process of this democracy and how it operates. We have a process for the voices of the people to be heard, and the signing of petitions forms the core of that.

I recently traversed this intersection, and there is certainly a problem with the crossing, but I believe it can be alleviated to a great extent easily and quickly simply by illuminating it and erecting signs. I have taken note of this intersection at night, and this crossing is dangerous because you automatically cut the corner. I did it myself. It is alarming to think that if there had been a truck—or, worse, a train—there, there would have been a serious accident. To experience this yourself makes you understand how Mr Matthew White was killed.

In general, our roads in the Barossa have been ignored for far too long. Another rail crossing in the Barossa Valley has been an issue for a long time. The house would be sick and tired of hearing me bring this to its attention. I refer to Kroemers Crossing which, for a long time, has caused a great deal of problems for the people of the Barossa Valley. With an increasing number of grape and wine trucks entering Orlando Wyndham's new facility at Richmond Grove, there has been an increased risk of a truck being hit by a train, because it traverses the railway line to get onto the road. In fact, in recent weeks a truck was clipped by a train. Orlando Wyndham and I have raised this issue with the Department of Transport on numerous occasions but, as yet, nothing has occurred. How long will it be before action is taken by the Department of Transport to remedy this situation? I believe Orlando Wyndham is becoming concerned at the lack of action by the government—and so am I.

These are but two important pieces of action that the Department of Transport could take to alleviate possibly fatal situations. I do not want to stand before this house weeks or months after no action has taken place and say, 'I told you so.' That would be a tragedy. This is a chance to avert anything like that. I have been quoted in the local media as saying that this is people power in action, but it would be a shame if the voice of the people fell on deaf ears. I say this to you particularly, sir, in the light of your campaign on citizen initiated referenda. This petition is the voice of the people, and I hope something can be done. I hope there is a positive and quick outcome to this issue brought forward by this petition and that finally the issue of Kroemers Crossing can be finalised. I pay tribute to Mr Simon Knispel for his efforts in getting 2 588 people to sign this petition and express their opinion to the government.

## SCHOOLS, HEALTHY FOOD

**Ms THOMPSON (Reynell):** It is my pleasure today to report on an important event that occurred in the electorate of the member for Fisher last Friday and which I was privileged to attend with him. I refer to the release of the Healthy Food for South Australian Schools program, which was jointly launched by the Minister for Health and the Minister for Education and Children's Services. The components of this project are the Family Day Care's Healthy Food Choice Policy and the consultation process for the Eat Well SA Schools and Preschools Food and Nutrition Guidelines.

Together with the launch of those policies by the relevant ministers, the students of Reynella East High School performed a skit which illustrated for the people present the complexity of the issue of eating well, particularly young adolescents being able to make healthy food choices. This was a remarkable event, because not only did we have the two ministers speaking and the school students performing for us but there were also presentations by Dr Rosemary Stanton OAM, PhD (a very well-known nutritionist) and Dr Anthea Magarey of Flinders University. I have known for some time that obesity in the Australian population is a problem—that, for instance, obesity and overweight in Australia has reached about 60 per cent of the population and that childhood overweight and obesity is becoming an issue—but the information presented by Drs Stanton and Magarey was quite confronting and deserves the attention of the house.

Dr Stanton argued that for us to contain the health implications of the overweight problem in childhood will take really big institutional moves and that it is no good just saying that we have to help kids to exercise more; we really have to look at things like putting additional taxes on unhealthy food. That is quite confronting for us to have to deal with. We are used to the idea of high taxes on cigarettes and alcohol as a way of restricting or reducing their intake, but the thought that we might be faced with putting high taxes on junk foods is something that we are not used to dealing with. We can expect a lot of lobbying from vested food industries on this, and parents can expect a lot of lobbying on it from their children.

The information that we have received requires us to start thinking about these issues. Dr Stanton referred to a recent report from the US Department of Health and Human Services entitled 'The Surgeon General's call to action to prevent and decrease overweight and obesity', which states:

> The potential future health-care costs associated with paediatric obesity and its co-morbidities are staggering. . . costs of preventable morbidity and mortality associated with obesity may exceed those associated with cigarette smoking.

We have long been trying to deal with these adverse impacts on our community but we are finding them very difficult issues to deal with. Trying to deal with overeating and eating the wrong sort of food is an area where people can well feel that we are intruding on the personal. However, Dr Stanton pointed out some of the diet-related health problems in

children and adolescents. Besides the overweight issue, there has been a huge increase in type 2 diabetes (she said that 30 years ago she never saw that in a child, but now she will see two or three cases a week, as do her colleagues), a basic issue of constipation, high blood cholesterol and high blood pressure in children (something that was very rare even 10 years ago, but certainly 20 years ago) and problems associated with low intake of iron and calcium.

What children eat is a basic problem in our community, but it is not one that we talk about. It is a problem that affects our health care costs, our community wellbeing and our community learning, and we will have to come to grips with it.

Time expired.

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## GRAFFITI CONTROL (ORDERS ON CONVICTION) AMENDMENT BILL

**The Hon. R.B. SUCH (Fisher)** obtained leave and introduced a bill for an act to amend the Graffiti Control Act 2001 and to make related amendments to the Criminal Law Consolidation Act 1935. Read a first time.

**The Hon. R.B. SUCH:** I move:

That this bill be now read a second time.

As members would be aware, this bill falls into the category of a lapsed bill (it sounds a bit like a sinner), as a consequence of the prorogation of the parliament. I believe that the time has come for this measure to be adopted by the parliament. I do not intend to speak for a long time, because the bill was canvassed at length earlier in the previous session, and the general arguments are, I think, well known to members. I just wish to quickly summarise what this bill does to deal with a deficiency in the current law.

I wrote to the current Attorney-General some months ago and asked him what the courts were doing in relation to requiring people to pay compensation where they had engaged in graffiti vandalism, or whether offenders had been required to clean off not necessarily just their own but any graffiti. The answer, I think it is fair to say, surprised him, and it certainly surprised me. Only one person in South Australia has been asked to clean off graffiti, and that was some person in Millicent (I do not know who it was). In other words, the courts (even though they really could if they wished) have not taken it upon themselves, within their authority, to require any cleaning off, and I believe that that is an appropriate way of dealing with this issue. I am not saying that it is the only way or that it is the complete way.

I have always argued that one has to tackle some of the root causes, which are dysfunctional families, non-achieving young people and non-achieving adults—because many of the people who are committing graffiti vandalism are not young people in the sense of being teenagers or children; they are adults. They are very organised, and many of them are in gangs. People assume that this involves only young people—teenagers—but, sadly, they are wrong. Certainly, young people are involved, but I know for a fact that some of the adults travel interstate to commit graffiti vandalism.

Some commentators have said, 'Oh, it is only graffiti writing.' I challenge those people to put a sign in front of their property inviting people to do a bit of graffiti writing on their property. I have yet to see or hear of any of those social commentators doing that. In other words, they are happy for it to happen on public property at great cost, and they also seem to be happy for it to occur on private property at great cost.

I will give some examples of what it is costing. This is not the private cost: this is the cost from some councils and utilities, and it is not the total, by any means. With respect to the City of Onkaparinga (the council area in which my electorate is situated), it is $400 000 this year; for Salisbury City Council, the figure is $297 500; City of Mitcham, $140 000; Marion City Council, $128 000; Holdfast Bay, $117 000; ETSA Utilities, $150 000; Australia Post, $50 000; Adelaide Metro bus contractors, $386 000; TransAdelaide, $309 000; Transport SA, $70 000; the Passenger Transport Board, $90 000; and the City of Playford, $1 50 000 to $200 000. For just those few utilities and some of the 18 councils in the metropolitan area, the total expenditure exceeds $2 million.

One way of looking at this is to say that, in the City of Onkaparinga, if one assumes that the average family pays a little less than $1 000 a year in rates, something in the order of 400 families are paying their rates for no benefit whatsoever. They might as well flush the money down the toilet, because their money is being used simply to try to address this problem of graffiti vandalism. If anyone were to argue that that was a good use of taxpayers' money, I think that there would be something sadly amiss.

I repeat that I am not saying that this is the only answer or the only strategy. I am a great believer in intervening early to tackle learning problems and alienation—all those things. But we cannot sit back and allow what is, in effect, a guerilla war to continue against private and public property; hence this proposal. This bill really tightens up and says that the court, where someone is found guilty of an offence under the Graffiti Control Act (and it also, by way of related amendments, links it in with the Criminal Law Consolidation Act), requires the offender to pay compensation. In the case of a first offence, the court may order the person found guilty to participate in a program that will involve the removal or obliteration, under the supervision of an appropriate authority, of graffiti on any property. It is not saying that a person has to clean off their graffiti, because it may be in a dangerous location. And it would be under the supervision of a government agency.

I cite the example of New South Wales and quote from some proceedings of a recent conference on this very matter. Called Graffiti and Disorder: Local Government, Law Enforcement and Community Responses, the conference was held in Brisbane between 18 and 19 August. I was not able to attend, but I was kindly supplied with a summary of the presentations. One presentation was from a Ms Judy Durman, District Manager, Burwood office, Department of Corrective Services, New South Wales. They have been running this type of program for some time. The program is run by the Department of Corrective Services, and it uses the services of those offenders to provide supervised labour to remove graffiti. In her report Ms Durman stated:

It benefits our environment, the community and the offenders, and the cost of removal is greatly reduced by using those offenders.

She pointed out that Premier Bob Carr, in 1999, had 26 000 hours of graffiti remediation work done using periodic detainees and community service workers. Ms Durman goes on and talks about the need for the supervisors to be trained in graffiti removal, offenders not to work over three metres

in height, and so on. In other words, it is a structured program. I have had some encouraging discussions with the Attorney, and clearly I am not committing him to anything, but I think he can see some merit in what I am proposing. I understand that at the present time the government has not budgeted for this type of program. The way around that is for the act, if the parliament supports it, not to be proclaimed until such time as the government is in a position to implement the clean-off type program.

I think this is a worthwhile advance: the bill also requires the courts and the courts administration to keep proper records of graffiti offences. What has happened in the past is that they have been lumped in with offences against property, and it has been hard to get specific information in relation to what has been going on. I do not believe that what I am suggesting is draconian punishment. In some states you can be sentenced to gaol for very long periods of time. You could be given a custodial sentence here, but I believe it is more appropriate that people who engage in graffiti vandalism be required to clean it off. Once the word gets around that, if you engage in graffiti vandalism—I am not talking about legal murals—you are going to be cleaning it off in a government organised, government supervised clean-off program, visible to the public on the weekend or on holidays, I think some of the attraction of graffiti vandalism would suddenly disappear.

I have had strong support from the councils pleading with me and the parliament to do something about this issue that has become a scourge in our community. I am not saying that graffiti is as bad as bank robbery, but it is a very disturbing feature of our landscape and at the moment it is a very noticeable display in particular areas. One of the difficulties in raising the topic is that sometimes you can actually generate more of the guerilla warfare, but as a parliament I believe we have an obligation to do something worthwhile. The spray can legislation that was targeted against juveniles may have helped a little bit, but it has not targeted the issue of adult offenders, because adults can still buy the spray cans. Some members in here support restrictions on adults getting spray cans, but I am not sure that it is feasible to take their names and addresses. I have canvassed that idea in the past. I believe that cleaning it off—you put it there, you be involved in a clean off, either yours or another's graffiti—I think is a very simple response. It is based on common sense. We all know that if young people or children mess up their room you say,'Clean it up.' Here, we are talking about young people and, sadly, adults. If you make a mess, you will be responsible for cleaning it off.

This bill embodies accountability. I would like the government to look at some of the deep-seated causal factors, because it is obvious that you get graffiti in areas where you have greater social dysfunction. Young people and adults who are happy and achieving do not engage in this sort of behaviour. We should address that issue. Whether it is psychological disturbance or family disharmony or lack of achievement at school, we should address these issues as well. I have a great passion for young people but what saddens me as much as anything is that this money could be put into youth facilities. I know that the member for Davenport is in the chamber. Over time, with the money that is currently being spent by the city of Mitcham—which I believe they have to increase from $140 000—you could build some fantastic youth centres, recreation centres or skate parks.

But all that money is just being wasted. It is going down the drain. So I ask fellow members in this and the other place to support this measure. It has strong community support and it has strong support from local government. I again met with the LGA today, and I have had strong support not only from the City of Onkaparinga but also from other councils. I have also had strong support from members of the public, who can see the commonsense value of getting graffiti vandals engaged in a supervised program to clean it off. The courts have not been requiring that, and they should have. But my bill tightens it up so that we no longer have a situation where people can damage other people's or community property and, basically, have no direct accountability or responsibility for their actions. I commend the bill to the house and hope that members will support it.

**Mrs GERAGHTY** secured the adjournment of the debate.

## INDUSTRIAL AND EMPLOYEE RELATIONS (PROHIBITION AGAINST BARGAINING SERVICES FEE) AMENDMENT BILL

**The Hon. I.F. EVANS (Davenport)** obtained leave and introduced a bill for an act to amend the Industrial and Employee Relations Act 1994. Read a first time.

**The Hon. I.F. EVANS:** I move:

That this bill be now read a second time.

In making my second reading explanation, I will not hold the house long because I have moved a similar bill in the previous parliament, and I would refer members who are interested in this debate to that bill. However, I will make the following comments. There have been two developments in the time since the last parliament prorogued and this parliament started that will have some effect on this bill. I therefore ask those members who do go back and research the previous contribution also to take these two issues into account.

In the interim period between when the bill was last dealt with and the introduction of this bill, federal parliament has adopted a bill—and, in fact, has now made it law—banning the introduction of bargaining agents' service fees. So, under the federal act bargaining agents' service fees are banned but under state legislation they are, at least theoretically, possible. This bill now seeks to adopt the national model of the legislation so that we have consistent state and federal legislation. There are some very minor changes to this bill compared to the previous one, but this bill adopts the federal model of legislation that prohibits the bargaining agents' service fees.

The other issue that has arisen in regard to bargaining agents' service fees is that the public sector union, the PSA, is locked in negotiations with the current government about their next enterprise bargaining agreement. My understanding is that it is a two-year agreement, and in that agreement the Public Service Association seeks to obtain the government's agreement to be able to charge non-PSA members a bargaining services fee of $825, which, I understand, is made up of $750 plus GST.

There are something like 15 000 public servants who are not members of the Public Service Association but who would be covered by this enterprise bargaining agreement, and they would all be sent a bill for $825 if the government signed off on the enterprise bargaining agreement, as presented to the government by the PSA in the last month. That ultimately means a windfall gain of eleven and a quarter million dollars to the Public Service Association, straight out of the pockets of ordinary families who simply have a family member who happens to be in the public sector, who is not

a member of the PSA, but who would be covered by that agreement. It is a live issue in this state; that is the point I am making.

People have said to me previously that there is no proposal to introduce such a fee. The reality is that, as we speak, the government is talking to the PSA about the introduction of this fee. I accept that it is the union that is talking about its introduction and that the government is considering it. Ultimately the cabinet will have to sign off on that enterprise bargaining agreement. That means cabinet will have to make a decision and therefore the government will have to make a decision about where it stands on the issue of people being charged a bargaining agent's fee by a union for negotiations undertaken by the union for which the non-union member gains a benefit.

If the PSA wins that clause and gets the opportunity to charge a bargaining agent's fee, it will flow onto other agreements and other awards, and other unions will then have the chance to charge non-unionists a bargaining agent's fee because the non-unionists benefit from the union's negotiations with regard to salaries and other outcomes.

That is a brief background to the bill. Because this is the first day of private members' business in the new parliament, there is a long list of items that members want to contribute. I refer members to the previous *Hansard* and bring to the attention of the house those two new developments in relation to this bill. I seek leave to insert the detailed explanation of the clauses into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

This clause provides that the measure will come into operation one month after the day on which it is assented to by the Governor.

*Clause 3: Amendment provisions*

This clause is formal.

*Clause 4: Amendment of section 4—Interpretation*

This clause amends the interpretation section of the Act by inserting two new definitions. "**Bargaining services**" are services provided by or on behalf of an association in relation to an industrial dispute, an industrial matter or an industrial instrument. A "**bargaining services fee**" is a fee payable to an association (or someone in lieu of an association) wholly or partly for the provision of bargaining services.

*Clause 5: Amendment of section 79—Approval of enterprise agreement*

Section 79 contains provisions relating to the approval of enterprise agreements by the Industrial Relations Commission. This clause inserts a new subsection that prevents the Commission from approving an enterprise agreement if the agreement requires payment of a bargaining services fee.

*Clause 6: Amendment of section 115—Prohibited reason*

This clause amends section 115 of the Act by adding to the list of prohibited reasons for discrimination by an employer against another person the fact that the person has not paid, or has not agreed to pay, or does not propose to pay, a bargaining services fee.

*Clause 7: Insertion of Chapter 4 Part 4 Division 1A*

This clause inserts a new Division into Part 4 of Chapter 4 of the Act. Part 4 contains provisions generally applicable to associations.

DIVISION 1A—PROHIBITION AGAINST BARGAINING SERVICES FEE

*139A. Association must not demand bargaining services fee*

An association (or an officer or member of an association) must not demand payment of a bargaining services fee from another person. The maximum penalty for this offence is a fine of $20 000.

This prohibition does not prevent an association from demanding or receiving payment of a bargaining services fee that is payable under a contract for the provision of bargaining services.

"Demand" is defined to include "purport to demand", "have the effect of demanding" and "purport to have the effect of demanding".

*139B. Association must not coerce person to pay bargaining services fee*

An association (or an officer or member of an association) must not take, or threaten to take, action against a person with the intention of coercing the person (or another person) to pay a bargaining services fee or enter into a contract for the provision of bargaining services. The maximum penalty for this offence is a fine of $20 000.

*139C. Association must not take certain action*

An association (or an officer or member of an association) must not take, or threaten to take, action that has the direct or indirect effect of prejudicing a person in his or her employment (or possible employment) for the reason that the person has not paid (or has not agreed to pay or does not propose to pay) a bargaining services fee. An association is also prohibited from advising, inciting or encouraging a third person to take such action. The maximum penalty for this offence is a fine of $20 000.

*139D. Certain provisions void*

A provision of an industrial instrument requiring payment of a bargaining services fee is void to the extent of the requirement.

*139E. False or misleading representations about bargaining services fees*

A person must not make a false or misleading representation about another person's liability to pay a bargaining services fee, another person's obligation to enter into an agreement to pay a bargaining services fee or another person's obligation to join an industrial association. The maximum penalty for this offence is a fine of $20 000.

*Schedule 1: Transitional provisions*

Clause 1 of the transitional provisions provides that the amendments made by sections 4 and 5 of the Act apply for the purpose of any consideration of an enterprise agreement by the Commission after the commencement of the clause. Clause 2 provides that section 139D of the *Industrial and Employee Relations Act 1994*, as inserted by this Act, applies to any industrial instrument whether executed before or after the commencement of this clause.

**Ms BREUER** secured the adjournment of the debate.

## ROAD TRAFFIC (COUNCIL SPEED ZONES) AMENDMENT BILL

**The Hon. R.B. SUCH (Fisher)** obtained leave and introduced a bill for an act to amend the Road Traffic Act 1961. Read a first time.

**The Hon. R.B. SUCH:** I move:

That this bill be now read a second time.

Like the member for Davenport, in this new spirit of niceness in this place—there is no such word but it sounds good—I will be very brief because other members want to introduce new items. This is another lapsed bill because we are in a new session. I will quickly canvass the key points and members can refer to the previous *Hansard* if they want a more detailed explanation. In simple terms, this requires a 40 km/h speed limit or speed zone to be approved by the Minister for Transport based on the professional judgment of traffic engineers. In other words, it does not prohibit a 40 km/h speed limit or zone, but it requires that, before new ones are created or existing ones continue, they have to be justified to the minister.

As members would be aware, some councils introduced precincts or individual streets where the speed limit is 40 km/h. At least one council, the City of Unley, did basically the whole council area. I am not critical of councils like Unley or others because, at the time, there was no 50 km/h limit, so they were trying to be protective of their community, and that is their proper role and responsibility. However, things have changed and a 50 km/h speed limit is in place. Its implementation could have been a bit tighter, and it could be

reviewed in relation to certain collector roads, but that is a different issue. South Australia now has a speed limit of 50 km/h which is legally enforceable on residential streets and, as I indicated, unfortunately on some other streets, as well. In the interests of consistency of enforcement, the metropolitan area should adhere to a 50 km/h speed limit, likewise country towns, unless there is some compelling reason to do otherwise.

Although this did not get a lot of media coverage, I point out that the City of Onkaparinga had four major 40 km/h precincts, and the council indicated to me and others that it would survey the people who lived in those areas to see if they wanted to continue with them. I wrote to the council saying I thought it was a strange approach because it did not give a say to the people who do not live in the 40 km/h zones in the City of Onkaparinga. The long and the short of it is that the City of Onkaparinga wrote to 2 300 households in the 40 km/h zones and 1 000 responses were received, which is a very large percentage. Of those responses, 76 per cent wanted to get rid of the 40 km/h speed limit. There was a written response from nearly 50 per cent of the people surveyed, which is pretty high for any survey that is sent out en bloc. Of interest was that 76 per cent wanted to get rid of it, and they were the people who were supposedly benefiting from it. I suggest that would apply in other council districts.

The people who most strongly supported this bill in the previous session were the people of Unley, and they contacted me about it. Probably 95 per cent of all the responses came from people in the City of Unley saying they wanted to get rid of the 40 km/h limit. Prior to the council elections, a candidate—the mayor—issued a press release saying that I was supporting the abolition of the 40 km/h limit so I could get to parliament quickly by speeding through Unley. I like this place but I do not like it that much that I want to get here more quickly. I notice that in the City of Unley things have gone very quiet and we have not heard a boo from the mayor since the election. I think he got the message from the electors of Unley that they are not that keen on 40 km/h. In any event, I believe that this is a sensible way of dealing with it.

I appreciate that the Minister for Transport is waiting to see that the 50 km/h limit is bedded down before he looks at changes to collector roads which may be inappropriately signed, but I believe that my proposal comes into the same category. It is important for parliament to send a message that we believe that, now that we have a 50 km/h limit on residential streets, it should be consistent and the police can enforce it across the board. That will be particularly important if, as I heard in the media today, the government goes ahead with a proposal to reduce the margin in a speeding offence when a driver is apprehended by a radar camera to cut it down from the secretive 7 km/h to about 3 km/h over the limit.

It is even more important to make sure we have consistency and do not have people in areas like Unley and Mitcham turning from 60 to 50 to 40 kilometres, as it sounds like the roulette wheel at the casino. The bill has merit and I trust members will support it. There was quite a bit of detailed discussion when it was introduced. It is a commonsense measure. I believe it has strong support from groups such as the RAA and people who are traffic engineers and who know the professional aspects of the issue. I commend the bill to the house and trust that members will be inclined to support it.

**The Hon. I.F. EVANS** secured the adjournment of the debate.

## DIGNITY IN DYING BILL

**The Hon. R.B. SUCH (Fisher)** obtained leave and introduced a bill for an act to provide for the administration of medical procedures to assist the death of patients who are hopelessly ill, and who have expressed a desire for the procedures subject to appropriate safeguards. Read a first time.

**The Hon. R.B. SUCH:** I move:

That this bill be now read a second time.

Members would be aware that this is also a lapsed bill and is basically the bill that was drafted by the Hon. Sandra Kanck in another place. I understand that many members in this and another place, for religious or other reasons, do not support voluntary euthanasia, even with safeguards. They are opposed to it on various grounds and I respect their view. However, it is very important that the parliament have an opportunity to discuss this matter. We did not have that opportunity in the last session. We have many new members of parliament, many of whom are interested in this issue, both for and against. The subject is in the public arena and many people are interested in it. We know that there have been advances in palliative care and we also know that for some people there is no adequate pain relief. It may only be a small percentage, but there are some with certain cancers for whom there is no pain relief in a total sense. The key issue in this—and again the issues have been canvassed—ultimately comes down to members expressing their personal view based on their conscience and religious belief and to a question of choice. That will reflect to a large extent people's religious and other values.

Some people within the Catholic and Lutheran faiths are very much against voluntary euthanasia, but many people within the Uniting Church strongly support it. There is no consistent view within the various religious denominations or faiths and it is not my role to try to impose my view on anyone else. It is an opportunity for people to express their view and to examine their conscience in relation to whether or not they believe people for whom this is acceptable should have the right to access medical procedures, subject to proper safeguards.

The bill does not require anyone who does not agree with voluntary euthanasia to participate in any way, shape or form. It seeks to allow those whose religious belief or conscience can encompass voluntary euthanasia to take advantage of something that would become legal if this bill was to become law. We know from public opinion surveys that a majority of the community want this. I am asked repeatedly by people when something is going to happen. In my electorate are people strongly against voluntary euthanasia and many strongly for it. On many occasions I have had very emotional people speak to me about what has happened to, usually, a parent and they do not want to see it happen again. Often they have been very emotional, often in tears, saying that we would not treat an animal the way we treat fellow humans in terms of their suffering.

That was also reflected in evidence given to the Social Development Committee a few years ago. Members on the committee will remember some of the evidence, which was very compelling in terms of people who wanted themselves or their relatives to be able to avail themselves of voluntary

euthanasia. I recall someone senior in the Catholic faith expressing strong opposition to voluntary euthanasia. One of the nuns of the same faith spoke to me afterwards, took me by the arm and said that these issues are never quite black and white. There were several of those nuns and they indicated that they did not share that dogmatic view. It tends to be a personal thing.

People who have seen loved ones suffer and die do not want to see it repeated with others. I suggest that members put themselves in the position of someone who wants to avail themselves of this or someone with close relatives they do not want to see suffer, but in the context of appropriate safeguards. We are talking of human life, which is very precious. It is not a simple matter or something that anyone should treat lightly. This bill has been developed over a long time and has had a lot of input from people more qualified in the area than am I, both medically and legally, and it is an appropriate measure in terms of providing for people whose conscience and religious beliefs permit it, subject to safeguards that would ensure that there should not be any abuse.

The time has come for this house to vigorously consider this measure. The newer members may have a view one way or the other. I do not know what those views will be, but they have a right to express them and it is healthy for the community to discuss these issues and try to resolve them. I have always argued that, if the parliament cannot deal directly with with issues like this and some others, they should be put to a referendum of the people. We are elected to make decisions and should do so, and not put ourselves in the position of controlling people's lives and stopping people from doing something they want to do if that is their choice and it does not cause harm to others.

If it is their life they have a right to make a decision about when their quality of life has ceased and they are hopelessly ill. If they want to bring an end to their life I believe they have the right to do so. It is about freedom of choice, an individual's right according to their conscience, and I urge members to consider that as the key issue: the freedom and right to choose in relation to one's own life. Ultimately, it will come down to a matter of conscience and religious belief. But I know that many people in this parliament, and outside, want the right to exercise their choice over the most fundamental question of all, and that is their own life.

I therefore commend this bill to the house and trust that we can have a constructive, considered debate and that members will not only take into account groups who may be vigorously in support or in opposition but also actually canvass the views of their electorate. I hope that they will ask people what they want rather than simply respond, as is often the case, to groups which are either for or against an issue and which can make noise but do not necessarily always reflect what the people themselves want. I commend this bill to the house.

**Mrs GERAGHTY** secured the adjournment of the debate.

## RAILWAYS, ADELAIDE BYPASS

**Mr VENNING (Schubert):** I move:

That this house calls on the Economic and Finance Committee to examine and make recommendations on the feasibility of the proposal of Maunsell Australia Pty Ltd to construct a rail bypass east of Adelaide.

I want to reiterate some points that I made previously on this motion when I moved it on 2 April 2003 during the last session. I am most concerned that this motion was not advanced then: the government took the adjournment and it was not advanced. I believe that private members' time is now becoming a congratulatory forum. Although there is no problem with that, I believe it has to be the exception rather than the rule, as it is now. If a private member can move a motion in this house last April and not see it addressed until the end of the session in December, there has to be a problem. The *Notice Paper* is choked up with motions aimed at congratulating everybody and anything about anything and any event, and I think we need to have a good look at ourselves. I believe that matters such as this are important to the state—it is about referring a job to a committee of the parliament—and I am concerned to see it bogged down in all the congratulatory stuff. I am not saying there are not exceptions when we need to congratulate and recognise high-achieving South Australians—I have no difficulty with that—but every Tom, Dick and Harry seems to feature this session, and I believe we should have a good look at it.

I bring to the parliament's notice the report of Maunsell Australia and its proposal for a rail bypass east of Adelaide, which reflects the ERD committee's 35th report dealing with the South Australian rail links with the eastern states. For members of the house who are unfamiliar with this proposal, the new railway line would bypass Adelaide. I note that the Minister for Transport is in the chamber, and he could make his day by backing a winner for a change. Here is a new idea which I can give him and which has a lot of merit. The line would run down the eastern side of the Adelaide Hills, mainly on the existing rail reserves which the government still owns, so the cost of acquiring land would be minimal. These are former railway line reserves and, in the main, the lines have been removed, although not always. Some of the bridges are still there and the land is left as a reserve. The lines could be relaid and we could be back in business very quickly.

Much of this area is in the electorate of Schubert, particularly from Murray Bridge to Cambrai and from Sedan to Truro. With further talk of development of another port in the north (to which I have referred in other debates in this place), and with the imminent opening of the Alice Springs to Darwin railway line, this project gives the option of a main line bypassing Adelaide from Murray Bridge, going directly north of the existing rail corridor from Apamurra, which is currently open and just north of Murray Bridge, and then on to Sanderson, Cambrai and Sedan, linking with a new line from Sedan to Truro, heading west across country to Kapunda and Stockport and joining the Owen line to Bowmans, where it could, of course, join the main line again. It could also go on to Wallaroo, and that would complete the link to circumvent the Adelaide Hills and also bring another port into the system. There are several other options, such as going due north from Eudunda. The land is sparsely populated and not highly fertile in most cases.

In addition to the relevance of this report, the Economic and Finance Committee should look at the costs and benefits of this proposed project, which would change the current character of rail (particularly freight transport) in South Australia. The proposal would see the bypassing of Adelaide of all Melbourne freight that did not need to come to Adelaide, with trains going to Alice Springs, Perth and Darwin, when the track is completed—and I believe it is completed now and will be open in a few weeks.

This proposal has the potential to increase the efficiency of rail freight transport on a number of fronts. The obvious bypass of Adelaide would allow trains to avoid the metropoli-

tan lines where speed has to be reduced, particularly in the Adelaide Hills. We know that noise is a big issue for residents in the Adelaide Hills. Not a week goes by when we do not hear somebody raise the issue, if not in this place then certainly in the state media and also in the local Messenger media. That issue could certainly be addressed by taking the large freight trains out of the Adelaide Hills.

Furthermore, in bypassing the hills, trains could be double-stacked—which they are not at the moment—again, increasing efficiency. With the alternative Darwin railway line through the eastern states still being considered, this project could present South Australia with a great opportunity to capitalise on the benefits that the Darwin line brings to South Australia. The Public Works Committee has considered the upgrading of the lines through the hills, so trains could be double-stacked. The committee has asked questions of many experts, and the cost of simply enlarging the tunnels is in excess of $100 million, and to do the curves and flatten the gradients would involve expenditure of an extra $350 million. So, we can see the capital cost, and we still have the problem of bringing these noisy freight trains through the eastern suburbs of Adelaide.

There is a strong reason to consider the other option. I am not saying that this option is the bee's knees, but the government ought to consider it. All we are doing is asking the Economic and Finance Committee to examine the feasibility of such a proposal for the parliament. The idea has been around for some years and is not new. Mr Ron Bannon of Pilarna Enterprises, whom many members would know, has been pushing this project strongly. He has a strong passion for it and, when taken at face value, it is a very good idea—or at least it begs the extra question.

I do not know the final result. All I ask is that the Economic and Finance Committee look at it with an open mind, and I am confident that it will do a very good job. In the end, it is in the interests of South Australia to be properly serviced and not bypassed completely by the rail going through the other states and through Orange. It is in the long-term interests of Adelaide and the regions, particularly the Mallee. The Barossa would be better served by having a direct link to Melbourne and being able to bring these huge trains, double-stacked in Melbourne, straight through to Perth, Darwin and the northern areas of our state. This is a very important matter, and I hope that the parliament will support this motion.

I congratulate Mr Bannon and his company Pilarna on having the persistence and patience to keep pushing this, as he has been doing for some years. I hope that we have gone another step for him. I hope, too, that the Economic and Finance Committee will take evidence on the matter and that Mr Bannon will have the opportunity, as well as Maunsells, to put his case. I look forward to that. I hope that parliament will support this motion and that the EFC can examine this interesting project.

I note, again, that the minister is in the chamber, and I would certainly appreciate hearing his comments in relation to this issue. I also look forward to the continuing debate and input from members of the government and, indeed, of the opposition. I am happy to supply notes and copies of the Maunsell report to any member wishing to participate in this debate. But, again, I am very concerned that this debate was not completed previously. It did not go further than my introduction and, surely, in a private members' time, it should at least be picked up by members of the government or, if they do not, by the opposition, so that they can at least say whether or not they agree with it. After all, it is not costing you anything, minister. We are just asking you to send this to the EFC and let it have a look at it. If its decision is that it is not on, I will respect that. Unless we ask that question, we will never know. I commend the motion to the house.

**Mrs GERAGHTY** secured the adjournment of the debate.

## PARLIAMENTARY COMMITTEES (FUNCTIONS OF ECONOMIC AND FINANCE COMMITTEE) AMENDMENT BILL

**The Hon. I.F. EVANS (Davenport)** obtained leave and introduced a bill for an act to amend the Parliamentary Committees Act 1991. Read a first time.

**The Hon. I.F. EVANS:** I move:

That this bill be now read a second time.

I will make a short second reading speech. This bill was moved in the last parliament. This bill has exactly the same form as it had in the last parliament. The debate never concluded by way of vote, so I refer all members who are interested in this bill to the previous parliament's *Hansard* to look at the detailed debate that was presented at that time. There was one speaker in the mover and then one speaker in the then attorney-general as the only contributors to the debate. This bill gives the Economic and Finance Committee the opportunity to examine statutory authorities. The Economic and Finance Committee is known in the parliament as the all powerful Economic and Finance Committee, because it is wide-ranging in its role and functions.

The way the current act is written, under this government the Economic and Finance Committee has taken crown law advice to say that it cannot look at statutory authorities. It is our view that the Economic and Finance Committee should be able to look at statutory authorities. We have supported the Auditor-General on this matter. The Auditor-General appeared before the Economic and Finance Committee some time ago and expressed some surprise that we did not have the power to look at statutory authorities and expressed some support for the committee having the power to look at statutory authorities.

This is a simple bill. We think the parliamentary committee that looks at economic and finance matters should be able to look at the economic and finance matters of statutory authorities, because a lot of government or public business (which uses taxpayers' funds) is done by statutory authorities. There is nothing new in this bill. It is the same bill that was introduced in the last parliament, but the debate was not completed. Again, we will be seeking this house's support for this bill. I seek leave to insert the remainder of my second reading explanation into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

*Clause 1: Short title*

*Clause 2: Amendment provisions*

These clauses are formal.

*Clause 3: Amendment of section 6—Functions of Committee*

Section 6 of the Act contains provisions relating to the functions of the Economic and Finance Committee. Under section 6*(a)*(iii), the Committee may inquire into, consider and report on—

- matters concerned with the functions or operations of a public officer, State instrumentality or publicly funded body; or
- whether a public office or State instrumentality should continue to exist; or
- whether changes should be made to improve efficiency and effectiveness.

The provision currently prohibits the Economic and Finance Committee from inquiring into matters relating to statutory authorities.

This clause amends section 6 by striking out from section 6*(a)*(iii) the words "(other than a statutory authority)", which occur twice, so that the Committee is no longer prohibited from conducting inquiries into matters relating to statutory authorities.

**Mrs GERAGHTY** secured the adjournment of the debate.

## ECONOMIC AND FINANCE COMMITTEE: ANNUAL REPORT 2002-03

**Ms THOMPSON (Reynell):** I move:

That the 44th report of the Economic and Finance Committee, entitled the Annual Report 2002-03, be noted.

I am pleased to present to the house the 44th report of the Economic and Finance Committee, the annual report for 2002-03. I take this opportunity to provide a brief summary of those activities undertaken by the Economic and Finance Committee over the past financial year. The committee tabled five reports over this period—its 39th Report, Auditor-General's response to Legislative Council; 40th report, the Annual Report 2001-02; 41st Report, Green Phone preliminary inquiry, which was the subject of much community interest from the South-East area; the 42nd report, the final report on the emergency services levy 2002-03; and the 43rd report, the interim report on the emergency services levy 2003-04. These reports were prepared and presented to the parliament by the committee.

The committee continues to work in cooperation with the Auditor-General, and during the current reporting period the Auditor-General met with the committee on one occasion. In addition to the committee's continued focus on its statutory responsibilities with respect to catchment water management boards, the sport and recreation fund and the emergency services levy, the committee on its own motion has commenced a number of new inquiries. These include: reviewing the quality and appropriateness of training being provided to on-the-job trainees and apprentices; the level of funding provided for road maintenance; and an inquiry into the role and function of the Economic and Finance Committee itself.

During the reporting period, the committee continued with two previous inquiries that had been initiated in the previous reporting period, namely, inquiries into the Holdfast Shores development and into government office accommodation. During the year, the committee reviewed its workload and decided to no longer pursue a number of inquiries, some of which had arisen on the committee's own motion during the reporting year. On these matters some preliminary investigations were made, and it was decided that this was not an appropriate time to investigate further or that, indeed, our preliminary inquiries indicated that the situation was satisfactory. For instance, the inquiry into government office accommodation revealed that some fairly new guidelines had been established by Treasury, and we considered it appropriate to leave those guidelines to operate before we looked further into the issue of government office accommodation.

Madam Acting Speaker, I am sure you will be interested to know that our reason for wanting to look into government office accommodation was that an inquiry by the New South Wales Public Works Committee had resulted in considerable savings being made in relation to government office accommodation in New South Wales. We had been hoping that we might be able to find a similar level of savings in South Australia, but things are managed so tightly here that at this stage that does not look to be possible. However, I will personally continue to show an interest in the issue of government office accommodation, because we do not want to be spending any more money on that than is necessary. Hospitals and schools are much more important.

We also decided not to pursue inquiries into Education Adelaide, which was something that had been initiated by the previous committee. We decided to conclude further inquiries on catchment water management boards. This was something the current committee wanted to look at further but, in view of the considerable review of that area which is being encompassed by the forthcoming Natural Resources Management Bill, we considered that it would not be fruitful to investigate those matters further. We briefly looked at the South Australian racing industry funding but, again, the current minister is reviewing the issue of sport and recreation funding, so we did not want to duplicate efforts, particularly as I believe it is important to allow incoming ministers to review funding guidelines, etc. and establish their own policies rather than our spending time looking at past issues.

Similarly, we briefly made inquiries about the Real Estate Institute of South Australia, but decided not to pursue the matter any further. We also considered an inquiry into government funding of the Pitjantjatjara Council and the Anangu Pitjantjatjara, but we found (as previously mentioned by the member for Davenport) that the committee's ability to look at matters concerning statutory authorities (of which the Pitjantjatjara Council is one) is limited.

In the previous annual report it was noted that the committee had not received ministerial responses to the 31st report entitled 'South Australian Government assistance to industry' and only a partial response to the 35th report entitled 'South Australian Government overseas offices'. The committee resolved to note in the annual report that these responses had not been received but would no longer be pursued as these recommendations were prepared by the previous committee and initially presented to the previous government. So, again we decided to allow the incoming government to make its own decisions.

Four members of the Economic and Finance Committee continued to serve on the Industries Development Committee. During the year ended 30 June 2003, the Industries Development Committee met on three occasions. One matter that is noted in the annual report concerns other activities of the committee relating to some important interstate visits. The first of those involved attendance at the Australasian Council of Public Accounts Committees by the member for Napier, the then secretary of the committee, Mr Rick Crump, and myself. This South Australian delegation participated strongly at the conference, as everyone here would expect. I presented a paper on the changing relationship between public accounts committees and officers of parliament, including auditors-general.

The research undertaken particularly by Mrs Kylie Fickling for the preparation of this paper led the committee to look at itself. This was in no way a navel-gazing exercise. Our research revealed that the terms of reference of the South Australian Economic and Finance Committee are very different from those of other like committees, which are generally the traditional public accounts committees. Our committee considered that this state had taken the move of changing from the traditional public accounts committee to the Economic and Finance Committee and that it was time for us to consider whether this had been worthwhile. We recently decided outside of this reporting period to give more emphasis to undertaking some of the traditional roles of the

public accounts committee, and we will consider how that goes before concluding that reference.

The other interstate visit was to the National Conference of Public Works and Environment Committees, which had quite broad terms of reference, enabling it to look at issues of development and sustainability, which put it well within the province of the Economic and Finance Committee. For that reason, I attended this conference together with Kylie Fickling, our research officer. This conference was hosted by the Economics and Industry Standing Committee of the Western Australian Parliament. Its theme was 'Sustainability of regional development—addressing the triple bottom line'.

As you would know, Madam Acting Speaker, the speakers at this conference were very challenging. A wide range of speakers from academic, environmental, cultural and industry backgrounds presented some strong debate about sustainability and how it is possible to be prosperous—particularly when examining the economy and the community in particular regions—whilst being considerate of both environmental and community concerns.

The conference was held at two locations. The first stage was conducted in Perth and the final three days in the towns of Karratha and Dampier in Western Australia's Pilbara region. Whilst in the Pilbara, the conference delegates were taken on site inspections of major resource projects, such as the Woodside North-West Shelf gas facility on the Burrup Peninsula and the Hammersley Iron port facilities at Dampier. I was grateful for the opportunity to see these major developments first-hand, as they gave me a far better understanding of some of the resource development issues that confront Australians, state governments, local governments, regional development boards and the commonwealth government. I was extremely grateful for this opportunity to improve my ability to contribute to this parliament by gaining a better understanding of some of those development projects.

On the way to Karratha we had a fly-over of the existing offshore gas infrastructure and the proposed sites for new liquid natural gas facilities. This gave us an idea of the immense scale of some of these projects and the amazing challenges involved. We were able to see the great impetus to a community that takes place, particularly during the construction phase of some these major resource developments. I only wish that we had more of them in South Australia, provided that we are able to get the balance right in terms of overall sustainability.

In closing, I would like to take this opportunity to thank the members of the committee: the Hon. Graham Gunn, the Hon. Iain Evans, Ms Karlene Maywald, Mr Jack Snelling, Mr Michael O'Brien and Mr John Rau for their contribution to the committee and their continued interest and the stimulating debate that takes place. I would also like to thank the staff of the committee and all those who have contributed to the committee's operations including: witnesses, respondents to correspondence, Hansard, and those people who provided briefings and written submissions to various inquiries. I am pleased to present to the house the annual report of the Economic and Finance Committee for 2002-03.

Motion carried.

## ECONOMIC AND FINANCE COMMITTEE: HOLDFAST SHORES DEVELOPMENT

**Ms THOMPSON (Reynell):** I move:

That the 45th report of the committee, on the Holdfast Shores development, be noted.

I am pleased to present to the house the 45th report of the Economic and Finance Committee entitled 'Holdfast Shores development'. An inquiry was initiated by the previous Economic and Finance Committee in October 2000 as part of larger terms of reference which sought to oversee the economic and financial aspects of the Holdfast Shores development and the National Wine Centre.

In June 2002, the fourth Economic and Finance Committee moved and adopted a more specific inquiry related only to the Holdfast Shores development and associated works, including the boating facilities at West Beach, works on the Patawalonga and the foreshore, sand carting, and the Barcoo Outlet. Information from the previous inquiry initiated by the third committee was referred to and incorporated into this new inquiry.

It was also recognised that information from previous Public Works Committee reports regarding works at West Beach and the Barcoo Outlet might be of assistance to this inquiry. So, the committee sought and gained approval from the South Australian Public Works Committee to access relevant information regarding the Barcoo Outlet inquiries. I would very much like to thank the members and staff of the Public Works Committee for providing that considerable amount of information to the Economic and Finance Committee.

We sought written submissions from numerous agencies and organisations during the conduct of the inquiry. Written correspondence was received from agencies, organisations and individuals, and a public hearing was held in November 2002 at which evidence was presented by representatives of Planning SA, Transport SA and the Department for Administrative and Information Services. The written submissions and information available to the committee was vast, and those persons who are interested in seeing how much material was presented to the committee can find that at paragraph 3.1 of the committee's report. This information is available to members now, if they wish to further pursue some of the issues raised in the inquiry.

The inquiry considered a number of specific aspects of the development, and these will be discussed in turn. Firstly, the financial aspects of the development will be considered. The South Australian government contributed an estimated $38.48 million to the capital costs of the development during 1994 to 2003. An additional $9 million was provided as a federal government grant; thus the total capital costs were estimated to be $47.48 million from government contributions. It should be noted that approximately $20 million of this total was related to the Barcoo Outlet project (and I will consider the issue of the Barcoo Outlet in greater detail later).

In addition to the capital costs, the government will incur ongoing operating costs in the areas of sand management and the maintenance and operation of the Patawalonga system. It should be noted that both of these expenses would have occurred regardless of the Holdfast Shores development, but that the magnitude of expenses has changed. Given the variable nature of some of those expenses, it is sometimes a bit difficult to assess just how much increased expenditure has been incurred as a result of the Holdfast Shores development. But, to me, it seems to be considerable.

The combined actual expenditure on sand management since the inception of Holdfast Shores and the West Beach boat harbour is $4 million from early 1998 to the end of 2001-02, which translates to approximately $890 000 per annum. This is higher than previous sand management expenditure, but it is unclear how much additional expendi-

ture has been incurred directly as a result of this project. We could argue over this for some time, because it is not possible to have a control base. We cannot tell how much sand would have moved with or without the works that have been constructed. We know that the development of the boat harbour—the groyne—results in greater sand carting being necessary. As a member of the Public Works Committee, I heard many submissions from people about the extent of the increased expenditure that this would incur. But it is not possible to determine just how much additional expenditure has been incurred.

The operation and maintenance of the Patawalonga system—largely, the Glenelg barrage gates—have been contracted out. This is anticipated to save approximately $105 500 per annum, compared to costs before the Patawalonga clean-up and the introduction of the automated system. At this stage, I would like to point out that the committee had concluded its inquiry prior to the very unfortunate flooding event that occurred as a result of problems with the operation of those gates. So, this report does not include any material relating to issues to do with that flood—although I extend sympathy to all those people whose lives were considerably disrupted by that event, and who are still trying to sort out their lives. A further ongoing cost arising out of the development is related to additional costs of monitoring water quality at two additional bathing water sites. These costs have been estimated at $20 000 per annum.

In return for its capital investment, the government expected to receive a distribution of $3.66 million as at February 2001. However, the latest information available to the committee was that this was likely to be lower, and will ultimately depend on the price achieved for all the retail components of the project.

In addition to the above distribution, a number of revenue sources have been created or expanded as a result of the Holdfast Shores development. Information provided by the Department for Administrative and Information Services in August 2002 identified a number of revenue sources. These include payroll tax associated with additional employment created by the project, such as the 400 construction workers, consultants and other service providers; approximately $5 million payable in stamp duty on the initial sale of residential apartments and allotments in the development; increased rate revenue of approximately $850 000 for the City of Holdfast Bay; and increased water and sewer rates and land tax of approximately $400 000 per annum.

In addition to the financial returns to the South Australian government, a number of private benefits were also created by the Holdfast Shores development. These include approximately $250 million of private construction expenditure in the area which, in turn, is expected to generate up to a further $250 million worth of economic activity. Approximately 400 people were employed in related construction jobs, resulting in approximately $16 million per annum in wages. Further, more than 200 people are expected to be employed on an ongoing basis in the retail, hotel and entertainment facilities associated with the development. Finally, residents in the area have experienced an average increase in property values of about 85 per cent over the last four years, compared to 30 per cent for metropolitan Adelaide.

I think that we could debate in the house for many hours the value of these benefits, and whether the Holdfast Shores development was the only way in which some of these undoubted benefits could have been achieved and what might be the cost of those benefits. The committee did not seek to make those value judgments; every one of us will make our own value judgments. The committee sought to put some of the information available on the public record, as we are well aware of the interest that has been shown in this project by the community over many years.

In addition to the economic considerations, there have been both positive and negative impacts on public and environmental amenity as a result of the Holdfast Shores development and associated projects. Positive impacts include improved safety for the boating public by providing a new boat ramp and improved boating facilities at West Beach, including parking and launching areas, shared pathways, boat wash down bays, sealed roads, public toilets and landscaping. Visitation by the public to this area has increased significantly, the committee was told. Access to the seashore and to Wigley and Colley reserves has been maintained, and the site is accessible through a shed, bicycle and pedestrian pathway. Public plaza areas have been created, and there is public access to restaurants, shops and a family entertainment complex. Again, these are matters about which each individual will make their own judgment as to the benefit. Some argue that there is more entertainment amenity in the area because that is what suits their lifestyle: others say that there is less because that is the lifestyle that they value.

As a result of a more stable marine ecosystem, a seawater recreational lake has been created for public use, including paddle craft use and fishing. A reduction in the black discharge from the Patawalonga mouth has contributed to beach closures not being required since the completion of the Barcoo Outlet. There has been a general improvement to all tide beach access south of Adelaide Shores at West Beach and an increase in the size of the public reserve at West Beach.

Improved water quality is a considerable benefit that has arisen from the various projects associated with the Holdfast Shores development. The Barcoo Outlet, for example, was intended to complement the Patawalonga Catchment Water Management Plan to achieve the objective of primary contact at any time by eliminating the additional days on which primary contact recreation could not be undertaken that were not addressed by the catchment plan. However, again, this is one of these areas in which people will have different values, and I will provide a little more information in a minute.

From information received by the Economic and Finance Committee in 2002, it appears that the Barcoo Outlet has not resulted in the Patawalonga Lake's being available for primary contact recreation at all times but, instead, is available on a reliable basis (which was the term used). After unusually heavy rain or a storm event, the Patawalonga is now closed to water sports, generally for about three days, to allow pollution and bacterial levels to subside. It should be noted that this has been reported in the media on only a few occasions since primary contact recreation was reintroduced in December 2001. This is a particular area of interest to me, in that the Barcoo Outlet cost us about $20 million.

Before the Barcoo Outlet project, primary recreation activities were not possible in the Patawalonga Basin all year. In summer, there were between 10.7 and 9 days on which primary recreation was not possible in the Barcoo Outlet. We believe that it is about the same now, as a result of $20 million worth of expenditure, but I am sure you will be overjoyed to know that primary contact is available during winter on a reliable basis in the Patawalonga. So, all those people who want to go swimming in the Patawalonga during the winter now can, and it has cost only $20 million to achieve

that extraordinary outcome. Higher pollution and bacteria levels have also been reported during the rest of the year in the Patawalonga, such as during August 2002 and February 2003. This has been attributed to technical errors with gates on the Barcoo Outlet, such as automatic floodgates not operating as expected. So, one cannot be guaranteed a swim in the Patawalonga in winter, even after our $20 million expenditure.

A number of negative impacts are associated with the Holdfast Shores development and associated projects. These include: the loss of view of the sea from Anzac Highway and Colley Terrace, due to the Holdfast Shores development; reduced and altered views along the coast, due to breakwaters at West Beach; a greater variation of beach levels in West Beach dunes, leading to a less natural looking dune area; reduction in available all-tide beach access; and disruption to beach users, due to additional sand-carting traffic. Again, we come back to the issue of what different people value. I have been contacted by a number of people since the press announced the release of the report and have been told that, under the previous Labor government, the requirements for any development in that area were that the view of the sea must be maintained for the length of Anzac Highway from Marion Road downwards. That provision was removed from the development proposal in relation to Holdfast Shores, and the view of the sea was required only from Colley Terrace. It seems that the view of the sea is something that many South Australians have valued, and it is disappointing that that was not preserved as part of this development.

**Mr MEIER** secured the adjournment of the debate.

## PUBLIC WORKS COMMITTEE: NATIONAL CONFERENCE OF PUBLIC WORKS AND ENVIRONMENT COMMITTEES

**Mr CAICA (Colton):** I move:

That the 191st report of the Public Works Committee, entitled National Conference of Public Works and Environment Committees—Western Australia 29 June-3 July 2003, be noted.

The Public Works Committee seeks to report on its attendance at the National Conference of Public Works and Environment Committees held in Western Australia from 29 June to 3 July 2003. Between 29 June and 3 July 2003, a delegation of the Public Works Committee, consisting of the member for Norwood, representing the presiding member, and the member for Schubert, attended the National Conference of Public Works and Environment Committees in Western Australia. The conference was hosted by the Economics and Industry Standing Committee of the Western Australia parliament. The conference was held in two locations, with the first stage conducted in Perth and the final three days in the towns of Karratha and Dampier in Western Australia's Pilbara region.

The conference's ostensible theme was the sustainability of regional development addressing the triple bottom line. The speakers addressing the conference represented a variety of academic, environmental, cultural and industry groups, with much of the focus being on regional development issues as well as wider economic and environmental concerns. The first day of the conference held in the Western Australian Legislative Assembly consisted of a series of speakers representing political, scientific, academic, industry and cultural groups, all of whom addressed the issue of sustainability and regional issues. The specific issues discussed in some depth included:

- regional governance and the importance of community involvement and ownership of development initiatives;
- Systemic approaches to environmental change;
- Processes and protocols by which industry—in particular, the resources and energy industries—can embed sustainable development principles in their operations; and
- Indigenous cultural awareness and facilitating a productive engagement between indigenous communities and regional socioeconomic institutions.

On the evening of 30 June, the delegates attended the official conference dinner at the Western Australian parliament. The remainder of the conference was held in Karratha and Dampier. On the flight to Karratha, the delegates were flown over Barrow Island, the Goodwyn and Rankine A offshore gas rigs—part of the North-West Shelf project—and were provided with commentary on the region by members of the host committee and Ms Erica Smyth from the Pilbara Development Commission.

On arriving in Karratha, the delegates attended a series of presentations at the West Pilbara College of TAFE. These presentations focused on regional development issues, including environmental impacts and indigenous relations, with a specific focus on the Pilbara, its resources and its people.

During the period spent in the Pilbara, the conference delegates were taken on site inspections of major resource projects such as the North-West Shelf gas facility on the Burrup Peninsula and the Hamersley Iron port facilities at Dampier.

The conference was further addressed by Dr Judy Edwards, Minister for the Environment in Western Australia, at a conference dinner in Karratha on 2 July 2003. The final day of the conference consisted of a presentation on the impact of the federal grants system on regional development, which was followed by a panel discussion and the presentation of papers from the attending committees. The member for Norwood, representing the Presiding Member, presented the South Australian committee's paper to the conference and, I understand, did an outstanding job on that task.

The national conference provided a valuable opportunity for committee members to liaise with their state and commonwealth colleagues, to discuss and, in the case of the Pilbara inspections, examine at first hand some of the country's most imposing and challenging regional developments and discuss their economic, social and cultural impacts. Pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee recommends that this report be noted.

Motion carried.

## LISTENING AND SURVEILLANCE DEVICES (PRIVATE ACTIVITIES) AMENDMENT BILL

**Mr HANNA (Mitchell)** obtained leave and introduced a bill for an act to amend the Listening and Surveillance Devices Act 1972. Read a first time.

**Mr HANNA:** I move:

That this bill be now read a second time.

This is an amendment to the Listening and Surveillance Devices Act. The legislation first came to the parliament in 1972, when the concern was that listening devices might be used improperly either by the police force or members of the

public generally. Since then, of course, there has been a revolution in technology and, in particular, in the range of surveillance devices available for use. In recent years, the legislation was amended to incorporate reference to surveillance devices particularly, but only in respect of the obtaining of warrants and the use of surveillance devices by law enforcement agencies. What was missing, then, was the protection of people's privacy, which has come increasingly under threat because of the ready availability of surveillance devices.

In recent months privacy concerns have been raised because of the use of concealed cameras or even openly used surveillance devices. These days they are so conveniently handled in the form of mobile phones, which have visual recording, reception and transmission facilities. There have been examples in the media in recent times of these devices being used in sports change rooms, for example, and to record images that sportspeople would consider private as they get changed is offensive to the community. There was also a case in Queensland of some sick and desperate men who used to go along to netball courts and record girls playing netball. There is currently no law against that sort of thing in South Australia. The measure that I am introducing does not go all the way to address these problems but it does go part of the way. It is a very modest proposal. It is very timely, too, because it was only today that the Speaker chastised the member for West Torrens for having in the chamber a mobile phone that has such a visual recording function.

The intention of the amendment is to make a difference to the Listening and Surveillance Devices Act so that the prohibitions in sections 4 and 5 cover surveillance devices as well as listening devices. Section 4 currently regulates the use of listening devices by prohibiting a person from intentionally using a listening device to overhear, record, monitor or listen to any private conversation, whether or not the person is a party to the conversation without the consent, express or implied, of the parties to the conversation. There is a maximum penalty of a $10 000 fine or imprisonment for two years. Section 5 of the act as it stands is a prohibition on the communication or publication of any information or material derived from such an improper use of a listening device. There is a gaping hole in the act in terms of the protection of privacy, because those sections contain no prohibition at all on the use of surveillance devices. With growing community concern about these devices and about privacy issues generally, it is time to fix that gap. The legislation that I am bringing to the parliament puts surveillance devices, including mobile phone devices with a visual recording function, on the same footing as listening devices for all purposes in respect of the act.

There has to be a change to the definitions section, because surveillance devices do not apply in respect of private conversations, which are currently defined in the act. 'Private conversation' is defined in the act so that listening devices can be regulated in relation to such conversations. I propose that a definition of private activities be inserted into the act, and it can be seen from clause 4 of the amending bill that 'private activity' is defined as meaning:

> any activity carried on by a person in circumstances that may reasonably be taken to indicate that any party to the activity desires it to be observed only by the parties to the activity, but does not include an activity carried on in a public place or in any circumstances in which any party to the activity ought reasonably to expect that the activity may be observed.

That is a fairly comprehensive definition. The key point is that, if people are carrying on some activity in private, whether by themselves or with others, the same protection that is currently afforded to them in terms of listening devices being regulated should apply in respect of surveillance devices also. That is a reasonable proposition and I hope to have the support of the Labor and Liberal parties in relation to it. It is quite a significant omission that activities being carried on in a public place are not covered by the proposal, so we are definitely talking about activities behind closed doors where people can more than reasonably expect to have their private activities carried on unobserved.

I have also left to one side an issue that came up in the parliament two years ago when there was a proposal for a public interest advocate to be provided and made the subject of the legislation so that there would be an independent watchdog on applications by law enforcement agencies when they sought to utilise a listening device or a surveillance device to observe potential criminal activity. That is an argument for another day. The proposition is quite simple and straightforward. It is to improve protection of privacy in relation to surveillance devices. It does no more than put surveillance devices on the same footing as listening devices. People carrying on in private have the right not only to carry on their activity without being bugged by a listening device but also to carry on their private activities unobserved by visual recording devices.

I refer briefly to the clauses of the bill. The two key clauses are clauses 4 and 5. I have already mentioned that clause 4 defines private activity, and that is meant to correlate to the definition of private conversation already in the act. There is also clause 5, which amends the act to regulate the use of visual surveillance devices to put surveillance device regulation on the same footing as listening device regulation. Thereafter one can see in the proposal that there are a whole range of consequential amendments so that surveillance devices are put on the same footing as listening devices throughout the entire Listening and Surveillance Devices Act.

**Mr MEIER** secured the adjournment of the debate.

## STATUTES AMENDMENT (RENAISSANCE TOWER—GAMING AND LIQUOR LICENCES) BILL

**Mr BRINDAL (Unley):** I move:

That this bill be restored to the *Notice Paper* as a lapsed bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

**Mr BRINDAL:** I move:

That this bill be now read a second time.

It embarrasses me to have to introduce this bill into the house and I think it should be a cause of great shame to the government. This bill passed—

**Mr Hanna:** Why don't they do it?

**Mr BRINDAL:** The member for Mitchell asked why the government is not doing it.

**The ACTING SPEAKER (Ms Bedford):** The honourable member should not respond, should he.

**Mr BRINDAL:** No, I should not respond. However, I make the point in my speech that this is a betrayal of trust by the government. This bill passed another place because the Hon. Robert Lawson, my colleague in another place, introduced it there. It arises because of a particular set of

circumstances. Briefly, for the benefit of the house, those circumstances were these. When it was realised that there were problems in a particular electorate with a gaming licence related to the Roosters Football Club, the government was minded very quickly to come in here and change the law in a way that it thought it would best suit the interests of the Roosters Football Club and other parties in the area. The opposition supported it.

It was, however, pointed out to the government at the time that another anomaly existed—a very similar anomaly in the form of a general purpose licence attached to the Renaissance Tower. The government's explanation of why the two could not be dealt with concurrently—and I know the Hon. Mr Stefani in another place was quite cross about the whole matter—was that it is all too hard, trust us; we will fix this up; quickly bring in another bill and change it. What happened? The Liberal opposition in another place was forced to introduce the bill.

The Liberal opposition in another place, with the concurrence of Independents in another place, saw that that bill had passage through that house and asked me and my party to sponsor that bill here. If that is open and accountable government, if that is keeping the government's promises, then I am very interested to see what will really happen when things get tough around here. What is the difference in the two cases? My friends who are practitioners in the legal profession in this place and will give a bit of free advice say that they cannot see any real difference at all.

**The Hon. W.A. Matthew:** One is not a football club.

**Mr BRINDAL:** The member for Bright is a bit unkind: he said that one is not a football club. Perhaps the truth is that one is not so prominent in a Labor electorate that it might cost them votes at the next election.

**The Hon. J.W. Weatherill:** That is a preposterous suggestion.

**Mr BRINDAL:** The minister says that it is a preposterous suggestion. When he has a chance to contribute, perhaps he might stand up and explain why members of the minister's party have said one thing and made promises not only to the individual business people concerned but also to fellow members of this house and another place, going around making all sorts of promises, which they then did not keep. Perhaps he might explain that.

**Ms Breuer:** That's your word. You stand there and make those rash statements. Say them out there.

**Mr BRINDAL:** The member for Giles says, 'Say them out there.' If she wants to come out with me, we can adjourn for 10 minutes and I will go out there and say it out there to every media person who will listen.

**The ACTING SPEAKER:** Order! Please return to the bill.

**Mr BRINDAL:** Yes, I will, Madam Acting Speaker, but that is what other colleagues have told me that is what they were told. She is calling not me but other of my colleagues a liar, and I do not think that is the sort of behaviour in which she normally indulges.

**The ACTING SPEAKER:** Nor is it very parliamentary.

**Mr BRINDAL:** Nor very parliamentary—thank you for your assistance, Madam Acting Speaker. This is a unique situation and mirrors that of the Roosters Football Club and merits the attention and concurrence of this house in maintaining consistency in the law. That is all that is being asked for in this place: some consistency of approach in the law, or will this government oppose this measure and say that there is one rule for this group and a different rule for that group?

This business did not seek to be in the position where it now finds itself. It found itself having to move because the landlord required the premises for another purpose. It had a particular, unique sort of licence, which now causes this problem and which can easily be rectified, and this house was minded to rectify it. Some of us were convinced not to rectify it at the time of the Roosters measure coming before the house because it would complicate matters. So, taking the government at its word, some of us were minded to listen and do things.

It is not for me to warn the government of the will of this house, because it is 47 collected members and the will of another place is entirely separate. However, it might just be, if governments come in here and tell individual members, be they Independents, members of the opposition or members of their own backbench, 'Trust us,' and then do not honour their promises, they may find that the next time they try the same trick it falls on rather deaf ears, because I for one will not be minded to fall for this sort of bland assurance again and then find myself leading debate on a bill that should have been introduced by the government.

Incidentally, I introduced this matter into this house some time ago, and noted with extreme interest the government's total inability to cooperate in furthering the matter. It languished badly because nobody on the government side, least of all the minister, had any particular interest in advancing this matter.

**Mrs Geraghty:** I am sharing with you some thoughts on the bill I brought in on children and employment.

**The ACTING SPEAKER:** Order!

**Mr BRINDAL:** My mother taught me that two wrongs do not make a right. Perhaps you should remember that. If we as a government in past times treated any measure you brought to this Houses unjustly, then we have cause to apologise. However, it does not make it right that you should seek to do the same thing—quite the contrary. Most of the bills that come before this house are general measures at law, which may or may not be good propositions and which in the fullness of time we may or may not pass. This is different.

This is about the individual livelihood of a group of people who have done nothing wrong. This is about a group of people who, according to law, were granted a particular sort of licence and established a particular sort of business on the premise that they were doing that lawfully and now find themselves, through no fault of their own, at a loss. Generally in such cases, especially if it is a class of people, the minimum we try to do as a government, be it Labor or Liberal (and I point to the river fishermen and many other examples), is say that these people through no fault of their own have been disadvantaged, what they were doing was legal, lawful and allowed by the government and, because we have now changed the rules, we will compensate them. That is fairly well established.

We are not saying that in this case. We are not saying that something has happened and that we did not realise it had happened, and we will given you compensation; nor are we saying that we will be fair. We are simply saying that if we stall or do nothing it might all go away. This opposition, having given its word, is prepared to keep its word, so I stand before you putting this bill on the table, telling the government that I will do everything I can, as will my colleagues, to advance this bill through all stages as speedily as possible. I urge the government, if it has any integrity at all, to keep the word it has given not to me but to many members in this place.

*The Hon. M.J. Atkinson interjecting:*

**Mr BRINDAL:** I repeat the Attorney's corroboration of my words. He interjects, 'Yes, that word was given to you and to many.' Obviously he realises that it was a promise made to many. In conclusion, I say to the member for Giles that there are some things which do not entail taking your marbles and going home. There are some things that involve standing up in this place for what is right, decent and fair, and I will be putting up my hand when it comes to voting for the integrity of this parliament and for the rights of decent people to carry on a business.

If the member for Giles chooses not to do that, that is her right, but I suspect that she is a fair-minded person and, if she considers this matter on its merits, she will vote for this measure, just as I would vote for a measure if it involved a person in Whyalla who was disadvantaged through no fault of their own. I commend this bill to the house.

**Mr HANNA (Mitchell):** I rise in support of the legislation. I will not speak extensively on this proposal because I did so on 29 May 2003. If there are any readers of *Hansard* who wish to go into that detail, it is at page 3 251 of *Hansard* of the last session.

**The ACTING SPEAKER:** I am advised that you have to adjourn the debate on this bill.

**Mr HANNA:** I beg your pardon, Madam Speaker, but I have not heard any adjournment so I am proceeding to speak to the second reading.

**The ACTING SPEAKER:** Apparently standing orders require it, member for Mitchell. I apologise for letting you continue.

**Mr BRINDAL:** On a point of order: which standing order?

**Mr HANNA:** That is fine. Madam Acting Speaker, I move a procedural motion. I move:

That standing orders be so far suspended as to allow this bill to pass through the house and through its remaining stages forthwith.

**The ACTING SPEAKER:** I have counted the house and, as an absolute majority of the whole number of members of the house is not present, please ring the bells.

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

**The ACTING SPEAKER:** Does the honourable member wish to speak in support of the proposed suspension motion?

**Mr HANNA:** I simply wish to point out for the benefit of members that the measure introduced by the member for Unley is a proposal the merits of which have been fully canvassed in this house by the government and the opposition on budget day, 29 May—I am sure we remember it well—and all of the arguments were put for and against. On that basis, which is a quite unique set of circumstances, I say that we should be ready today to get on with the debate and finalise our positions and vote on this bill.

**The Hon. J.W. WEATHERILL (Minister for Urban Development and Planning):** I want to speak against the motion. This motion is directed at the suspension of standing orders. In the ordinary course a recommitted bill would allow all members of the house the opportunity to put their positions in respect of it. There have been a number of steps that have taken place since the time when the bill was last before the house, including (and most crucially) the fact that the Independent Gambling Authority has now heard from the relevant—

**Mr BRINDAL:** I have a point of order. This is a motion on the suspension of orders, and the minister is canvassing matters that are the subject of debate.

**The ACTING SPEAKER:** I do not believe so. Please continue, minister.

*Members interjecting:*

**The ACTING SPEAKER:** Order! I do not believe so. I have asked the minister to continue.

**The Hon. J.W. WEATHERILL:** What is being sought by the mover of this procedural motion is that we should now debate this matter through its final stages. That is the proposition before the house. I am seeking to resist that, on the basis that this is an old measure that has now been reinstated to the *Notice Paper*. I am suggesting that there has been relevant material and relevant events that have occurred since the time when this matter was last before the house. All honourable members, including myself, are entitled to reflect upon those matters and prepare ourselves for a contribution about what ought to happen in this matter. It is a simple proposition about having the opportunity to make a proper contribution to this place.

The house divided on the motion:

AYES (20)

| | |
|---|---|
| Brindal, M. K. | Brokenshire, R. L. |
| Brown, D. C. | Buckby, M. R. |
| Chapman, V. A. | Evans, I. F. |
| Goldsworthy, R. M. | Gunn, G. M. |
| Hall, J. L. | Hamilton-Smith, M. L. J. |
| Hanna, K. (teller) | Kerin, R. G. |
| Kotz, D. C. | Matthew, W. A. |
| Meier, E. J. | Penfold, E. M. |
| Redmond, I. M. | Scalzi, G. |
| Venning, I. H. | Williams, M. R. |

NOES (20)

| | |
|---|---|
| Atkinson, M. J. | Bedford, F. E. |
| Breuer, L. R. | Caica, P. |
| Ciccarello, V. | Conlon, P. F. |
| Foley, K. O. | Geraghty, R. K. |
| Koutsantonis, T. | Lomax-Smith, J. D. |
| McEwen, R. J. | O'Brien, M. F. |
| Rankine, J. M. | Rann, M. D. |
| Rau, J. R. | Snelling, J. J. |
| Stevens, L. | Weatherill, J. W. (teller) |
| White, P. L. | Wright, M. J. |

**The DEPUTY SPEAKER:** Order! The motion fails for want of numbers; it needs to have 24. There are 20 ayes and 20 noes, therefore the motion fails.

Motion thus negatived.

Debate adjourned.

*[Sitting suspended from 5.54 to 7.30 p.m.]*

## ADMINISTRATION AND PROBATE (ADMINISTRATION GUARANTEES) AMENDMENT BILL

Received from the Legislative Council and read a first time.

**The Hon. M.J. ATKINSON (Attorney-General):** I move:

That this bill be now read a second time.

The bill amends the Administration and Probate Act 1991 to remove the requirement for administrators of vulnerable estates to provide administration bonds. These will be

replaced with surety guarantees and a discretion in the court to appoint joint administrators. At present, the Administration and Probate Act 1919 provides that a natural person who is seeking to administer an estate vulnerable to maladministration must enter into an administration bond with the public trustee. I seek leave to have the balance of my second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

An administration bond is required if the estate is considered vulnerable to maladministration because the natural-person administrator resides outside South Australia, or is a creditor of the estate, or because one of the beneficiaries lacks legal capacity.

An administration bond is an agreement between the Public Trustee and the administrator and his or her sureties. The administrator and his or her sureties, under the agreement, promise to pay to the Public Trustee the full value of the South Australian estate if the administrator fails in his or her duty.

If the administrator does fail in his or her duty, an interested party may apply to the Court to have the bond assigned from the Public Trustee to him or her. The interested party takes the place of the Public Trustee under the administration bond. The interested party may then sue on the bond to recover the value of the South Australian estate from the administrator and his or her sureties. The interested party then holds the money on trust for everyone entitled to share in the estate.

In recent years there has been a trend away from administration bonds in other jurisdictions. Victoria has abolished administration bonds, instead giving the Court a general power to require surety guarantees in any case it deems appropriate. The Western Australian law is similar. In New South Wales, both a bond and sureties are generally required in all administrations, but the Court may on application dispense with this or reduce the amount. In Queensland, administrators are in the same position as executors: neither a bond nor a surety is required.

The trend is therefore away from the somewhat fictitious exercise of assigning the bond so that the beneficiary can sue, and toward using the more direct protection of a surety guarantee. That is what this Bill proposes to do. It removes the requirement for a bond with the Public Trustee and requires instead a surety guarantee. This is an undertaking by a third party, for example an insurance company, that it will meet a person's liability should he or she fail in his or her duties as an administrator. The undertaking is only between the administrator and the person giving the surety, whereas administration bonds also include the Public Trustee as a party.

It has proven difficult, however, in recent times, for administrators to find sureties willing to guarantee the estate. The usual practice has been to arrange for an insurance company to act as surety at commercial rates. However, owing to changes in the insurance market, there is now no insurer trading in South Australia that is willing to act as surety for administration bonds. Sureties will only be available from private persons or entities willing to risk their own funds. Understandably, these are difficult to find.

The Bill therefore also provides that the Court can dispense with the requirement for a surety guarantee and, if needed, appoint joint administrators as an alternative safeguard against maladministration of the estate. The Court might, for example, appoint two family members to administer the estate together, or it might appoint a family member together with a professional person such as a lawyer or accountant.

The joint administration provides a practical solution to the problem of administrators being unable to find a third party willing to act as a surety. Retaining the requirement for surety guarantees in the first instance maintains protection for estates vulnerable to maladministration, as potential administrators will need to satisfy the Court that it should exercise its discretion and dispense with the surety guarantee and, if needed, appoint additional administrators.

This Bill therefore strikes a balance. It solves the practical problems of administration bonds and yet retains the protection for vulnerable estates against maladministration. I commend the Bill to honourable members.

Explanation of Clauses

*Part 1—Preliminary*

*Clause 1: Short title*

*Clause 2: Commencement*

*Clause 3: Amendment provisions*

These clauses are formal.

*Part 2—Amendment of Administration and Probate Act 1919*

*Clause 4: Substitution of section 18*

*18. Administration guarantees may be required before administration sealed*

Sections 18 and 31 of the *Administration and Probate Act* currently provide for administrators to enter into bonds with the Public Trustee for the proper performance of their duties in the administration of estates. Section 18 deals with bonds in relation to the sealing by the Supreme Court of administration granted by a non-South Australian court. Section 31 deals with bonds in relation to administration granted by the Supreme Court. Proposed new sections 18 and 31 similarly relate to the situations of the sealing of a foreign grant of administration and the local grant of administration, respectively. The new provisions contain matching requirements for a surety to guarantee any loss that a person interested in the South Australian estate of the deceased may suffer in consequence of a breach of the administrator's duties in administering the South Australian estate. Such a guarantee will be required where the administrator is not resident in South Australia or has a claim against or interest in the deceased's estate or where a beneficiary is not legally competent or where the court decides that the circumstances are such that a guarantee is required.

The requirement for a guarantee does not apply to the Public Trustee or any Crown agency or trustee company.

The Court is empowered to dispense with the requirement for a guarantee or to order that the guarantee may be with respect to a sum less than the full value of the South Australian estate.

*Clause 5: Insertion of section 23*

*23. Power to appoint joint administrators*

Proposed new section 23 is intended to make it clear on the face of the Act that the Supreme Court may grant administration to more than one person. The inclusion of this provision is in the context of proposed new section 31 which contemplates that the grant of administration to more than one administrator might constitute a basis for the Court to dispense with the requirement for a surety.

*Clause 6: Substitution of sections 31 to 33*

*31. Administration guarantees*

*See* the explanation above relating to clause 4.

*Clause 7: Amendment of section 46—Land to vest in executor or administrator of owner*

This clause amends section 46 so that it is clear that where there is more than one executor or administrator, land passing in the deceased's estate will vest in the executors or administrators jointly.

*Clause 8: Repeal of section 57*

The repeal of section 57 is consequential on the change from the requirement for administration bonds to the requirement for a surety described above in the explanation relating to clause 4.

*Clause 9: Amendment of section 58—Proceedings to compel account*

The amendment proposed to this section is consequential on the change from administration bonds to sureties.

*Clause 10: Substitution of section 66*

This section is reworded so that it reflects the change from administration bonds to sureties.

*Clause 11: Amendment of section 67—Judge may dispense wholly or partly with compliance with section 65*

Subsection (5) is also reworded to reflect the change from administration bonds to sureties.

*Clause 12: Transitional provision*

A transitional provision is included to continue the operation of the previous provisions of the principal Act in relation to an administration bond held by the Public Trustee immediately before the commencement of the measure.

**Mr BROKENSHIRE** secured the adjournment of the debate.

## STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

**The Hon. M.J. ATKINSON (Attorney-General)** obtained leave and introduced a bill for an act to amend the Bail Act 1985, the Criminal Law (Sentencing) Act 1988, the

District Court Act 1991, the Magistrates Court Act 1991 and the Supreme Court Act 1935. Read a first time.

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

That this bill be now read a second time.

This is a bill to provide formal statutory backing for two practices that have developed in the courts. One is the practice of directing defendants to undertake programs of intervention that help them take responsibility for the underlying causes of their criminal behaviour. The Magistrates Court uses this practice in its Drug Court program, its violence intervention program and its court diversion program for mentally impaired offenders. The second practice is the use of sentencing conferences in sentencing Aboriginal accused. The Magistrates Court uses this practice when sitting as the Aboriginal or Nunga Court. The Legislative framework is to be provided by amendments to the Bail Act 1985, the Criminal Law (Sentencing) Act 1988, the District Court Act 1991, the Magistrates Courts Act 1991 and the Supreme Court Act 1935. I seek leave to have the balance of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The previous Government consulted on legislative models for these practices in 2001. The people consulted included the Solicitor-General, the Chief Justice, the Chief Magistrate, the DPP, the Department of Correctional Services, the Department of Human Services, the Attorney-General's Department, the Courts Administration Authority, and the Magistrates who work in courts that use the practices. There was unanimous support for the practices and their need for a statutory basis.

I have continued to consult with the Minister for Police, the Minister for Health, the Minister for Social Justice, the Minister for Aboriginal Affairs and Reconciliation, Regional Affairs, and Correctional Services, the DPP, the State Courts Administrator, the Chief Magistrate and some individual magistrates, and with those responsible in the Attorney-General's Department for the establishment and the operation of the various programs.

I will speak first about intervention programs.

**Intervention programs**

In appropriate cases, the Magistrates Court will arrange for a defendant to be assessed for and, if suitable, to undertake a program of intervention (sometimes called diversion). This is an intensive program of treatment or rehabilitation or behaviour management designed to help the defendant deal with the underlying causes of his or her criminal behaviour.

There are presently three programs used by the court—the Drug Court Program, the Magistrates Court Diversion Program (dealing with mental impairment), and the Violence Intervention Program.

In the words of Justice Gray in the South Australian Court of Criminal Appeal decision of R v McMillan (2002) 81 SASR 540:

> The coordination of [these] programs requires a range of expertise. The programs are undertaken in conjunction with government agencies and non-government professionals. Ideally all involved work together towards a common purpose—to address the specific needs of the individual and achieve a result which benefits not only them but provides protection for the community from further offending.

The justice and human services systems have developed the programs collaboratively. The programs do not divert people away from the courts, like the shop-theft program and the police drug-diversion program. They are court-directed programs under which criminal proceedings, already begun, are held over while the person undertakes treatment or rehabilitation or is connected with appropriate support services. The programs are rigorous and demand considerable commitment from the participant. An order to undertake a program is usually made as part of a bail agreement before trial or sentence. Satisfactory progress in a program will be reflected in the sentence.

The kind of treatment and rehabilitation offered in a program will depend on the circumstances of the defendant and the scope of the program. For a drug-addicted defendant the program will usually include detoxification and urinalysis. For a defendant whose offending takes place in a situation of family violence, there is a range of behaviour management therapies. For some defendants, particularly those with a combination of behavioural problems, the program may include managed intervention other than treatment or rehabilitation in the strict sense—for example help in obtaining supervised lodging or acquiring independent living skills.

The Bill does not establish particular intervention programs or set guidelines for the approval or delivery of programs, this being the function of executive government. It is the government, not the courts, that should decide what, if any, programs it will provide, and how these programs should be accredited and funded.

**The legal framework**

The Bill provides a legal framework within which the courts may direct eligible defendants into whatever suitable programs exist at the time and take account of their progress. In doing so it does not create a separate intervention jurisdiction in any court, nor confine the authority to make an intervention order to any one court.

It is true that intervention is usually offered in Magistrates Courts, because it is here that a defendant first comes into contact with the court system. But the Bill does not preclude a higher court ordering and supervising intervention (other than mental impairment intervention, and I will explain this later) if the infrastructure is in place and such orders are appropriate for a particular defendant.

At present, only a few selected Magistrates Courts offer intervention. This means it is not available to every eligible defendant. The Bill makes intervention possible, ultimately, for all eligible defendants by allowing intervention to be arranged by any criminal court. But it does not create a legal entitlement to intervention, because it makes the court's ability to order intervention subject not only to the eligibility of the defendant but to program services being available at a suitable place and time. The Government of the day, not the courts, will determine how many eligible defendants have access to intervention by deciding how and where programs will be offered.

The Bill does not confine the intervention to one cause of a defendant's criminal behaviour, even though this is the practice now. At present, each program deals with a single cause of criminal behaviour, and only a specially designated court may direct a defendant to undertake that program. The court making the intervention order does not assess for or direct defendants into more than one kind of intervention, such as mental impairment as well as family violence intervention, even though this may be suitable. The Bill will allow but not compel a court to approve a defendant's participation in a combination of separate programs or in a program that combines more than one kind of intervention. A court's ability to make such an order will of course depend on whether the necessary assessment and intervention services are available to it.

Another important feature of the Bill is that a person's legal rights and access to intervention options are determined by a judicial officer, while the programs themselves are administered and delivered by non-judicial officers under the direction of the court. The court determines a defendant's compliance with an order to be assessed for or to undertake an intervention program.

The Bill gives the court the ability to include as a condition of bail or of a bond a requirement that the defendant be assessed for or undertake an intervention program. It may defer sentence to enable a defendant to be assessed for or undertake a program, or pending the defendant's completion of a program.

When determining sentence, the court may take a defendant's progress in a program into account. If a person fails to meet the requirements of a program, this will be reported to the court. The court may treat it as a breach of bail or of a bond, but has the discretion not to do so in appropriate circumstances, for example when all that may be necessary to ensure a defendant's continuing participation is an adjustment to program conditions and a warning from the court.

A court may make an order for intervention only if the defendant agrees to it. The court must also be satisfied that the defendant is eligible for the services offered by the program and that the services necessary to deliver the program to the defendant are available at a suitable time and place. This is important because, although the legislation will generally allow any court to order intervention, intervention programs are not now available through all courts.

The person advising the court about a defendant's eligibility for a program and the availability of services will be the intervention program manager, a person employed by the Courts Administration Authority to coordinate the orders of the court with the delivery of program services to defendants and to have oversight of all intervention programs. He or she will also let the court know when a person has not met the requirements of a program.

I now turn to some specific provisions within this general framework.

**Deferral of sentence**

The first is the proposed clause 19B of the *Criminal Law (Sentencing) Act*. This clause allows a court to adjourn proceedings after finding a person guilty and release the defendant on bail before determining sentence. The purpose is to assess the defendant's prospects for rehabilitation, or allow the defendant to demonstrate that rehabilitation has taken place, or arrange for the defendant to be assessed for or undertake an intervention program. This kind of procedure is known as a Griffiths remand. When proceedings resume on a specified date set no later than 12 months after the finding of guilt, the court may take into account the defendant's rehabilitation during the adjournment when determining sentence.

**Mental impairment**

The Bill contains some special provisions about mental impairment. For the purposes of intervention, a person's mental impairment is such as to explain and extenuate, at least to some extent, the conduct that forms the subject matter of the offence. It is a less serious level of mental impairment than that to which Part 8A of the Criminal Law Consolidation Act applies. Part 8A establishes procedures for determining whether a mental impairment renders a person mentally unfit to stand trial or mentally incompetent to commit an offence. By contrast, intervention is not offered to people who are intending to contest the charge on any ground, including mental impairment.

An admission of guilt is not a pre-requisite for a court ordering mental impairment intervention (or any other form of intervention, for that matter). It could not be so in the case of mental impairment without a test of the defendant's mental capacity to admit or deny guilt (fitness to plead) under Part 8 of the Criminal Law Consolidation Act also having to be a pre-requisite. This would make the process of intervention unduly cumbersome and capable of manipulation, and defeat its purpose—to help minor offenders (often those who have been de-institutionalised and have no-one supervising their medication or activities) to keep out of trouble.

To emphasis this, the Bill limits the court's powers of dismissal and release under the mental impairment provisions not only to summary offences or minor indictable offences, and allows these powers to be exercised only by the Magistrates Court or the Youth Court or a court prescribed by regulation. Such a court may, if it finds a mentally impaired defendant guilty of a summary or minor indictable offence, release him or her without conviction or penalty or dismiss the charge in certain circumstances. This provision has been included at the instance of the magistrates who preside over mental impairment intervention. They say that without such authority, they have no option but to make a formal finding of guilt where police have not withdrawn charges. In some cases that finding may carry with it criminal sanctions that will negate valuable progress made by the defendant in learning to live independently and responsibly and to have regular and reliable access to medical and other support services.

Of course, a mentally impaired person who undertakes an intervention program will not automatically be released without conviction or penalty, or have charges against him or her dismissed. For a start, not all mentally-impaired defendants are eligible for intervention (there being criteria for entry to the mental impairment intervention program that bar violent offenders), and of those who are eligible, not all will qualify for consideration for release or dismissal of the charge.

Before releasing the defendant or dismissing charges against him or her, the court must be satisfied that the defendant understands that he or she has a mental impairment, understands that it affects his or her behaviour, and has made a conscientious effort to address this by completing or participating to a satisfactory extent in an intervention program.

The court must also be satisfied that the release or dismissal of the charge will not endanger the safety of a particular person or the public. It may not dismiss charges if this would have the effect of denying a victim compensation by the defendant under the Criminal Law (Sentencing) Act.

A victim who suffers personal injury as a result of conduct the subject of a charge dismissed under this part of the Bill is in the same legal position in making a claim against the Crown for compensation for criminal injuries as a victim of the actions of a non-impaired person against whom charges are not proceeded with or are dismissed for any other reason. The Bill makes no special provision for this.

There is another option available to the court before it decides whether to dismiss charges against a mentally impaired defendant. If the defendant has begun but not yet completed an intervention program the court may release him or her on a bond to complete the program. The defendant must come back to court after completing the program, or if he or she fails to complete it, so that the court can decide whether to dismiss the charge in the way I have described, or whether to make a finding of guilt and proceed on that basis. If there is a finding of guilt, the court has a number of options. It may release the defendant without conviction or penalty under clause 19C(1) of the Bill or proceed under other provisions of the Criminal Law (Sentencing) Act that come into operation after a finding of guilt (like placing the defendant on a bond) or defer sentence under clause 19B of the Bill to assess the defendant's prospects of rehabilitation.

**Accessibility of evidence**

The Bill also amends the Magistrates Court Act, the District Court Act and the Supreme Court Act so that assessment reports that are prepared to determine a person's eligibility for an intervention program may only be inspected by the public with the permission of the court. Assessment reports are part of the court record and are taken and received in open court. But they should not be available freely to the public, because they are relevant neither to guilt, nor, necessarily, to sentence.

**Aboriginal sentencing procedures**

I now turn to the other court practice for which this Bill provides a legislative backing. The Magistrates Court has for some time used culturally-appropriate conferencing techniques when sentencing Aboriginal offenders. These techniques are designed to promote an understanding of the consequences of criminal behaviour in the defendant, an understanding of cultural and societal influences in the court, and thereby to make the punishment more effective.

The Bill formalises this process. It allows any criminal court (not just the Magistrates Court), with the defendant's consent, to convene a sentencing conference and to take into consideration the views expressed at the conference. The conference must comprise the defendant (or if the defendant is a child, the defendant's parent or guardian), the defendant's lawyer (if any), the prosecutor, and, if the victim chooses to attend, the victim (or if the victim is a child, the victim's parent or guardian) and the victim's chosen support person. The court may also invite to the conference, if it thinks they may contribute usefully to the sentencing process, one or more of the these people:

- a person regarded by the defendant and accepted within the defendant's Aboriginal community as an Aboriginal elder, or
- a person accepted by the defendant's Aboriginal community as a person qualified to provide cultural advice relevant to the sentencing of the defendant, or
- a member of the defendants' family, or
- a person who has provided support or counselling to the defendant, or
- any other person.

An Aboriginal Justice Officer employed by the Courts Administration Authority helps the court convene the conference and advises it about Aboriginal society and culture. The Aboriginal Justice Officer also helps Aboriginal people understand court procedures and sentencing options and helps them comply with court orders.

An Aboriginal offender's sentence, whether given using a sentencing conference or using standard sentencing procedures, may include a requirement to participate or continue in an intervention program. Using a sentencing conference procedure does not change the matters to which a court must have regard when determining sentence under section 10 of the *Criminal Law (Sentencing) Act 1988*, or any other aspect of sentencing. It is just a way of informing the court and the defendant and his or her community about matters relevant to sentence in a more comprehensive and understandable way than is possible using standard procedures.

**Administration**

Because this Bill formalises practices that already exist in the Magistrates Court, that court already has administrative procedures in place for both intervention programs and sentencing conferences.

The Courts Administration Authority has appointed an officer to manage and co-ordinate mental-impairment intervention, drug and family violence programs. This position is described in the Bill as that of intervention program manager. The position includes a delegate of that person.

For each defendant who undertakes a program, there is a case manager, whose role is also mentioned in the Bill.

Additional administrative arrangements by the Courts Administration Authority include authorising Registrars of metropolitan and

country Magistrates Courts that use these programs to arrange services to these courts, drawing on existing, retrained registry staff, and transferring Aboriginal Justice officers who are now attached to the Fines Payment Unit to the Aboriginal Court, reporting to the Registrar of that Court.

Because these are joint agency programs involving teams of professionals operating under different regimes, an inter-departmental senior executive group will be established to co-ordinate and oversee the service delivery and funding of the various programs, to make formal partnering agreements between the Justice and Human Services portfolios, and to monitor unmet need to inform future government funding of court diversion programs.

Giving legislative backing to these programs and procedures recognises their value to criminal justice and to the public. Intervention programs help people learn to take responsibility for the underlying causes of their behaviour and to live in a law-abiding way. Sentence conferencing helps to reduce the alienation of Aboriginal offenders that so often impedes their rehabilitation and compliance with court orders. I commend the Bill to members.

EXPLANATION OF CLAUSES

**Part 1—Preliminary**

**1—Short title**

This clause is formal.

**2—Commencement**

This clause provides that the Act will come into operation on a day to be fixed by proclamation.

**3—Amendment provisions**

This clause is formal.

**Part 2—Amendment of *Bail Act 1985***

**4—Amendment of section 3—Interpretation**

This clause inserts into the interpretation section of the *Bail Act 1985* ("the Act") a number of new definitions necessary for the purposes of the measure. A *case manager* is a person responsible for supervision of a person's participation in an intervention program. An *intervention program* is a program designed to address a person's behavioural problems, substance abuse or mental impairment and may consist of treatment, rehabilitation, behaviour management, access to support services or a combination of these components, all of which are supervised. An *intervention program manager* is a person who has oversight of intervention programs and coordinates the implementation of relevant court orders.

**5—Insertion of sections 21B and 21C**

This clause inserts two new section into the Act. Under proposed section 21B, a court may make participation in an intervention program a condition of a bail agreement. Before imposing such a condition, the court must be satisfied that the person entering into the agreement is eligible for the services to be included on the program and that those services are available at a suitable time and place. A court cannot impose a condition that a person undertake an intervention program if the person does not agree to the condition. A court may, in order to determine an appropriate form of intervention program, and a person's eligibility for the services on the program, make appropriate orders for assessment of the person. The person may be released on bail on condition that he or she undertake the assessment.

A person released on a bail agreement that contains a condition requiring the person to undertake an intervention program (or an assessment for the purpose of determining his or her eligibility) must comply with the conditions regulating his or her participation in the program. A failure to do so may be regarded as a breach of the bail agreement. A person released on bail on condition that he or she undertake an intervention program may apply to the court for an order revoking or varying the condition.

If an intervention program manager considers that a person has failed to comply with a condition regulating the person's participation in an assessment or program, and that the failure suggests the person is unwilling to participate in the assessment or program as directed, the manager is required to refer the matter to the court, which is then required to determine whether the failure to comply amounts to a breach of the bail agreement.

A certificate signed by an intervention program manager as to the availability of particular services and the eligibility of a person for services to be included on a program, is admissible as evidence of the matter certified. A certificate signed by a case manager as to whether a particular person has complied with conditions regulating his or her participation in an assessment or program is also admissible as evidence of the matter certified.

Proposed section 21C provides that an intervention program manager may delegate a power or function under the Act to a particular person or to the person for the time being occupying a particular position. A delegation may be by instrument in writing, may be absolute or conditional, does not derogate from the power of the delegator to act in a matter and is revocable at will. A power or function delegated may, if the instrument so provides, be further delegated.

**Part 3—Amendment of *Criminal Law (Sentencing) Act 1988***

**6—Amendment of section 3—Interpretation**

This clause inserts into the interpretation section of the *Criminal Law (Sentencing) Act 1985* ("the Act") a number of new definitions necessary for the purposes of the measure. A *case manager* is a person responsible for supervision of a person's participation in an intervention program. An *intervention program* is a program designed to address a person's behavioural problems, substance abuse or mental impairment and may consist of treatment, rehabilitation, behaviour management, access to support services or a combination of these components, all of which are supervised. An *intervention program manager* is a person who has oversight of intervention programs and coordinates the implementation of relevant court orders.

**7—Insertion of section 9C**

Proposed Section 9C of the Act provides that a sentencing court may, before sentencing an Aboriginal defendant, convene a sentencing conference and take into consideration views expressed at the conference. A sentencing conference can only be convened under this section with the defendant's consent. An Aboriginal Justice Officer will assist the court in convening the conference. An *Aboriginal Justice Officer*, as defined in subsection (5), is a person employed to assist the court in sentencing of Aboriginal persons and convening of sentencing conferences. An Aboriginal Justice Officer also assists Aboriginal persons to understand court procedures and sentencing options and to comply with court orders.

Subsection (2) lists the persons who must be present at a sentencing conference and subsection (3) persons who may be present. A person included in the list under subsection (3) may be present if the sentencing court thinks the person may contribute usefully to the sentencing process.

A person will be taken to be an Aboriginal person for the purposes of section 9C if the person is descended from an Aboriginal or Torres Strait Islander, regards him or herself as an Aboriginal or Torres Strait Islander (or, if a young child, at least one of the parents regards the child as an Aboriginal or Torres Strait Islander), and is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Islander community.

**8—Insertion of sections 19B and 19C**

Proposed section 19B provides that a court may, on finding a person guilty of an offence, adjourn proceedings to a specified date and grant bail to the defendant in accordance with the *Bail Act 1985*. The purposes for which a court may adjourn proceedings under this section include assessment of the defendant's capacity and prospects for rehabilitation, allowing the defendant to demonstrate that rehabilitation has taken place, and allowing the defendant to participate in an intervention program. The maximum period for which proceedings may be adjourned under the section is 12 months from the date of the finding of guilt. The section does not limit any power a court has to adjourn proceedings or to grant bail in relation to a period of adjournment.

Section 19C(1) provides that a court (as defined for the purposes of this section) may, on finding a defendant guilty of a summary or minor indictable offence, release the defendant without conviction or penalty if satisfied that the defendant suffers from a mental impairment that explains and extenuates, at least to some extent, the conduct that forms the subject matter of the offence. The defendant must have completed, or be participating to a satisfactory extent in, an intervention program, recognise that he or she suffers from the impairment, and be making a conscientious attempt to overcome behavioural problems associated with it. The court must also be satisfied that the release of the defendant would not involve an unacceptable risk to the safety of a particular person or the community.

Under subsection (2) of proposed section 19C, a court (as defined) may, at any time before a charge of a summary or minor indictable offence has been finally determined, dismiss the charge if satisfied as to the same matters about which a court must be satisfied in order to release a person without conviction or penalty under subsection (1). Additionally, the court must be satisfied that it would not, if a finding of guilt were made, make an order requiring the defendant to pay compensation for injury, loss or damage resulting from the offence. If the defendant is participating in, but has not completed, an intervention program, the court may, instead of dis-

missing the charge under subsection (2), release the defendant on a bond to complete the intervention program and to appear before the court for determination of the charge either following completion of the program or in the event that the defendant fails, without good reason, to complete the program.

In deciding whether to exercise its powers under section 19C, the court may act on the basis of information it considers reliable without regard to the rules of evidence. The court should, if proposing to dismiss a charge under subsection (2) or release a defendant on a bond under subsection (3), consider any information about the interests of possible victims that is before it.

*Court* is defined for the purposes of this section to mean the Magistrates Court, the Youth Court or any other court authorised by regulation to exercise the powers conferred by the section.

*Mental impairment* is defined to mean an impaired intellectual or mental function resulting from a mental illness, an intellectual disability, a personality disorder, or a brain injury or neurological disorder (including dementia).

**9—Amendment of section 42—Conditions of bond**

This clause amends section 42 of the Act. Section 42(1) lists the conditions a sentencing court may include in a bond under the Act. This amendment has the effect of allowing a court to include a condition requiring a defendant to undertake an intervention program. This clause also makes a number of consequential amendments to section 42. The court must, before imposing a condition requiring a defendant to undertake an intervention program, satisfy itself that the defendant is eligible and that the services are suitable. The court may make orders for assessment of a defendant for the purpose of determining an appropriate form of intervention program and the defendant's eligibility for the services included on the program. The defendant may be released on bail on condition that he or she undertake an assessment as ordered.

Under subsection (8), a certificate apparently signed by an intervention program manager as to the availability of particular services and the eligibility of a person for services to be included on a program, is admissible as evidence of the matter certified. A certificate signed by a case manager as to whether a particular person has complied with conditions regulating his or her participation in an assessment or program is also admissible as evidence of the matter certified.

**10—Insertion of section 72C**

Proposed section 72C provides that an intervention program manager may delegate a power or function under the Act to a particular person or to the person for the time being holding a particular position. A delegation may be by instrument in writing, may be absolute or conditional, does not derogate from the power of the delegator to act in a matter and is revocable at will. A power or function delegated may, if the instrument so provides, be further delegated.

**Part 4—Amendment of *District Court Act 1991***

**11—Amendment of section 54—Accessibility of evidence etc**

Section 54(2) of the *District Court Act 1991* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the Court. This clause amends that section by adding to the list of such material "a report prepared in connection with an order by the Court for assessment of a person to determine the person's eligibility for participation in an intervention program".

**Part 5—Amendment of *Magistrates Court Act 1991***

**12—Amendment of section 51—Accessibility of evidence etc**

Section 51 of the *Magistrate Court Act 1991* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the Court. This clause amends that section by adding to the list of such material "a report prepared in connection with an order by the Court for assessment of a person to determine the person's eligibility for participation in an intervention program".

**Part 6—Amendment of *Supreme Court Act 1935***

**13—Amendment of section 131—Accessibility of evidence etc**

Section 131 of the *Supreme Court Act 1935* provides that a member of the public may inspect or obtain a copy of certain material only with the permission of the Court. This clause amends that section by adding to the list of such material "a report prepared in connection with an order by the Court for assessment of a person to determine the person's eligibility for participation in an intervention program".

**Mr BROKENSHIRE** secured the adjournment of the debate.

## SUMMARY OFFENCES (VEHICLE IMMOBILISATION DEVICES) AMENDMENT BILL

**The Hon. M.J. ATKINSON (Attorney-General)** obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

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

That this bill be now read a second time.

This is a bill to provide a statutory basis for police use of vehicle-specific immobilisation equipment such as tyre deflation devices. Although New South Wales and the Australian Capital Territory have laws allowing police to use tyre deflation devices, South Australian law does not distinguish between the use of such devices and road blocks. It is the government's view that the requirements to lay out a vehicle immobilisation device should be less than the requirements for a road block. I seek leave to have the balance of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The road block laws in section 74B of the *Summary Offences Act 1953* allow police to set up a roadblock under the authority of a senior officer when they have reason to believe it will substantially improve the prospects of catching someone who has escaped from lawful custody, or who is suspected of committing an offence of illegal use of a motor vehicle, or who is suspected of committing an offence attracting a penalty or maximum penalty of life imprisonment or imprisonment for at least seven years.

For some time, South Australian police have used slow-release tyre-deflation devices using the same criteria. But using devices like these should not require the same level of authorisation as road blocks. The purpose of these devices is to target single vehicles, not traffic at large. Because stopping traffic at large can require complicated logistics and can inconvenience other road users for long periods, high level authorisation is required. By contrast, vehicle-immobilisation devices have a low impact on other traffic and are easy and quick to assemble and use in an emergency situation—for example to forestall a vehicle chase or stop it developing into a high-speed one. Their use should not require the permission of a senior police officer as long as the police using them have been trained to use them safely and legally, and the device is of a kind that has met prescribed standards of efficacy and safety. That is what this Bill does.

The Bill allows devices of a specified kind to be declared by regulation to be vehicle immobilisation devices. The declaration is made on the recommendation of the Minister. Only devices that have been comprehensively tested in South Australia, or in like conditions, and that have been shown in these tests to be capable of immobilising a target vehicle at an appropriate range of speeds without undue risk to its occupants or to people nearby may be recommended by the Minister.

Police now use a slow-release tyre-deflation device that has been tested extensively. The device deflates tyres gradually, so that the driver can maintain control of the vehicle. Only police officers with current operational-safety certification that includes prescribed training in the use of road blocks and in the use of vehicle-immobilisation equipment may operate these devices.

The Commissioner of Police has described how these devices were selected and what they do, and I quote:

> Most states in Australia and indeed most countries worldwide were, by 1998, either using or examining the viability of using the Stingers road spikes.
>
> During 1998 STAR Group expanded its field trials and purchased extra sets of Stingers. Training programs, videos and curriculum documents were developed. Information seminars were also provided to other operational police throughout the State in relation to the Stingers. Eventually SAPOL was to purchase large numbers of Stingers for all metropolitan and country LSA's. Training was provided, Standard Operating Procedures and General Orders were developed. Training in the use of the Stingers became part of the Incident Management and Operational Safety Training (IMOST2) program in 2001. All

operational officers are required to pass IMOST to remain operational.

Stinger Road Spikes are light (3.63 kg) portable and are carried around in a brief case size container. The device is simple to use and can be deployed by one person in five to ten seconds. The Stingers are deployed across a roadway in front of a suspect vehicle and once the tyres are spiked they can be quickly removed, thus minimising the danger to other vehicles using the same road, including police vehicles involved in the pursuit.

The Stingers are made of elastomeric nylon and are very difficult to damage, consequently little maintenance is required. Spare parts can be obtained locally. The spikes are 100% stainless steel and hollow in the middle. Once the spikes penetrate a tyre, air is slowly released through the inner core of the spike. The car will travel approximately 300 to 500 metres before the tyres completely deflate. The system is designed to allow a controlled release of air over distance. This is considered to be much safer. Conversely, if a car was travelling at high speed and suddenly lost air in all of its tyres the result could be catastrophic. This situation would not occur with the use of Stingers road spikes.

The Commissioner says, and I quote:

All operational members within SAPOL undertake regular training and assessment in the deployment and use of tyre-deflation devices. This training is an essential component in order to hold operational safety certification. Police officers who cannot attain certification cannot undertake operational duties. It is intended that this requirement be the benchmark for the future.

. . . SAPOL has developed strict protocols in the use of road spikes which is supported by compulsory cyclic training in their deployment to ensure safe work practices.

It is expected that the Commissioner will take steps to have Stinger road spikes declared to be vehicle-immobilisation devices once this Bill is passed.

I note that in May, 2003 the New South Wales police issued 600 sets of road spikes to 300 highway patrols and 80 local commands. 1800 police will be trained to use the spikes to terminate high speed pursuits. The issue of this equipment was a safety measure in response to an analysis of 9405 police pursuits since 1999, and after a two-year trial of the spikes.

This Bill makes safety a paramount consideration. Police officers who are authorised to use the devices have current operational-safety certification. The devices themselves have met prescribed safety standards. Before a device is used, police must consider the risk to occupants of the vehicle or people nearby, and may not use it if to do so would place these people at undue risk.

Police must also be satisfied that one of three other criteria is met before using a vehicle-immobilisation device. There must either be reasonable grounds for believing that using the device will greatly improve the prospects of catching a person suspected of committing a major offence or of catching someone who has escaped from lawful detention, or reasonable grounds for believing that the driver has disobeyed or will disobey a lawful police request or signal to stop.

It is this last criterion that is different from the criteria for road blocks. Road blocks are used only for catching people suspected of committing major offences or who have escaped lawful detention. The physical, logistical and legal prerequisites for setting up a road block will usually make it too cumbersome to use to stop a single vehicle whose driver has disobeyed a police request to stop. Although vehicle-immobilisation devices are a useful adjunct to road blocks in catching those who escape detention or people suspected of major crimes, they have the added advantage of allowing prompt targeting of single vehicles without much disruption to other traffic. They can be used to stop a fleeing driver at the earliest possible stage and stop the incident escalating into a high-speed pursuit.

Finally, the Bill substitutes the word 'detention' for 'custody' in the road block legislation, and uses it in this amendment, to ensure that road blocks and vehicle-immobilisation devices may be used to catch not only a person who escapes from police custody or prison but one who escapes from detention imposed by a court that has declared the person liable to supervision under the mental impairment provisions of the *Criminal Law Consolidation Act 1935*. People are detained in this way because their mental impairment has caused them to do something that would otherwise be considered a criminal offence, usually one of violence, and is likely to continue to do so. If such a person escapes, and is in a motor vehicle, police should be able to use a road block or vehicle-immobilisation device to catch him or her.

The Bill makes it clear to road users, police and the courts when and how vehicle immobilisation devices may be used by police, and what kinds of device may be used in this way. I commend the Bill to members.

**EXPLANATION OF CLAUSES**

**Part 1—Preliminary**

**1—Short title**

**2—Commencement**

**3—Amendment provisions**

These clauses are formal.

**Part 2—Amendment of *Summary Offences Act 1953***

**4—Amendment of section 4—Interpretation**

This clause relocates the definition of "major offence" to section 4 of the principal Act.

**5—Amendment of section 74B—Road blocks**

This clause amends section 74B of the principal Act by removing the definition of "major offence" and by substituting the word "detention" for "custody" to clarify that the measure applies to persons who have escaped whilst being detained under Part 8A of the *Criminal Law Consolidation Act 1935*.

**6—Insertion of section 74BA**

This clause inserts new section 74BA into the principal Act, which provides that an authorised police officer may, in specified circumstances, use a vehicle immobilisation device. The clause provides that the Governor may, on the recommendation of the Minister, declare a device of a specified kind to be a vehicle immobilisation device. The Minister must not make such a recommendation unless satisfied that the device has been adequately tested, and can, at an appropriate range of speeds, immobilise a target motor vehicle without undue risk to the occupants of the vehicle, and other persons in the vicinity. The clause also defines an authorised police officer as being a police officer authorised by the Commissioner, and defines a vehicle immobilisation device to be a device so declared by regulation.

**Mr BROKENSHIRE** secured the adjournment of the debate.

## FIREARMS (COAG AGREEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 244.)

**Mr BROKENSHIRE (Mawson):** I will be as brief as I possibly can in the interests of good business in the house. However, there are some important matters that I want to put on the public record in relation to this bill. First, the bill was talked about during a large part of 2002 after an unfortunate incident that occurred at a university in Victoria. I say 'unfortunate' because it appears to me that this most unfortunate and fatal incident occurred in Victoria because of what happened there with the management of firearms legislation, registration, licensing and the assessment of people as appropriate to own firearms. The attention of the public was drawn to this incident by the media which, as we all know, is concerned whenever there are unfortunate incidents involving firearms.

The Council of Australian Governments (which consists of the premiers of each state, the chief ministers of the two territories and the Prime Minister) signed off on an agreement in late November/early December last year for a buyback of certain classes of H-class firearms. There was a precedent for this in 1996 following the tragic circumstances at Port Arthur, when there was a buyback of automatic and semi-automatic rifles and so on. By and large, when a COAG agreement is signed off by premiers, chief ministers and the Prime Minister, it is supported by parliaments right across Australia and, from my understanding, the buyback principle is clearly supported in South Australia.

I want to put a few other points on the public record. Whilst the Premier of this state was pleased to make the announcement and get some media coverage on the fact that he and the other premiers, chief ministers and the Prime Minister had agreed to a hand gun buyback—

*Mr Caica interjecting:*

**Mr BROKENSHIRE:** No, I'm not opposed to the buyback. Just relax.

*Mr Caica interjecting:*

**Mr BROKENSHIRE:** Just relax.

*Mr Caica interjecting:*

**The SPEAKER:** Order! The member for Mawson has the call.

**Mr BROKENSHIRE:** Thank you, Mr Speaker.

*The Hon. M.J. Atkinson interjecting:*

**The SPEAKER:** Order! The Attorney has already had a say.

**Mr BROKENSHIRE:** The point I am getting at is that I have no problem with what the Premier was saying—so the member for Colton can be happy with what I am saying—but this was last year. The agreement was that the bill would be put through ready for the H-class hand gun buyback to start on 1 July 2003. It is now the penultimate sitting day before 1 October and we still do not have the legislation, the gazettal and the buyback in place.

I commend South Australia Police (for whom I have enormous respect, having been privileged to be their minister and shadow minister for several years) for being ready on 1 July. The police were ready as they always are, but the government was not. When I said in June that I was concerned that, although the police were ready the government was not, there was some interesting debate in the corridors and other places, as well as in the media.I said that I was concerned about not only the fact that the government was not ready while SAPOL was ready but also that the consultation with the people affected had been less than satisfactory.

*Ms Rankine interjecting:*

**Mr BROKENSHIRE:** The member for Wright may not have the sympathy that I have for legitimate bona fide legal firearms owners—that is her right—but I appreciate that legitimate firearms owners do the right thing with firearms. Statistically, less than 1 per cent of tragic incidents involving firearms involve people who are members of professional sporting shooters associations.

**The Hon. M.J. Atkinson:** A good point.

**Mr BROKENSHIRE:** As the Attorney-General said, that is a good point. Most of these tragedies occur where people have illegal firearms that are unregistered and unlicensed or when people who are not involved in sporting shooters clubs get their hands on a firearm. I will go no further on that, but I do want to put this on the public record.

The people who make up the Combined Sporting Shooters and Traders Council deserve very reasonable consultation when it comes to such a serious issue as this. Some of these people, who have been honourable members of society for all of their life (in fact, from my recollection probably all of them), have owned firearms for nearly 30 years, but now they will not be able to use those firearms any more and they will actually be crushed within the next six months.

I think those people should have been involved in better consultation. I am not personally having a go at the minister over this issue because he was in transition; it is the government, per se, with which I am not happy when it comes to the time frames. Members of sporting shooters and collectors groups are spread right across South Australia. They actually volunteer when it comes to the management involved in complying with legislation passed by successive governments, and they get very little, if any, assistance from government. As laypersons, they are expected to work through complex legislation. Of all the acts in which I have been involved as a member of parliament, the Firearms Act is one of the most complex and difficult for most of us to understand and comprehend and, after 1996, it got even more complex. Indeed, the bill before us today is even more complex.

So, I put on the record my disappointment with the time frames within which sporting shooters and collectors have tried to assess what the government wants. As shadow minister and lead speaker on behalf of the Liberal opposition, I have also found these time frames a little difficult. I personally believe that, in future, in respect of contentious issues such as this—and I would say this whether in government or opposition—we ought to have working groups within the parliament to work with the government of the day. Hopefully, by working with the government, the police and interest groups we could get better outcomes without the pressure that has been put on so many people.

I want to acknowledge in this house the minister's adviser. I do not do this very often, but I have had to do a lot of work with the adviser, and I appreciate the fact that we have been readily available for each other and that we have been able to try to work through what I now think is the fair and reasonable outcome that we are debating at the moment.

**The Hon. K.O. Foley:** You're more complimentary about the staff than you are about the minister!

**Mr BROKENSHIRE:** I am more complimentary about the staff than the minister because I have had a lot of staff as well, and I know that they bear the brunt more than the minister. I come back to the bill. What we had first was a bill that was far greater than what I had read and understood from the COAG agreement was to be in the bill. Because I do not want to mislead the house in any way, sir, particularly after your 18 months of guidance to members on those sorts of matters, when I was still police minister I encouraged SAPOL to look at a review of the act. That was probably two years ago now. I have no problem with that either—in fact, when looking at the pros and cons of the act, I think it is appropriate that it is reviewed. But I did have a problem, when I finally received a copy of the bill from the member for Stuart, when I saw that it went much wider than what was intended by the COAG agreement, and I had a real problem with the time lines. So, we had to try to get the bill split. I spoke to many people (and, ultimately, a lot of time, as I said, was spent with the police minister's adviser), and we got the bill split.

With respect to all the other matters that are of particular concern to many members of parliament (especially those from rural areas and those who have constituents who are members of sporting shooters' clubs, collectors and antique firearms, and so on), we will be able to deal with that separately at a later stage. I hope it will be quite a bit later, so that we have time to consult fully regarding those amendments so that they are the best possible amendments in the interests of all the parties—not the least of which are the police. At the end of the day, the police have to manage registration and operations, and sometimes the serious calls they get put them at the forefront, where firearms are part of the problem that they must deal with. I reiterate that, by and large and almost without exception, they are dealing with people who are not professional, who are not members of

sporting shooters' clubs and who often do not have regard to the law. I highlight people such as the outlawed motorcycle gangs who could not care less about whether or not they were registered or licensed and who would not even be appropriate to be a member of a sporting shooters or affiliated club.

When the bill was split, however, the opposition still had concerns, because they went even further with that bill than the specifics relevant to the COAG agreement. So, more work had to be done, and there were many more phone calls. I put forward a number of amendments, which I felt at this stage made for a fairer outcome for people associated with the benefits and the disadvantages of a COAG hand gun buyback agreement. I am pleased to see that those amendments were supported in the other house, and they are now part of the bill that we are debating here tonight.

At this stage, I owe it to a colleague of mine, the member for Chaffey (Hon. Karlene Maywald) to read in some of her comments. She is not in a position to be here tonight to debate this bill. However, she has spent time with me and other people associated with firearms working through our concerns because, like many of us, she has many pistol clubs, rifle ranges and legal firearm owners in her electorate. I would like to read into *Hansard* her points, as follows:

> Unfortunately, at the time the bill is scheduled to be debated, I will be absent from the parliament to attend a tour of key sites in my electorate with the Murray-Darling Basin ministers and advisers. In amending firearms legislation, I believe it is a responsibility of this place to ensure that the rights of law-abiding citizens are not impinged and that changes to the law actually achieve measurable outcomes. I seriously doubt that the hand gun buyback from law-abiding citizens will have any impact in reducing weapons related crime.
>
> The hasty manner in which this bill has been handled gives me cause for concern, as an issue of this complex nature requires considerable research and consultation with key stakeholders. It is gratifying to note that the government agreed to delete from this bill a range of measures not directly related to the COAG Firearms (Hand Guns) Agreement that were proposed in the original draft bill. It is concerning, however, that a number of extra measures were still present when the bill was introduced to parliament [in another house in this place]. I am therefore in full support of the amendments moved by the opposition that have brought the bill before the house more in line with the COAG agreement.
>
> In relation to further amendments to the Firearms Act, I will be seeking from the government a commitment to ensure that a proper consultation process is conducted before the next bill is introduced into parliament and that it is not rushed through at short notice.

As I said, I think those comments from the member for Chaffey could be dittoed by many members of parliament who will not necessarily be putting points on the public record tonight but whom I know, having received representations from a great number of them, would basically say what the member for Chaffey said if they were debating the bill tonight.

I want to thank colleagues on my side of the house who have written to me, rung me and had meetings with me on behalf of their constituents and expressed concerns about points that I have already raised in the house tonight. Whilst those people may not constitute a large percentage of the South Australian community who are legitimate, professional, responsible and dedicated sporting shooters and collectors and antique firearms owners, they have a right to be considered—as, indeed, do all members of the community who do not necessarily own firearms but who are concerned about safety issues generally when it comes to firearms and other offensive weapons and, indeed, violence generally. Many members of the parliamentary Liberal Party have put in an enormous effort with me, as shadow minister for police, with respect to these amendments to ensure that their constituents' voices were heard. I can assure those constituents that they were ably represented by their members and as a result we have seen, first, the splitting of the bill and, secondly, a fine tuning (if I can put it that way) of the bill we are now debating, to focus only on the specifics of the COAG agreement.

I foreshadow to the minister that I have one minor consequential amendment, which I will move when we reach the committee stage. The balance of the amendments that I was interested in on behalf of the people whom I have been discussing were passed in another place last night, and I sit comfortably with them, from the advice that I have received from people who were affected and who feel that that is a fair and reasonable outcome for all of them.

The final point I want to make relates to how we address the issue of illegal firearms and those people who make it unsafe to move around the streets of our cities—not only Adelaide and South Australia, but wherever you may go—those people who do not care about the law; those people who are not the professional sporting shooters who know the law and work within it extremely well. I refer to people such as outlawed motorcycle gang members and their associates. I will cite a recent example where, in a very good investigation, police apprehended an offender who had a mini firearms factory in their back yard, who was clearly affiliated with outlawed motorcycle gangs, who was interested in one thing only, and that was cash money, and who did not care about the consequences and the safety of the community.

They are the people whom we, as legislators, want to target. They are the people who put others at risk on the streets, and we need to see them behind bars, because they are not part of mainstream society. How will we do that? We can do that partly by legislation, but legislation is not worth the paper it is written on if we do not resource our police department properly. Therefore, I take this opportunity and I will continue to speak on this issue until the budget period in May, before the next election, when I will listen to the police minister and Treasurer tell me what a great job he has done of recruiting and increasing police numbers.

Until the Treasurer does that (and I will commend him for it, and then take the credit for fighting for so long to get the government to understand the importance of proper police resourcing), I will continue to hammer home what I am speaking about now. The best possible resource that we can give the South Australian community is 'more coppers on the beat'. That is where you make society safer, because police, dedicated as they are, can only do so much if their resources are limited.

I would like to see a doubling of the number of police officers in operation AVATAR, getting stuck even harder into the offenders who we know are there, and who are tied up with outlaw motorcycle gangs. That is where we will get our results, far more than from a COAG agreement. Also, I would like to see us—and I am sure this minister will do this, as I did with other ministers when I was in government—through the Australasian Police Ministers Council, doing whatever we can nationally to bring our intelligence and Crimtrack opportunities into 2003 and beyond.

By being able to work better, police jurisdiction by police jurisdiction, and police minister by police minister, working across borders and working more closely together to get that intelligence through to the local police, we will apprehend the offenders. That is how we will make the streets of South Australia and Australia safer. I do not believe we will gain a

lot out of this, albeit that I support the base principles—with 'base' underlined—of the COAG agreement, because sporting shooters, who I have said before tonight are responsible people, have said to me that they do support some of the initiatives of COAG—and these are people who are going to lose their firearms.

One said to me, 'I have got a legal little pistol at the moment, but I can easily conceal that in my pocket. I acknowledge that I am going to have to surrender it during the buyback. Whilst I would prefer not to lose that firearm, I see where they are coming from. It is those sorts of weapons that now and again get into the wrong hands and make it very difficult and unsafe for the police and the community.' So, these people have been responsible in their attitude.

However, I also need to say finally that Australia has done exceptionally well when it comes to international gold medal wins through the dedication, commitment, skill and passion of those sporting shooters. Only recently, we have seen some of them return from overseas shooting events with gold medals. Some are also police officers and emergency services officers who attend events such as the World Police and Fire Games. They have just returned from Barcelona and, although I understand that some of their results there were not as good as usual, by the time they finish in Canada and come here in 2007, and we see an extremely successful World Police and Fire Games here, we will see the skills of those dedicated professional shooters.

I believe that the COAG agreement has now addressed most of the negative matters concerning international events like the World Police and Fire Games that we were successful in winning when the Liberal government was in office and which this government is now working on to ensure that it will be a great success in 2007.

Having said those few words, I will finish by putting on the public record my appreciation for the input that I had from parliamentary members of the Liberal and National Parties and from other independents, and also from the representatives of the Sporting Shooters and Heritage and Collectors Clubs. They could have made life very difficult and opposed everything that was put up. They have not done that. They made sense with their representations to me requesting that there would be: firstly, a splitting of the bill, which we achieved; and secondly, some further amendments, which we also achieved.

They probably have a better knowledge of the act than most, if not all, members of parliament, and I say that because they are concerned to ensure that in running their clubs and associations they work within the law. They live with this act and they also have to live with decisions that parliament makes that sometimes work against their best interests. I put forward the analogy that if we were to suddenly change the shape and style of the AFL football, imagine the outcry that footballers—that is, if it was going to disadvantage them—and football supporters would make.

We have come through a situation where we have had to do this again, and they have sat down with me and been fair, reasonable and balanced in what they wanted. I think that they have received a good hearing and should be satisfied with the results that we have achieved within the parliament. We will debate the rest of the bill at a later date, and I hope we will have good consultation and bipartisanship in the working groups that set up the structures of the next bill that the Minister for Police will bring in, hopefully early next year.

**The Hon. K.O. FOLEY (Deputy Premier):** In closing the debate, can I say that this has been a difficult process for state legislatures—an arrangement agreed to at the national level by the Prime Minister and all state premiers. Whether individual states fully agreed or not, it was clear at COAG that the Prime Minister had an agenda, he wanted an outcome, and experience tells me that, regardless of one's individual politics, when a prime minister has an agenda and wants an outcome a prime minister normally prevails. That is a strength of our democracy and our parliamentary system in Australia, that, whilst at a state level we are responsible for many laws and are sovereign in our own right, for the good governance of the nation all of us—on all sides of politics and at state and national levels—need to strike a balance with the requirements of the federal leadership of our nation. It does not always mean that we agree or support, but it is about cooperation and agreement on what is the appropriate way forward for our nation. And this situation is no different.

I do not intend to go into details because I could be here for hours detailing my extensive knowledge of the firearms legislation in this state, and I do not think the member for Davenport, with his group in tonight, would want to have me rabbit on for too long, and nor would my colleagues. But it is not appropriate that I, in any way, try to show off with my extensive knowledge of the firearms legislation of this state and, as always, I will be humble.

**An honourable member:** It's hard to be humble.

**The Hon. K.O. FOLEY:** It's very hard. But the important point that I want to reiterate is that the decision by the prime minister to drive a policy position on firearms was made very clear to all premiers—regardless of individual views. My experience tells me that, regardless of a prime minister's political persuasion, on issues such as this they get what they want, and that is probably how it should be. If we do not like what prime ministers want, we have the democratic right every three years or less to vote a prime minister in or out on their policy track record.

We would all like to legislate as soon as possible after national agreements are made but even the shadow minister would acknowledge that, when ministers and premiers return to their jurisdictions with decisions taken at a national level, it is not always the case that one's colleagues or political opponents embrace that decision with great enthusiasm. I would be very surprised if the member for Mawson has not returned from the odd ministerial council, having made a brave decision, only to have his cabinet colleagues suggest that he was a little premature or a little ahead of the pack. It is no different from our side of politics, and we have to work through these issues.

Cabinet agreed on a position, the Labor party room agreed on a position and the opposition considered the bill. Extensive lobbying was undertaken by the constituent bodies, particularly the shooters' groups. I acknowledge the efforts of my staff, especially Michael Brown, and Brad Flaherty from SAPOL and his support staff, in working through what has been a very difficult process, although Brad has indicated to me that today was a walk in the park, apparently, in trying to reconcile issues around the nation. I say that with tongue in cheek, and it is easy for us as ministers and shadow ministers to decide what we should do, but the truth is that a lot of people behind the scenes have to implement it and they are the ones who have to confront the real bureaucratic nightmare that can happen when politicians decide that they want something and officers have to find some ways to implement it. I thank Brad and his team for persevering.

We seem to have agreement on all matters, although it might be presumptuous to say so. We will see how the committee stage goes, but I thank all officers and staff involved. I also thank the shadow minister for what has been, to all intents and purposes, a good display of bipartisanship. As I am sure the member for Heysen and the member for Davenport will have said to their visitors who are in the gallery tonight, probably 96 per cent of what passes through this parliament is agreed between the parties. It might be closer to 90 per cent but, despite what one sees at 2 p.m. in question time, the vast majority of what passes through this place is done by agreement, if not entirely bipartisan. This is an example of that and I thank the shadow minister, the Independent members and all other members of this house for ensuring that this legislation passes tonight.

Bill read a second time.

**The SPEAKER:** I would like to contribute some remarks. Members might know that I have a far greater proportion of sporting shooters and clubs of a variety of kinds in my electorate than anywhere else in the state. In fact, as far as I am aware, it is the highest of any state electorate anywhere in the commonwealth. The concerns that have been expressed to me regarding the proposed hand gun buyback, which is the subject of this legislation, include what in their view is the undemocratic manner in which the Prime Minister has forced his will over all the states. I do not know whether it is some obsession that he has or that of his wife.

Most of the people who have spoken to me—and there have been a large number—are very concerned that the registrar is presently acting beyond the scope of the act and of the regulations in forming policy without reference to the minister or, indeed, without concern for what the law says. That circumvents what parliament has intended. Whilst it may not be an issue for them at the present time, they are disturbed that the government itself allows one section of the police to act outside the law. Many people have asked me to discuss this with them prior to the introduction of the other part of this legislation.

The only other concern that I would want to draw attention to about this legislation, whether entirely relevant in this context or not, is that those clubs, and members within those clubs, who have spoken to me have told me that the government is refusing to deal fairly with them in that, whilst the government has stated that it will compensate owners of firearms for those firearms and the major components in the buyback, it does not go far enough. Those members make the point that, if they currently legally own items of equipment, spare parts and other material such as ammunition, that equipment will become valueless after their guns have been compulsorily acquired.

Ammunition for one particular firearm cannot be utilised in another, very often. Whilst powder in antique firearms can be used in a wide range, it is not fair to say that ammunition of other more contemporary forms can be used in other firearms, such that the ammunition becomes worthless. It is the area of greatest concern that ammunition and component parts that cannot be used after the buyback has been completed will not be compensated. It strikes me that, notwithstanding the apparent statement made by the commonwealth that it will not provide funds for that purpose, it is nonetheless undemocratic and that in any case it is the government's discretion as to whether it would choose of its own volition to find the extra few tens of thousands of dollars that might be involved to treat people fairly, people who have to date owned the arms and the components of which I speak quite lawfully and who will now be disadvantaged in consequence of the buyback scheme.

It prevents them from being able to rearrange their discretionary leisure expenditure from their personal budgets from what they have spent it on lawfully until now to spend it on some other form, perhaps of a firearms associated activity in their sporting activities of shooting, but unless they have the funds to redeploy, they cannot be considered to have been treated fairly by the government in the process.

In committee.

Clauses 1 to 8 passed.

Clause 9.

**The Hon. K.O. FOLEY:** I move:

Page 8, after line 18—
Insert:
(aa) If—
(i) the person who acquired the firearm was the holder of a shooting club member's licence; and
(ii) the firearm—
(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or
(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or
(D) is of more than .38 calibre; or

Page 10, after line 11—
Insert:
(aa) If—
(i) the person who acquired the firearm was the holder of a shooting club member's licence; and
(ii) the firearm—
(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or
(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or
(D) is of more than .38 calibre; or

These amendments have been subject to negotiation and discussion between the government and the opposition and the office of the federal minister, Senator Ellison, and I think on balance the amendments speak for themselves.

**Mr BROKENSHIRE:** On the advice given to me, these are technical amendments to address two matters that needed to be addressed. I am advised that they do not affect the amendments moved by the opposition in another place. I therefore have no problem with the amendments.

Amendments carried; clause as amended passed.

Clause 10 passed.

Clause 11.

**The Hon. K.O. FOLEY:** I move:

Page 12, after line 35—
Insert:
(aa) If—

(i) the person who acquired the firearm was the holder of a shooting club member's licence; and

(ii) the firearm—

(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;

(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or

(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or

(D) is of more than .38 calibre; or

This has been the result of negotiations between the government, the federal government, opposition parties and shooting groups, and the amendments speak for themselves.

Amendments carried; clause as amended passed.

Clauses 12 to 25 passed.

Clause 26.

**The Hon. K.O. FOLEY:** I move:

That clause 26 printed in erased type be inserted in the bill in the form that would result by leaving out subclause (3) and inserting new subclause (3) as follows:

(3) The Registrar must, as soon as practicable after the commencement of the surrender period, by notice in writing, cancel the registration of each firearm referred to in paragraph (a), (b), (c), (d) or (e) of subclause (2) that is registered in the name of a person who is the holder of a shooting club member's licence.

**Mr BROKENSHIRE:** I move to amend the proposed new clause as follows:

Page 17, line 18—Delete 'as a result of a regulation' and substitute 'on the commencement of this clause'.

Amendment carried; clause as amended inserted.

Title passed.

Bill reported with amendments.

**The Hon. K.O. FOLEY (Deputy Premier):** I move:

That this bill be now read a third time.

I thank members opposite and all Independent members of the house for the speedy but appropriate passage of the legislation. It has been one of these bills that has been well worked through prior to its coming into the house, and I thank the officers involved, my staff, the shadow minister and the house for the way in which this bill has had clear passage.

Bill read a third time and passed.

## SUMMARY OFFENCES (OFFENSIVE WEAPONS) AMENDMENT BILL

In committee.

(Continued from 23 September. Page 250.)

Clause 2 passed.

Clause 3.

**The Hon. M.J. ATKINSON:** During debate last night, the member for Mawson spoke about brawls in which broken bottles and glasses have been used as weapons, and he stated:

Those recent cases did not involve people carrying a so-called offensive weapon.

I do not know the exact circumstances of the brawls to which the member was referring, but I think it is probable that they could have been charged with carrying an offensive weapon. If this bill had been passed, it is probable that they could have been charged with the aggravated offence. As soon as a person takes up a glass or bottle with the intent to use it offensively, the glass or bottle would become an offensive weapon. The intent is likely to be manifested by the demeanour, words and actions of the person who has it. In any event, it is likely that the persons involved in the brawls could have been charged with other more serious offences, and it is for the police to decide which of several offences should be charged.

The member for Mawson also asked whether scissors are an offensive weapon. They are not intrinsically weapons—that is, they are not listed in the definition amongst the specific items that are offensive weapons. But the definition includes also 'other offensive or lethal weapon or instrument'. Scissors, like bottles and glasses, can be offensive weapons if they are carried with an intent to use them in an offensive way. The hypothetical schoolteacher peacefully carrying scissors to a craft evening referred to by the member for Mawson has nothing to fear. The person carrying scissors to fight with in the hotel car park has much to fear from the proposed law.

At that point, the member for Mawson reverted to looking at things as a dairy farmer and mentioned that farmers might need to carry items that would be regarded as offensive weapons.

**Mr Brokenshire:** It saves getting changed when you go home to milk.

**The Hon. M.J. ATKINSON:** I think that ought to be recorded. The member for Mawson says he might be carrying something that would be regarded as an offensive weapon as a dairy farmer if he was going home from a nightclub to milk the cows. Is that correct?

**Mr BROKENSHIRE:** Given that the Attorney has actually put that into the public record, I will say what I did say. As an example, I might have been delivering some cattle to the northern areas of South Australia and I carry my pocket knife, which has pliers, scissors, a bottle opener and all the other requirements that you need to look after oneself in that situation when you are away from home. If I happen to drop into a nightclub on the way home and then have to go and milk the cows, I would have thought that was a legitimate reason for having that with me.

**The Hon. M.J. ATKINSON:** I thank the member for Mawson for elaborating on his original remark. Despite the interjections of the member for Wright, we are conscious of his dilemma, and that is something that we have dealt with in the bill, and I shall elaborate.

The bill has been criticised by the member for Mawson as being not tough enough; on the other hand, the bill caused concern among some people that it would discriminate against sections of the public and render them liable to unfair prosecution and unjust conviction. We know that dairy farmers on their way home to milk the cows sometimes carry pliers into a nightclub; we do not dismiss that as a possibility. More seriously, we know that people living outside metropolitan Adelaide—farmers and farm hands—will go into licensed premises at night and they might have something connected with their vocation, such as a pocket knife.

The government consulted extensively on the ideas behind this bill through a public discussion paper and on the bill as introduced into the house last March. That is how long it has been around. We believe that the bill will bring about a worthwhile improvement in criminal law. Most of the responses to the bill as introduced were to the effect that the respondent had no further comment or was satisfied with the bill now that it allowed for the defence of lawful excuse.

Lawful excuse is where the dairy farmer finds his salvation. However, there were still some people who objected to it or had concerns about how it would be used. One of these was a representative of the Multicultural Communities Council. The council had some residual concern about whether people who have a weapon when performing traditional dances and ceremonies at licensed premises could be convicted of one of the new offences. A representative of that council mentioned as examples traditional Malay, Chinese, Japanese and Scottish performers and dancers. Many members of Scottish societies and members of pagan religions wrote to me or contacted my office after the publication of the discussion paper and after the distribution of the bill as introduced into parliament in March. So did a Sikh organisation. I have talked with some Sikhs, and Mr John Kiosoglous, Chair of the South Australian Multicultural and Ethnic Affairs Commission, recently met Sikh people in the Riverland.

I understand the concerns of people who carry knives, daggers or swords or other things that the police might regard as an offensive weapon or a prohibited weapon as part of their traditional costume or in compliance with a religious requirement. These are not the people who are causing the trouble on our city streets. These are not the people who are the cause of incidents in licensed premises at night or in car parks outside licensed premises. So, it is appropriate that the law grant them an exemption or at least a lawful excuse.

The government had all this in mind when it decided that it was necessary to allow for a defence of lawful excuse to the new offences of carrying an offensive weapon or possessing or using a dangerous article in or in the vicinity of licensed premises at night. People who have a sword or other offensive weapon or dangerous article for the genuine purpose of participating in traditional cultural ceremonies, dances or entertainments will have a defence of lawful excuse. They ought not to be worried, provided they behave in a socially responsible way. People who have daggers and some of the other weapons that are listed as prohibited weapons in the Summary Offences (Dangerous Articles and Prohibited Weapons) Regulations have to establish that they are exempt in the circumstances in which they have them. This is already the law, as the member for Mawson pointed out to us last night.

The bill does not change the law about prohibited weapons. People who want to take daggers, star knives, throwing knives or other weapons that are prohibited into licensed premises for ceremonies and performances and who are uncertain about whether they would be exempt under section 15(2a) of the Summary Offences Act and the regulations should consult the firearms branch of the South Australia Police and, if necessary, make an application for an exemption specific to themselves or their group. The way in which a law of this type is policed is also important. I am informed that the police will receive additional training about the policing of weapons laws and the need for cultural and religious awareness.

The member for Mawson also mentioned violence at sporting venues and asked about the people who are at them. If a liquor licence is available to the venue and it is nighttime, then this new offence would apply. If it is not nighttime or the venue is not licensed, then the offence of carrying an offensive weapon without lawful excuse or one of the other weapons offences would apply. Further, it is possible for the people who conduct sporting events to make it a condition of entry that people attending do not possess any weapons or things that obviously could be used as weapons. If they are serious about it, they are at liberty to require people seeking entry to pass through a metal detector and for bags and the like to be put through an X-ray machine as a condition of entry. The member for Mawson said last night:

> I just want to say that in many respects this bill is more of a stunt than it is about ensuring the better protection of the community.

**Mr Brokenshire:** The member for Mitchell agrees with me on that.

**The Hon. M.J. ATKINSON:** Yes, the member for Mawson is right; he had the support of the member for Mitchell. I am not sure that he is grateful for that but, yes, he did have it. The government and the police believe that serious violence in or around licensed premises occurs much more frequently late at night than in the early hours of the morning. Violence in and around licensed premises is not easily prevented. Centuries of common law and modern statutes about assaults have not eliminated it. No act of parliament about weapons could prevent all of it. Human nature being as it is, a few people will always disobey the law, either in a calculated way or in a moment of passion. However, the government believes that this bill will reduce the number and severity of assaults by discouraging people from taking weapons with them when they go to licensed premises and from picking up things to use as weapons while they are there.

The government is investigating other possible measures to reduce antisocial behaviour in and around licensed premises. A number of studies have been conducted in other states which indicate that many factors together tend to increase the likelihood of violent behaviour in and around licensed premises; for example, these include there being too many people for comfort in the premises, poor ventilation, lack of cleanliness, the lighting, the type of music—

**Mr Brokenshire:** Fog machines.

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

**Mr Brokenshire:** The foggers that they have in there.

**The Hon. M.J. ATKINSON:** The member for Mawson says that increases the likelihood of violence. I am willing to take his word for it, being as he is a dairy farmer who attends nightclubs! Further factors include other entertainment promotional practices that encourage consumption of a lot of alcohol in a short time, staff supplying liquor to people who are already intoxicated, sometimes the nature of the clientele, sometimes the attitude and conduct of the bouncers or other staff, and all the things that contribute to the atmosphere of the place.

A measure that has been tried with some success is establishing voluntary liquor licensing accords. Under an accord, the participating parties agree to cooperate with the Liquor and Gambling Commissioner's staff, the police and the council to minimise the harms associated with the consumption of alcohol in licensed premises. Policies and practices are worked out by the participating businesses, the Office of the Liquor and Gambling Commissioner, the police and the council, and sometimes other interested parties. Thus, for example, participating businesses might agree to engage security staff to patrol the street during and for a time after trading hours; and licensees might agree not to serve doubles or triples for base spirits or depth charges and agree to offer free water, and to be involved in promotions that encourage patron responsibility. They might agree also on minimum staff training standards to refuse entry to persistent trouble makers and to call police in certain circumstances.

The Liquor and Gambling Commissioner is reviewing the code of practice that was introduced in 1997 under the Liquor Licensing Act to see whether it can be improved to be made more effective. The Commissioner has extended an invitation to comment through his quarterly newsletter, and I understand that it goes to about 5 000 people. Also, a working party of officers is reviewing the regulation of crowd controllers.

The government has introduced this bill to discourage the carriage of weapons in and in the vicinity of licensed premises at night, and I think that it withstands the barbs of the member for Mawson.

One final point that the member for Mawson raised was the definition of 'in the vicinity of'. The phrase will bear its ordinary meaning. It is not an unusual phrase. The *Concise Oxford Dictionary* defines it as 'surrounding district; nearness in place to; close relationship to'. So, the factors to be taken into account in deciding whether a person is in the vicinity of licensed premises will be proximity or nearness to the premises and relationship to the premises; for example, a person lurking in a hotel car park looking for a fight will be in the vicinity of the hotel, because of the relationship between the car park and the hotel. A person in the street outside a licensed nightclub will be in the vicinity of the nightclub because of the proximity. 'In the vicinity' avoids the arbitrary results inherent in a specified distance.

I confess to the committee that we talked at one stage about the specified distance. For instance, a person 100.1 metres from the premises could be charged with a lesser offence only, whereas a person 99.9 metres from the premises could be charged with the aggravated offence. 'In the vicinity of' is used in the provisions that empower police to direct people to move on and to order groups to disperse. It is convenient to use the same concepts for this new police power and this new offence. A set distance will require the police to measure. I think this may be inconvenient. It will be usually difficult for the accused to measure at the time at night or later. So, I thank the member for Mawson for raising each of the points he did. They were substantive points, but I hope I have dealt with each of them fairly.

Clause passed.

Clause 4.

**Mr BROKENSHIRE:** I move:

Page 2, line 12 to page 3, line 14—
Delete subclauses (1) and (2) and insert:

(1) Section 15(1), penalty—delete '$2 500 or imprisonment for 6 months' and substitute:
$10 000 or imprisonment for 2 years

(1) Section 15(1b), penalty—delete '7 500 or imprisonment for 18 months' and substitute:
$10 000 or imprisonment for 2 years

This amendment is intended to simplify the law. It is designed to meet the policy objective of the government, and particularly so after listening to the explanations from the Attorney-General, when he said that the intent of this was to make it safer for people around nightclubs and hotels. Therefore, this amendment really fits beautifully with that by virtue of broadening it. It is designed to meet the policy objective of the government, namely, to make more serious the penalty for the carrying or the possession of offensive weapons and dangerous articles. This amendment will make the Attorney's bill even tougher, but it will also make the law tougher for all people who carry, possess or use offensive weapons or dangerous articles. This amendment will mean that offenders will be liable to heavy penalties whenever and wherever they offend.

The government's bill is limited. It deals only with offenders who are in the vicinity of licensed premises and offences committed between 9 p.m. and 6 a.m. So, if an offence is committed at 3 minutes to 9 or 2 minutes past 6 this bill is not worth much. This is illogical. Why should it be a lesser offence to go into the gaming parlour of a pub with a machete at 8.55 p.m. than to go in at 9.05 p.m. with the same offensive weapon? Why should it be a lesser offence to go into the casualty department of a hospital brandishing a nunchaku than to go into a pub at night, and why should it be a lesser offence to take a crossbow into a school than into a pub at night? Therefore, having heard what the Attorney has to say and supporting tougher legislation to keep the South Australian community safer, I recommend and encourage members of all political persuasions to support this important amendment.

**The Hon. M.J. ATKINSON:** The amendment would make the penalty for the simple offence of carry an offensive weapon and the penalty for the simple offence of possess a dangerous article the same as for the aggravated offence in this bill of carry an offensive weapon or possess a dangerous article in or near the vicinity of licensed premises at night. It would also make the penalty for the simple offensive weapons and dangerous articles offences the same as the penalty for the more serious prohibited weapons offences.

So, the member for Mawson's amendment would make the penalty for each of these offences the maximum penalty for offences under the Summary Offences Act. Although the member for Mawson says he supports the principle of the bill, his amendment would have the effect of making the proposed new offence redundant. The amendment is inconsistent with the idea of aggravated offences. An aggravated offence is one in which the parliament decides that there should be a more severe penalty if the offence is committed in certain circumstances.

The bill is to create aggravated offences of carrying an offensive weapon or a dangerous article without lawful excuse. The circumstances of aggravation are place and time: namely, being in or near the vicinity of licensed premises and being there at night. If the penalties for simple offences are raised to the same level as the penalties for aggravated offences, there is no point whatsoever in having an aggravated offence. If the amendment is passed, the government would have to consider withdrawing the bill from parliament. Also, the amendment moved by the member for Mawson ignores and would cut across the structure of section 15 of the Summary Offences Act.

At present, we have a three-tiered structure under which the penalties are graduated according to the seriousness of the offence. It might assist the committee if I provide some information about how this structure came about. For many years, there was just an offence of carrying an offensive weapon without lawful excuse. Then in 1978 section 15 was amended to add the offence of manufacturing, dealing in, possessing or using a dangerous article, thus creating a two-tiered structure. The penalty for this offence was (and still is) higher than the offence of carry an offensive weapon.

During 1998 and 1999 there were discussions through the Australasian Police Ministers Council about prohibiting possession of certain weapons and making non-firearms weapons laws throughout Australia uniform and consistent. The member for Mawson smiles because he thinks he knows what is coming. The member for Mawson was the minister

for police at the time. It was decided that all governments would introduce bills to structure their legislation similarly. The old offence of carrying an offensive weapon (however called) without lawful excuse was to be retained. In some jurisdictions this is limited to carrying in a public place, but in South Australia it applies to carrying anywhere.

The onus of proving lawful excuse is on the accused person. There was to be an intermediate category like our dangerous articles offences, then there was to be a more serious offence of manufacturing, dealing in, possessing or using a prohibited weapon unless one held a permit or was exempt in the circumstances. A list of prohibited weapons was agreed. Broadly, they are things which are unlikely to have any use other than as a weapon and which are readily concealed on or about the person or which appear to be harmless objects but in fact conceal a weapon.

The circumstances in which a person should be regarded as exempted or given a permit were broadly agreed. Although I understand there was not an agreement about what the penalty should be, I am told it was understood that they would be graduated so that the penalty for the prohibited weapons offence would be more severe than the penalty for the offensive weapons offence. Does this ring a bell with the member for Mawson? The effect of the member for Mawson's amendment is to spoil the scheme, which is part of a national scheme that he himself helped to create.

So, in a misguided attempt to prove himself and his party tougher on crime, the honourable member would obliterate one of the legacies of his tenure as police minister. We all remember that tenure fondly. Indeed, last night when some members and I were going home to the western suburbs after parliament adjourned, we were tuned into the Bob Francis program, which was being done by, I think, Andrew Reimer last night on radio 5AA (1395 on the dial).

**Mr Brokenshire:** Just before midnight?

**The Hon. M.J. ATKINSON:** Just before midnight. The member for Mawson came on, and I thought from the back seat, 'Shucks, I've missed my chance to promote my own legislation, but the member for Mawson is going to do it for me,' which he did, and I thank him for passing the anti-fortification bill in this chamber. We took bets on how long it would take for the member for Mawson to remind the vast radio 5AA audience that he used to be the police minister.

**Mr Brokenshire:** How long did it take?

**The Hon. M.J. ATKINSON:** I think it took about 90 seconds. It took from the time we left the car park until we got up the railway station ramp to North Terrace. It should be remembered that an intent to use a weapon or thing to harm another person is not an element of any of these offences. The offence is merely having the thing in circumstances in which the parliament has said that a person should not have it. If an intention to use the thing to kill or cause harm to another person can be proved, then the person could be charged with a more serious indictable offence under section 31 of the Criminal Law Consolidation Act. Those offences carry maximum penalties of 10 years or five years imprisonment according to the degree of harm intended.

In December 1998 this parliament passed amendments to the Summary Offences Act to achieve this basic structure of summary offences. Although it came from an Australasian Police Ministers Council, I note that the member for Mawson was gracious enough last night to give all the credit to the then attorney-general, the Hon. K.T. Griffin.

**Mr Brokenshire:** Good man.

**The Hon. M.J. ATKINSON:** The member for Mawson says, 'Good man,' and I can't disagree. I understand that other state and territory parliaments—except perhaps Tasmania—have passed similar legislation. The amendments passed by this parliament in late 1998 came into force when the necessary regulations were made in 2000. These regulations were preceded by extensive consultation and research, which was characteristic of the Hon. K.T. Griffin's tenure of his portfolio—

**Mr Brokenshire:** Very characteristic.

**The Hon. M.J. ATKINSON:** The honourable member referred to this extensive consultation in his contribution to the second reading debate last night. The amendment that the member for Mawson has moved would have the effect of spoiling this structure. There would be no point whatsoever in having different offences of carrying an offensive weapon and possessing a dangerous article when the defence and the penalty is the same for both; nor would there be any point in having the new aggravated offence that the government hopes will be enacted by this bill.

The committee divided on the amendments:

AYES (15)

| | |
|---|---|
| Brokenshire, R. L. (teller) | Brown, D. C. |
| Buckby, M. R. | Chapman, V. A. |
| Evans, I. F. | Goldsworthy, R. M. |
| Gunn, G. M. | Hall, J. L. |
| Kotz, D. C. | Matthew, W. A. |
| Meier, E. J. | Penfold, E. M. |
| Redmond, I. M. | Venning, I. H. |
| Williams, M. R. | |

NOES (19)

| | |
|---|---|
| Atkinson, M. J. (teller) | Bedford, F. E. |
| Breuer, L. R. | Caica, P. |
| Ciccarello, V. | Geraghty, R. K. |
| Koutsantonis, T. | Lewis, I. P. |
| Lomax-Smith, J. D. | McEwen, R. J. |
| O'Brien, M. F. | Rankine, J. M. |
| Rau, J. R. | Snelling, J. J. |
| Stevens, L. | Thompson, M. G. |
| Weatherill, J. W. | White, P. L. |
| Wright, M. J. | |

PAIR(S)

| | |
|---|---|
| Brindal, M. K. | Conlon, P. F. |
| Kerin, R. G. | Rann, M. D. |
| McFetridge, D. | Hill, J. D. |
| Scalzi, G. | Key, S. W. |
| Maywald, K. A. | Foley, K. O. |
| Hamilton-Smith, M. L. J. | Hanna, K. |

Majority of 4 for the noes.

Amendments thus negatived; clause passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

## ADJOURNMENT DEBATE

**The Hon. M.J. ATKINSON (Attorney-General):** I move:

That the house do now adjourn.

**Mr HAMILTON-SMITH (Waite):** I am choosing to grieve on the subject of exports and tourism, and I want to start on the issue of tourism. I hope the Minister for Industry, Investment and Trade does not leave because I have a couple of comments I want to make about exports. As it appears as

though the minister is leaving the chamber, I might start on exports.

I want to reiterate some of the points made in question time today regarding the current situation with exports in the state. It was quite obvious from the minister's reply to my question today that he either has not read the ABS statistics entitled 'South Australian Economic Indicators' dated 9 September, or else he has not evaluated and assessed the information contained therein. In particular, he has not read page 3, which indicates that the value of South Australian merchandise exports in original terms for the month of June 2003 was $576.6 million, a decrease of $11.7 million from May 2003 and 27.6 per cent down on the June 2002 figure of $796 million. There has been a decrease of 8.9 per cent in the value of exports in the 12 months to June 2003 over the preceding 12 months.

In essence, our exports are going backwards. In the first 12 months of this Labor government from June 2002 to June 2003, we have taken a massive stride backwards after the previous government tripled exports from 1993 to 2002, a spectacular feat, during which time the rise and fall of the Australian dollar was as much a feature as it is today. I urge the minister to take careful note of the information contained on pages 10 and 11 of those ABS statistics and look at each sector. It was very apparent from the minister's answer today that he does not quite get the point. He makes off-the-cuff remarks about the Framework for Economic Development for South Australia. We have all read it.

The minister fails to understand, however, that the opposition has not agreed to every recommendation in the EDB's report. If the minister would like to point to me in *Hansard* the firm commitment by the opposition to any of the recommendations of the report I would be delighted to hear it. The other thing he does note is that the opposition has not opposed the process, and in fact supports it.

*An honourable member interjecting:*

**The ACTING SPEAKER:** Order! The Minister for Trade is out of order.

**Mr HAMILTON-SMITH:** The minister is a member of the Labor government, and he has one interpretation on a recommendation in the EDB report and the opposition may well have others. But the reality is that you are in government and we are in opposition, so it is not our job to come out with detailed policy pronouncements. Rather, it is your job to come out with a strategic plan that guides the state's trading situation forward.

The minister claims that the trade result is a consequence of the drought. I urge the minister to look very carefully at the statistics because he will find that it is not a consequence of the drought. Some of it is attributable to the drought. If he looks carefully at the wheat grain holdings, the price of grain at the time and the overall spread of the decline in exports, he will find that some of it is in motor vehicles, some of it is in engine parts, and some of it is in metal products. It may astonish the Minister for Industry, Investment and Trade to know that metal products and motor car parts are not are not grown out in paddocks and are not subject to the drought.

I think the minister basically dodged the question. I urge him to get onto it and to explain to the house why our exports have stepped backwards. There may be very plausible reasons. It may be quite explicable. If it is, I would urge the minister to explain.

I want to take up another matter with the minister in regard to his comments today, but to save time tonight I will take that up with him privately. It has to do with an insult he included in his response today. Actually, I will mention it. He says in his response that the member for Waite 'claims to have an MBA.' The inference in the minister's comment was that I was lying or that somehow I was purporting to have an MBA but did not actually have one. I hope that was not his intention, because he would know that is wrong. I would ask the minister to apologise for that remark, but I will do so in the form of a grieve rather than raising a personal explanation during question time in front of all the media, as I do not want to embarrass the minister unnecessarily. But I suggest throw-away lines like that are probably uncalled for.

There is a problem with our exports, and they need to be fixed. I take the minister's point: there may be rational explanations as to why exports have fallen, but I ask the minister to come back to the house and explain why our exports have gone into reverse. Give us a full breakdown and a full reason. Do not fob it off. If there are issues, let us know. While you are decommissioning the Department of Industry and Trade and closing down the Industry Investment Attraction Fund and while you are looking to demolish the Centre for Innovation, Business and Manufacturing, purportedly because it is recommended in the EDB report, you may well be taking away the very energy drivers that have been used to drive exports forward. Before you decommission the structure, have a look at what is going on out there in the economy. You are the Minister for Trade, not us. It is your job to drive trade forward—go ahead and do it. That is all I will say.

I want to move on to the issue of tourism, which is very much a part of trade. In fact, trade in services looks to be one of the high growth sectors for the future. I want to commend the Adelaide Convention and Tourism Authority for its outstanding efforts in attracting conventions to the state. I attended their AGM last week, and I want to particularly commend Martin Winter, the CEO of that organisation, and all his hardworking team, and the Chairman, Mr Glenn Cooper of Coopers Brewery, who, along with the board, have done an outstanding job in getting results. Seventy-seven bids were submitted, 36 events were won, and over 81 000 bed nights were secured in the last 12 months. The economic benefit to South Australia of this effort was $63.5 million—an increase of 26 per cent over 2001-02. In addition, ACTA has provided 45 000 additional bed night leads, subsequently converted to actual bed nights. The conference wins for regional South Australia have seen a 57 per cent increase, and that is an outstanding effort from ACTA. Future business secured by ACTA involves 58 conferences that are still on ACTA's books out to the year 2009, the economic value of which could exceed $171 million.

ACTA has 371 members and its membership fees are considerably less than the national average, yet it has generated membership revenue of $343 000, with 28 member events conducted throughout the past 12 months. They have attended key trade shows in Alice Springs, Honolulu, Brisbane, Thailand with the Team Australia Asian Roadshow, Bangkok, Melbourne and Frankfurt. Sponsored by the SATC, the Adelaide City Council, the councils of Onkaparinga, Enfield, Holdfast Bay and Marion, along with Qantas, ACTA is a shining example of getting things done. At a time when, as a consequence of SARS and the war, a third of all travel agencies in the United States have closed in the past year and there was a 21 per cent slump in tourism arrivals in May—7 per cent down for the year—it shows how much we need organisations like ACTA. Martin Winter and his team are doing an absolutely fantastic job. They have identified

research yield and the need for better air links to and from Adelaide as key targets, and they are out there doing it. Far from the claims by the Minister for Tourism last year that ACTA was dysfunctional, it is out there doing a fantastic job.

In conclusion, I urge the Minister for Trade and the other economic ministers opposite, including the Minister for Tourism, to get out there and look at what is happening in the economy. We have had a lot of reviews and glossy reports, and the whole economy is being propped up by a housing bubble and by credit fuelled retail. There are concerns about the underlying strength of this economy in regard to exports and in regard to tourism growth and tourism potential. What the Minister for Trade and the Minister for Tourism need to do is get out there and get the economy working. Before they demolish the Public Service, before they demolish the means to do that, they must find out what is going on, develop a plan to fix it and develop the structures to do that.

Motion carried.

At 9.22 p.m. the house adjourned until Thursday 25 September at 10.30 a.m.