HOUSE OF ASSEMBLY

Thursday 7 April 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 10:31 and read prayers.

ROAD TRAFFIC (TRAFFIC SPEED ANALYSERS) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:32): 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 (Fisher) (10:32): I move:

That this bill be now read a second time.

This bill seeks to not only clarify but reform and rectify a major problem with respect to the Road Traffic Act. This is reinforced by the judgement of His Honour Justice Anderson, where, on appeal from my magistrates hearing, he held:

It is not a prerequisite to the section 175(3)(ba) presumption of accuracy that the Australian standard or police general order be complied with.

We are talking here about the use of handheld lasers (LTI lasers) used by the South Australian police, so what the judge ruled—and I agree with his ruling even though I would have liked a better outcome from that appeal—was that there is no legislative authority or requirement that the police have to maintain or meet the Australian Standards in relation to the use of the lasers or comply with the police commissioner's instructions, which are in the general order.

With speed cameras there are various protocols and standards set out, and the irony of all this is that the South Australian police are on the Australian Standards Committee for lasers, yet they do not have to follow the standard. The judge raised the point as to why the parliament—the legislature—did not put in any requirement for these devices to meet standards. It is even worse than not complying with the Australian Standards: they do not have to comply with any standard—no standard whatsoever.

In my case, at the time I was pulled over, the police were not even in conformity with the National Association of Testing Authorities, because they had been suspended. They should be required to meet that, and that is spelt out in the bill as well. If you are going to have a system of traffic speed enforcement, which I do support, it has to be done properly. It has to be based on proper standards, not some vague and undefined arrangement, because that is just unacceptable. The public out there at the moment do not have the protection of the police having to meet any standards whatsoever.

I met with the police commissioner here last week and I asked him whether he had read the judgement of His Honour Justice Anderson of 2 September 2010, and he said he had not read it. It is a pretty significant judgement where, in effect, Justice Anderson is saying that the police commissioner's orders in relation to the laser do not have to be complied with—that is the essence of it. This bill seeks to remedy that deficiency, and it requires, in the use of lasers, that they meet the Australian Standards.

It also requires that the person or body carrying out the calibration of the laser must hold a current National Association of Testing Authorities' accreditation appropriate to the carrying out of that calibration. Furthermore, the instrument that calibrates the laser must be issued under regulation 13, or be the subject of a certificate issued under regulation 13, of the National Measurement Regulations 1999 of the commonwealth. When I took this matter to the Full Court and they would not allow it to be reviewed, the Crown itself argued about those national requirements and used the word 'hearsay'. In other words, the annual calibration of the laser in accordance with the National Measurement Act in their view is hearsay and has no validity whatsoever in law. It is incredible that you can have a scientific instrument that is not subject to and does not meet requirements under the National Measurement Act.

The National Measurement Act applies to lasers and any instrument that measures distance, volume and so on. Imagine the outcry if you were in a hospital and they said that you need some radiography but that the machine had not been tested and was not subject to any standards. There would be an outcry, yet currently—and they would be out there today—we have police using a device that does not meet any of the relevant standards.

This bill requires proper compliance certificates to show that the instrument has been properly tested and is being used in accordance with the standards. The act also specifies that proper records have to be kept. In my case in the Magistrates Court, the police officer admitted that he had done the afternoon testing at the same time as he had the morning testing. The magistrate indicated that that was not appropriate, but she still ruled in his favour as part of a total package.

I think this bill is a necessary reform. I have given a copy to the Law Society and to other interested parties. I believe it is a necessary reform, and I can see no reason why the parliament should not support it in the interests of maintaining the integrity of the system. Police have admitted to me that the current system relies totally on the integrity of the police officers involved. We know that most of them are people of integrity but, in order to avoid doubt when you go to court or if anyone wants to check the reading on the laser, that should be done in a proper, open and transparent way, and people should have confidence in the system. I commend this bill to the house.

Debate adjourned on motion of Hon. I.F. Evans.

EXPIATION OF OFFENCES (SPEEDING OFFENCES) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:40): Obtained leave and introduced a bill for an act to amend the Expiation of Offences Act 1996. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:40): I move:

That this bill be now read a second time.

This bill is also, I believe, a necessary reform. I do not know whether members appreciate the system, but currently if a police officer issues a motorist with an expiation notice for speeding they do not get the complete notice. What they get is a top tear-off slip, which indicates the alleged offence, a general description of where it happened (it could be, like, South Road) and the penalty.

The real nitty-gritty is in the rest of that expiation notice, which you do not get unless and until you go to court. In my case it was seven months after the alleged offence that I got the information which tells you where the officer is and the amount of traffic. That is absurd because, within the space of a couple of weeks, you have to indicate whether or not you want to be prosecuted in court or whether you want to pay the expiation, yet you do not have the information that is on the expiation notice to take into account when making that decision.

What this bill does—and I have spoken to several motorcycle police, and they do not see any difficulty with doing this—is to ensure that the motorist gets the complete expiation notice at the time of the alleged offence, and that makes sense to me, not only for the reasons I have just indicated but I think in terms of fairness to the motorist and also to the police officer.

I have spoken to some senior police and they say, 'Well, look, we don't give people details of other more serious crimes unless and until they go to court under the process of discovery.' But this is about people who are alleged to have been speeding. This is not about murder, rape or bank robbery. I think that, just as you can apply to get a photograph for an alleged speed camera offence, you should also get the relevant information if you are handed an expiation notice, and that is what this bill does. I do not believe that it is anything excessive in terms of the officer filling it out. They have to fill it out. They are supposed to fill it out there and then. I think that it is very dangerous if they fill it out later from memory because then you will get the problems that occurred to me in my case.

The other aspect of this bill—and it is already done in New South Wales, and, I believe, the Liberal Party here had a proposal in the lead-up to the election, which was somewhat in accordance with that—is that if you wish to challenge an expiation notice, it does not go back to the police, it goes to a different body. What this bill is suggesting is that the review of the disputed expiation comprise a justice of the peace (or someone similar), a police officer with extensive experience in the enforcement of laws relating to driving vehicles and a person with technical expertise, which is similar to the system in New South Wales. Here, if you dispute an expiation it goes back to the police who naturally say, 'Yes, we got it right the first time.' It should go back to an independent body. I am suggesting that if you want to take up that option you pay $50, and if your challenge is upheld by that independent group you get your money back, obviously, and you do not pay the fine. I think that is a sensible, reasonable option.

As I said, I believe that it is part of Liberal Party policy. It is not called a committee; I think they are calling it some sort of ombudsman or something like that. It would not only save the police

a lot of time and effort, but it would also save our courts from being clogged up with people contesting traffic matters which should and could be considered by this independent group of three people. It is not only a step on the road towards justice, but it is also a cost-effective measure.

This bill, I believe, is a reform measure. I think it is sound and sensible, and the police on the ground who are the ones who hand these out—and as I say, I have spoken to several of them—see no problem with giving the motorist the copy of the expiation notice at the time. The notice could and should indicate whether or not the person viewed the laser or whatever the instrument was, and they can see what comments, if any, have been written on that expiation notice. I think it is a step in the right direction in terms of ensuring that our traffic enforcement system has a high degree of integrity, so I commend this bill to the house.

Debate adjourned on motion of Hon. I.F. Evans.

ELECTRICITY (RENEWABLE ENERGY PRICE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March 2011.)

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (10:47): This matter has been before the house a number of times now over the last few years. The government introduced an electricity feed-in scheme which started on 1 July 2008. In the original legislation, the government had a statutory review which was to occur when the total installed capacity reached 10 megawatts. That occurred in May of 2009. The statutory review did not start until I raised the matter on public radio in this city in October 2009, and the then minister immediately announced that the review was being established and the review was to report to the government by the end of December 2009.

We heard nothing of the review, no response from the government, in the run-up to the 2010 election last year. Eventually we heard a response from the government in August of last year where the government set out its response to the review including some changes to the feed-in tariff that would be paid and indicated that, when the legislation came before the house, the government's response would be put into legislation and, from memory, that it would be backdated to that August date.

To date, we have seen no legislation, so the government has lost interest in this whole matter. As I said way back in early 2008 when we were debating the original legislation, the only interest that the government had in the feed-in scheme was to get a headline. It was about rushing in some legislation so that the Premier and his energy minister could claim that South Australia was the first jurisdiction to have a feed-in scheme and a feed-in tariff. They met that deadline, became the first state to have a feed-in scheme, and the government has shown no interest in the matter ever since, notwithstanding—

The Hon. M.F. O'Brien: I introduced a bill yesterday.

Mr WILLIAMS: Did you?

The Hon. M.F. O'Brien: Yes, I did.

Mr WILLIAMS: I apologise. The minister informs me that he introduced a bill yesterday—which I was unaware of. I congratulate the new minister. He has only been in the position for a matter of a month or two and he has done something that the previous minister failed to do in three years. I congratulate him and look forward to seeing the legislation before the house.

Notwithstanding that, the government's response (which was issued last August and, I assume, the legislation reflects that response) was again to impose the cost of an increased feed-in tariff on all electricity consumers and not impose any financial burden on electricity retailers who are making windfall profits by onselling green energy fed into the grid from small-scale photovoltaic generating systems, principally on domestic residences.

The bill that I have before the house would see electricity retailers paying for the electricity; paying the people who own the equipment that produced that electricity to feed into the grid wherefrom those electricity retailers onsell that electricity as green power. My bill would see those retailers paying the people who produced that electricity.

Before the electricity feed-in tariff system was initiated way back in July 2008, the electricity retailers were paying around about 20¢ for electricity which was fed in under these circumstances. Today at least one retailer pays nothing and it is my understanding that two other retailers pay

about 6¢ per kilowatt hour, which is a lot less than what they used to pay. As soon as we introduced the feed-in tariff the electricity retailers took the windfall gains and walked away from their responsibility to pay for something which they were onselling—and my bill seeks to redress that and put the onus back on retailers to buy that electricity. I commend the bill to the house.

Second reading negatived.

STATUTES AMENDMENT (ENTITLEMENTS OF MEMBERS OF PARLIAMENT) BILL

Adjourned debate on second reading.

(Continued from 22 July 2010.)

Mrs GERAGHTY (Torrens) (10:57): This bill is similar to a bill introduced into the house by the Hon. Dr Bob Such on 13 November 2008, and that bill was not passed. This latest bill, the Statutes Amendment (Entitlements of Members of Parliament) Bill 2010, proposes amendments to the Parliamentary Superannuation Act 1974 and the Remuneration Act 1990.

The proposals contained in the 2008 bill, which sought to amend the City of Adelaide Act 1998 and the Local Government Act 1999 for the purpose of transferring responsibility for setting the annual allowances payable to local government councillors from the respective council to the Remuneration Tribunal, have not been included in this latest bill.

The bill proposes amendments to terminate the existing nexus between the basic salary paid to a member of the state parliament and the basic salary paid to a member of the House of Representatives in the commonwealth parliament. If enacted, this legislation would require the Remuneration Tribunal to determine the basic salary payable to state members of parliament. Furthermore, under this legislation, increases to the salaries payable to state members of parliament would not automatically flow on from salary increases granted to members of federal parliament. If this legislation were to be enacted, the Remuneration Tribunal would set the salaries to be paid to members of state parliament from time to time.

This bill also proposes the closing of the existing PSS3 division of the Parliamentary Superannuation Fund and the establishment of a new PSS4 division of the fund. It is noted that the legislation proposes that all persons who become members of the parliament at or after the March 2010 general election would become members of the PSS4 scheme. This would appear to be an error in the drafting of the legislation, as this date appears in the original 2008 bill. The problem is that the existing PSS3 scheme has already admitted 11 new members who came into parliament at the March 2010 election.

In addition, the terms and conditions of the PSS4 scheme are still not known at this stage and are not specified in the bill. In fact, the bill proposes that the Remuneration Tribunal hold an inquiry to determine what is an appropriate scheme for future members of state parliament. It is noted that the legislation proposes that the tribunal must provide the Parliamentary Superannuation Board with a report of its inquiry, and also provide the board with a draft copy of a trust deed that would set out the rules and terms and conditions for the proposed new PSS4 scheme. It is noted that the bill requires the report to be prepared by the tribunal by 30 September 2008, which has clearly passed. Once again, this would appear to be a drafting error as the same date appears in the original 2008 bill. There is no need to this legislation and the government will not be supporting it.

The Hon. R.B. SUCH (Fisher) (11:00): I heard what the member for Torrens had to say. I think some of these things take so long to get through the parliament that, by the time we get around to considering them, events have changed the course of history. The intention of this bill was simply to get away from the constant and frequent criticism of members of parliament that we automatically get these pay rises without any justification, and likewise with the other benefits. The intention behind this bill was to put it in the hands of the independent tribunal and, obviously, that tribunal would look at what federal and other state MPs were receiving. The other purpose was to ensure that, new members in particular, but other members as well, were treated fairly and appropriately in relation to superannuation.

I was one who argued years ago that the changes brought about by Mr Latham's behaviour—and, unfortunately, his proposal was adopted by the then prime minister John Howard—resulted in new members of parliament in here being severely disadvantaged in respect of their future retirement. Now, I do not want to see any of them retire because they are all top people, but that adjustment was unfair. Now, it was partly rectified (rectified more generously at the federal level than the state level) and then, unfortunately, with the timing of the changes some time

back, there was another outcry. It is never the right time to give politicians a pay rise or to adjust their allowances or whatever, because no matter what we do, how hard we work or how well we represent the community, you will never satisfy a section of the community who wants us to work for nothing 24 hours a day, seven days a week, and hopefully be crucified or hung at the end of the week. So, I think it is better in the hands of an independent tribunal.

I accept the member for Torrens says. There could be some drafting flaws in it, but I still think the principle is sound and maybe, over time, we will get a system which ensures that all members of parliament, new or old, are treated fairly in respect of their allowances. As members know, I fought for a long time to get members access to a car—and that took a long time to achieve. I think all members realise that you cannot do your job without a car (unless you are the member for Croydon and you have a gold-plated pushbike) and members would be significantly out of pocket if that reform, which I pushed for years, had not been adopted. I accept that this bill will go down, but I think the basic principle and thrust of it is still sound.

Second reading negatived.

NEIGHBOURHOOD DISPUTE RESOLUTION BILL

Adjourned debate on second reading.

(Continued from 22 July 2010.)

Mr SIBBONS (Mitchell) (11:04): The member for Fisher has called for the creation of a neighbourhood ombudsman. The government understands and appreciates the circumstances that have motivated the member for Fisher to suggest this option. I am well aware that disputes between neighbours can be quite problematic. Councils are regularly involved in these disputes as they, along with their agencies, have some relevant powers in relation to matters such as development, the keeping of dogs, cats and other animals, noise, waste removal, overhanging trees, parking and driveway access, and unsightly premises.

The Local Government (Accountability Framework) Amendment Act 2009 includes provisions designed to improve the procedures for a council's review of one of its decisions on application by a person with sufficient interest in that decision. It also added conciliation to mediation and mutual evaluation as options for use in dealing with disputes between a person and the council.

These amendments should be of assistance in some cases when the council is empowered to act in relation to the issue in a neighbourhood dispute but has decided not to take any action or has taken some action that is disputed by one of the parties. The government will not be supporting this particular measure which would require it to fund and maintain a new statutory office, but it will continue to apply available resources to collaborative efforts involving existing agencies which are designed to improve the current system.

For example, work is being done on developing a service model for environmental nuisance incidents between key agencies of state government and representatives of local council and the Local Government Association. This initiative, led by the Environment Protection Authority, seeks to develop a mechanism for dealing with the impact of environmental nuisance issues within our community. This is an area where residents and commercial interests can come into conflict over everything from noisy parties to loud air conditioners, building and construction work noise, and dust emissions. Backyard businesses can also be a problem with spray-painting fumes, smoke from burning in the open, power tools and brick cutting noises, and use of industrial and commercial machines of various kinds.

The agencies have analysed and quantified the number and type of incidents and complaints, using statistics from the EPA call centre and feedback from SA Police and local councils on the type and volume of complaints from the community. A significant proportion of complaints received by the EPA are currently resolved through correspondence sent to both the complainant and alleged offender. This system appears to be working well for resolution of the majority of complaints. There appears to be significant potential for unresolved complaints to be addressed via Community Mediation Services. This free service currently deals with many neighbourhood and community disputes successfully, using a process of complaints management and dispute resolution.

The government is currently looking at ways to provide greater coverage for Community Mediation Services in partnership arrangements with local government. The LGA has indicated that it believes there is a role for state and local governments to collaborate in developing options to

mitigate issues associated with increased residential densities and other neighbourhood friction arising from contemporary lifestyles. The further development of existing mediation and community dispute resolution alternatives was one option identified by the LGA. The LGA is seeking state funding for these improvements, and a more collaborative approach might be to fund the service from a number of sectors that would benefit from the service.

As I said, while the government will not be supporting this bill, it will be continuing its efforts to ensure that residents can access comprehensive information and guidance about issues that commonly give rise to neighbourhood disputes and are assisted to resolve these as expeditiously as possible.

Mr PEDERICK (Hammond) (11:09): I rise to speak to the Neighbourhood Dispute Resolution Bill 2010. I note that the Hon. Bob Such, the member for Fisher, on 22 July 2010 introduced the Neighbourhood Dispute Resolution Bill 2010. Through this bill it is sought to establish a neighbourhood ombudsman as an alternative dispute resolution mechanism for residential neighbours.

According to the member for Fisher, it is based on a similar ombudsman in New South Wales, but the research done on this side of the house indicates that there is no statutory officer providing compulsory conciliation for neighbours in New South Wales. We believe that the officer the member for Fisher refers to in that context is a commissioner in the Land and Environment Court.

I note that this is the third time that the member for Fisher has introduced such a bill. The second of these bills was tabled on 25 September 2008. The Liberal Party opposed that bill on the basis of the cost of another bureaucracy. Compulsory conciliation should not be forced on people, particularly if they would prefer to pursue their legal rights. There was no requirement in the bill that the ombudsman not act contrary to the law, and also there are already a range of alternative dispute resolution mechanisms in place.

The Liberal Party has undertaken consultation. We consulted the Law Society and they expressed concern at the open-ended nature of a person who could be subject to notices from the ombudsman. The Bar Association questioned the need for such a body, given the presence of community legal centres and the Magistrates Court. The Bar Association also opposed the range of powers of compulsion to be conferred on the ombudsman. I indicate that the opposition will not support the bill.

The Hon. R.B. SUCH (Fisher) (11:11): They taught me maths at school so I can count.

An honourable member: Did they?

The Hon. R.B. SUCH: It was a long time ago. We used an abacus.

Members interjecting:

The SPEAKER: Order!

The Hon. R.B. SUCH: The underlying rationale for this was that I do not believe the existing structures or mechanisms adequately deal with low-level neighbourhood disputes. I can understand why the Bar Association of lawyers do not want it, because they make money out of representing people in neighbourhood disputes. The LGA councils run a mile from neighbourhood disputes. One of the difficulties at the moment is that you cannot compel people to participate in mediation. It is pretty hard to mediate when it is only one person.

So there are deficiencies in the system. This may not have been the ideal, perfect model, but at least it sought to bring about a resolution of ongoing neighbourhood disputes. I am sure every member in here has had some. When they come to the attention of their office, the member is probably missing because they do not want to deal with them.

I have had some incredibly petty ones over time. I had one where the lights from a backyard were so bright the people across the road could not have their meal without pulling a blind down. The way I addressed that was I went to the people who had the bright lights, because they were getting tires let down and other things, and I said, 'Look, do you realise that if that light shone in a motorist's eye, you could cause an accident and you might be sued?' 'Oh, we had better change it then.' They would not change it for their neighbour but they changed it for the fear of dazzling a motorist.

The member for Hammond is correct. The reference to New South Wales is in relation to their commissioner in the Land and Environment Court. They have a very sensible approach where a person qualified in arboriculture goes out and makes a determination about a tree causing problems with neighbours. I know the person. She is a real person, even though her name is Judy Fakes. She goes out and says, 'That tree has to come down,' or it has to be pruned or whatever. That works brilliantly over there and, I think, maybe through the tree regulations, we might adopt something similar here.

Anyway, I appreciate that this bill will die through lack of support, but I do not believe we have got it right yet in terms of dealing with low-level neighbourhood disputes. The more serious ones will end up in the court, but where you have silly behaviour going on that inconveniences people and diminishes the amenity of their lifestyle I think we need some new structure and new process.

Second reading negatived.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 July 2010.)

Mrs VLAHOS (Taylor) (11:15): I rise to address the Graffiti Control (Miscellaneous) Amendment Bill 2010. The government is committed to fighting graffiti vandalism and applauds the member for Fisher's commitment to tackling graffiti; however, it does not support this bill for a number of reasons. Although well-intentioned, the government does not think that this bill will achieve what it is supposed to: the reduction of graffiti vandalism. The government is also concerned that the bill will impose costs on South Australian retailers and consumers with little benefit.

The first proposed offence under the bill is the selling of a can of spray paint by retail unless licensed to do so by the Commissioner for Consumer Affairs. Licensing generally exists to protect consumers. This can include protection from substandard work, fraud, provider failure or risks to health and safety, none of which are particularly relevant to the prevention or minimisation of graffiti vandalism.

Although a licensing system would mean that the government would have a list of current retailers, which may assist in preventing people who have graffiti-related convictions from being able to sell spray-paint cans, it is difficult to see how this would help reduce actual graffiti vandalism. Further, the information that the government would have would be quite basic, and merely knowing who is in the industry does not directly prevent graffiti vandalism from occurring.

Any licensing system would also impose significant administrative and processing costs on legitimate businesses that are going about their day-to-day business and could possibly result in an increase in the cost of spray-paint cans in an attempt to recoup the costs of this licensing system. This would, in turn, impact on legitimate users of spray-paint cans. We hear constantly from the business community that they want red tape reduced, not increased. The bill then creates two associated offences that require sellers to sight and record evidence of a purchaser's identification and to obtain and record a description of the use to which the can of spray paint will be put.

Proposed section 5A would require all purchasers of spray paint, including adults, to produce identification and describe the use to which the spray paint cans will be put before the retailer can sell them a can of spray paint. While there is clearly a capacity for spray-paint cans to be used for illegal purposes, they have many legitimate uses. The proposed provision has the potential to make ordinary customers feel like criminals as well as infringe on their right to privacy. It will also extend the time required to process transactions.

Proposed section 5B requires a seller to record details of evidence of age (produced under section 5), details of the identification produced and the reason given by the purchaser for the purchase. The imposition on businesses from these requirements would be quite significant, and the recording of a purchaser's name and address, even the reason for the purchase, does not link the person to any act of graffiti vandalism. The purpose behind these requirements appears to be the collation of information which can then be forwarded to the Commissioner of Police, who would then have a record of who is purchasing spray-paint cans, and for what purposes, for the purpose of criminal intelligence.

As these records are now required to be forwarded to the Commissioner of Police, it could also be argued that these records, over a period of time, would show a pattern of behaviour. Police could then follow up and ask questions of the purchaser. Even then, it is difficult to see how police could then link the purchaser to the actual act. The mere fact that a person purchased a significant volume of spray-paint cans over a 12-month period does not prove that the person is engaged in graffiti vandalism.

Another requirement of the bill is that a court, upon finding a person guilty of the offence of marking graffiti, must order that compensation be paid to the owner or occupier of the property that was defaced and that the person be disqualified from holding or obtaining a driver's licence for a period of one to six months. These orders are in addition to any final sentence of imprisonment that may be imposed by the court.

At present, the Graffiti Control Act provides that, where a court finds a person guilty of an offence of marking graffiti, the court must order the offender to remove the graffiti if it is reasonably practicable to do so. If it is not reasonably practicable to do so, the court must order that the offender pay compensation. The provisions in the bill makes a compensation order mandatory, regardless of whether the court has also ordered the offender to participate in a graffiti removal program. The disqualification of the person's driver's licence would also then be mandatory.

The problem with mandatory sentencing is that it can interfere with the flexibility of the court to order sentencing packages tailored to the offender's current situation. For instance, there is no point imposing a fine if there is no way of collecting the money. In that situation, a community service order would probably be more appropriate and effective. In addition, disqualifying a person from obtaining a driver's licence is likely to have the desired result of minimising incidents of graffiti vandalism and could, in fact, negatively impact on the person's ability to keep or gain employment.

Considering that it is largely a young population who may engage in these activities, that is counter to the idea of making them productive and useful members of society, because employment means they will probably have less time to conduct nefarious deeds after hours with spray cans. A court already has the option, under the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007, of ordering an offender's vehicle to be clamped for up to seven days, or 90 days with a court order, and impounded or forfeited for a range of offences including graffiti.

The bill also seeks to amend the Graffiti Control Act to introduce a new offence of carrying a graffiti implement of a proposed class without reasonable excuse in a prescribed area during the hours between 10pm and 6am. A 'prescribed area' is defined as an area within 20 metres of any railway track, the grounds of a school and an area within 20 metres of the boundary of a school, but does not include any privately occupied areas. The bill then goes on to provide wider search powers in these prescribed areas. I know from my own experience, in fact, in the area of Angle Vale in the north of Adelaide, there is a serious graffiti problem we are trying to address at the moment. It is not the school that is being really badly affected, it is the local shops. They are regularly attacking that site, but the owners of that shop would not be covered by this bill, so that is another reason why we cannot support it.

The proposed new offence in the bill is more limited than the current offence as it only applies to carriage of a prescribed graffiti implement in a prescribed area between 10pm and 6am. The current offence applies to all public places, including schools and railway tracks, at all times. The current offence does not have the limitation imposed by the proposed offence in the bill and it imposes greater penalties.

It appears that the only purpose for such a provision is to widen police powers of search in prescribed areas. Police already have powers to stop, search and detain a person who is reasonably suspected of having on or about their person an object, possession of which may constitute an offence. That ought to be sufficient, but the proposed power is in addition to that. In the government's view, the police should not be entitled to search people without good reason.

Finally, the bill proposes to insert a new section 85A into the Criminal Law Consolidation Act 1935 to set out special sentencing provisions for offences involving graffiti, including a requirement that the court record how many offences of damaging property are actually graffiti related. The requirement for a court to record how many offences charged under section 85 of the Criminal Law Consolidation Act are graffiti related would require costly changes to the court system for collecting data. Given the fact that only 2 per cent of graffiti gets reported to police, it is not a

cost-effective option, and would be better achieved as an administrative option rather than as a legislative obligation.

At the 2010 state election, the state government committed to strengthening legislation to reduce the incidence and impact of graffiti vandalism. Indeed, the Attorney-General has been widely consulting on this issue over a period of time. New proposals include:

- new and tougher penalties, including for vandalism or graffiti on memorials, cemeteries and other places of worship or religious importance to people;
- further restricting supply and display of graffiti tools, for example, tyre-blackener spray and broad-tip markers;
- giving police powers to seize cans from suspected offenders; and
- increasing community crime prevention grants aimed at reducing graffiti.

Some of these commitments are similar to the provisions adopted by the member for Fisher in his bill, such as the provision of restricting the spray-paint cans to minors and inclusion of the definition of 'spray-paint can'.

However, while the government is committed to addressing graffiti vandalism, it remains concerned that this bill may not achieve its objectives and that many of the provisions will, in fact, impose costs on South Australian retailers and consumers for little benefit and administrative burden. The government believes that the legislation, as a whole, should be considered as a subject of review rather than amended on a piecemeal basis, and we are conducting a review currently. For this reason, the government opposes the bill.

Mr VENNING (Schubert) (11:24): This is the second time the member for Fisher has introduced this bill and I think, from memory, it was back in September 2009 when he put the first proposal to us. Like that bill, this bill responds to community concerns about the prevalence of graffiti in public places and the considerable cost borne by residents and local government to clean it up. The member uses the example of the City of Onkaparinga, which reportedly spends half a million dollars cleaning up graffiti in its district alone. Over the years the previous member for Bright (Hon. Wayne Matthew) was a strong campaigner against graffiti, and we have had this debate in this house many times before. It is certainly a ruinous and wasteful situation, and we should be doing something about it.

This bill, though, contains the key element of prohibiting the supply of spray cans to minors, as opposed to the sale, e.g. gifting, and it imposes a sale control regime. I have personal concerns about that, to some degree, because I personally purchase and use a lot of spray cans. I am a fix-it man at home and I do a lot of repairs and quick fixes and, being a bit lazy, I am not in to washing out paint brushes, so the can is a very convenient, quick and fast-dry method of finishing off the repair job. I reckon I would buy 20 or 30 of these a year. They are very convenient and do a very good job.

I am happy to go to the hardware shop and get the key to the locker and get one out, but I do not want any greater restrictions or to be chatted as I walk out of the shop with them, because I hope I do not look like a graffiti artist—but, if you read this act exactly, that could be the case.

While the opposition supports initiatives to reduce the crime of graffiti, we think this bill has a number of deficiencies, and I will briefly explain them. In relation to the register, the bill puts a significant cost and burden on business and the community through a sale control regime. The bill also proposes creating a register of retail transactions related to the sale of spray paint (proposed section 5B). The bill would require retailers to collect information relating to the provision and type of identification provided by consumers and a description of the intended use stated by the consumer for the product. A retail business would be compelled to provide this information to the police as determined by regulation.

The second area of concern is in relation to sentencing. The Law Society also notes that the bill would insert sentencing provisions into the Criminal Law Consolidation Act 1935, when sentencing provisions are normally inserted in the Criminal Law (Sentencing) Act 1988.

The bill provides mandatory penalties in the following form. Compensation for damage and the removal costs to property are mandatory, although there is no minimum. The mandatory driver's licence disqualification is a minimum of one month and a maximum of six months. The

driver's licence disqualification would be applied regardless of whether a person carrying holds a licence or is eligible to hold a licence or uses a vehicle to commit the offence.

The Law Society objects to penalties which bear no connection with the offending, including because it will penalise some offenders more than others for the same offence. The penalty would also be likely to increase the risk of disaffected young persons losing employment or remaining unemployed and becoming a greater risk to the community.

In relation to the search powers, the Law Society notes that the increased search powers proposed under new section 8A would enable police to question any person in a prescribed area to determine their personal details and the reason for being in a prescribed area without requiring the officer to have a reasonable suspicion. This part causes me a fair bit of concern. If the officer suspects an answer given is false or the person has not provided a reasonable excuse for being in a prescribed area, the officer may search and detain a person and their vehicle. There is no limit on the period of detention permitted. I would have a lot of concern about that and, should this bill pass this house, even though we support it, I would certainly like that tidied up before it goes to the upper house.

Certainly we need to put some curtailment in there because we have had a lot of complaints recently about officers and inspectors, and there has also been a lot of complaints about them in many other areas of law and order, the NRM, etc. In relation to the offenders, the Local Government Association expressed concern that councils will be responsible for the costs of supervising offenders' community service and the removal of graffiti by offenders. In consultation this bill was heavily criticised by the Law Society and the Hardware Association. The Local Government Association has also raised a number of concerns.

Debate adjourned.

SPEED MEASURING DEVICES

The SPEAKER: Member for Fisher, I remind you that this motion is very similar to the content of the bill you gave notice of this morning, so you will need to be very careful about how you handle this motion.

The Hon. R.B. SUCH (Fisher) (11:31): Thank you, Madam Speaker, I am well aware of that. I move:

That this house notes with concern the lack of enforceable standards and related practices applied to the enforcement of speed measuring devices used by SAPOL.

You are correct, Madam Speaker: notice of this motion was given a long time ago, and much of what would have been canvassed in this in a general way is now being addressed through the bill. Moving beyond the actual devices, the other aspect is the way in which the paperwork is done. Part of that is covered in the bill relating to the expiation notice. There are other aspects that concern me including the way the devices have been used, that is, that police have been checking their own work. In my case Constable Gregory Luke Thompson checked his own work, even though I have now been advised by the superintendent that it is not allowed, and I have been told by other police that it is contrary to general orders of the commissioner.

I am not talking about the actual device but about the practices related to the way in which information is collected and processed, because that must be accurate and correct, otherwise you will have the court being given information that is inappropriate, inaccurate and, in my view, can be misleading. I do not want to reflect in my case on the magistrate, Joanne Tracey, but it is important, particularly in a situation involving maths, physics and spacial aspects, that all the related practices be accurate and correct, otherwise, in my view, you will end up with a miscarriage of justice.

Mr ODENWALDER (Little Para) (11:33): I rise to oppose the motion and to indicate the government's opposition to this motion. The member for Fisher has moved a motion seeking that the house note with concern the lack of enforceable standards and related practices applied to the enforcement of speed measuring devices used by SAPOL. I do not share the honourable member's lack of confidence in SAPOL's standards and practices regarding speed measuring devices. As a former police officer, I am acutely aware of the strength of SAPOL's policies regarding maintenance and calibration of speed measuring devices.

The SAPOL Radio and Technical Support Group is responsible for the maintenance and calibration of evidentiary and screening instruments used in the detection of alcohol, speed and red

light offences. All traffic speed analysers used by SAPOL are required to meet the Australian standards, AS4691.1 and .2, 2003.

The Hon. R.B. Such interjecting:

Mr ODENWALDER: I will be careful. These national standards cover the device requirements, calibration and user operational procedures, and copies of these standards are publicly available. If any device is found to be operating outside SAPOL policy it is defected and immediately removed from service until corrected. The calibration of South Australian police laser speed guns is carried out in accordance with the above standards in a calibration laboratory in compliance with the Australian standard. The operational competency of this laboratory is independently audited by the National Association of Testing Authorities (NATA). The instruments used to carry out the calibration are themselves independently calibrated by external NATA accredited calibration laboratories, and such calibration is traceable to national standards as per the requirements of the act, the National Measurement Act and Regulations 1960.

The SAPOL calibration laboratory and staff have recently been reassessed by NATA and demonstrated compliance with the Australian and international general standards for the competence of testing and calibration authorities. This shows SAPOL's strong commitment to adhering to the national standards.

Statistics show that public satisfaction in SAPOL is at a high and steady level, and the dedicated men and women of SAPOL have earned their strong positive reputation. I will always support the hardworking men and women of SAPOL. This government has always supported police and had the utmost faith in the job they do. It is a tough job involving a range of very difficult duties, and this government will continue to support SAPOL officers and give them the trust they need to perform their difficult job well.

SAPOL has established and maintained a rigorous process to ensure accuracy and compliance of speed measuring devices. There is a clear practice within SAPOL requiring speed measuring and other devices to meet national standards, which are published in the public domain. For these reasons, I and the government do not support this motion.

Debate adjourned on motion of Mr Venning.

WHEAT STEM RUST

Mr VENNING (Schubert) (11:36): I move:

That this house:

(a) notes with concern the spread of wheat stem rust Ug99 internationally, specifically throughout Africa, and the potential it has to reach Australia and decimate our wheat industry;

(b) notes that there is no known treatment at this time and therefore supports increased research and development along with other states to ensure Australia is ready if this ruinous disease arrives in Australia; and

(c) supports an upgrade of Australian quarantine efforts to ensure the disease does not enter over our borders.

Ug99 is a deadly wheat fungus, which looks like red rust on wheat, and it has the potential to decimate the world's wheat crops. The wheat rust pathogen enters the stems of the wheat plant and destroys its vascular tissue. This stem rust is highly feared. It causes plants to fall over and can lead to the loss of an entire harvest.

New mutations of the disease are spreading throughout eastern and southern Africa, and researchers say it could arrive in Australia on high winds. These new strains have the ability to defeat two of the most important stem rust resistant genes that we use. This poses a huge risk to wheat crops worldwide, as the two rust resistant genes that this Ug99 strain is able to overcome are widely used in most of the world's wheat breeding programs.

Ug99 was found in Uganda in 1999 (hence the name Ug99), and it is difficult to stop. It has also been found in Kenya, Ethiopia, Sudan, Yemen and Iran. I met a Jordanian scientist, Ziad Naser, during my CPA visit to Tanzania and Kenya in August 2009, and discussed this issue with him at length. Ug99 was present in Uganda and Kenya at that time. I raised the issue in this house in September 2010, and now it has been revealed that the disease has spread further throughout Africa.

Professor Robert Park, the Grains Research and Development Corporation Chair of Cereal Rust Research, University of Sydney, said:

> There was one incidence at least, in the late 1960s, where stem rust was transported from southern or central Africa to Australia by high altitude winds.

Many of Australia's current wheat varieties are susceptible to contracting wheat stem rust.

In 1973, Australia had a single epidemic of wheat stem rust in south-eastern Australia and the damage it caused was estimated at $300 million. It was reported in the September-October 2010 issue of *Australian Grain* that the trajectory and evolution of this new strain are of particular concern to the major wheat growing areas of southern and eastern Africa, Central Asia, India, the Caucasus, South and North America, and Australia.

It is important that policymakers are aware of this issue and are prepared to provide the relevant support that is needed to meet future challenges that Ug99 poses to our wheat industry. Currently, efforts are being made in East Africa to control the rust and reduce its potential to spread. However, it is important that policymakers are aware of the disease and its potential impact upon the Australian wheat sector.

Dr Ravi Singh, a distinguished senior scientist in plant genetics and pathology with the Mexico-based International Maize and Wheat Improvement Centre, said at an event to discuss global wheat rust last year, 'We will now have to make sure that every new wheat variety we release has an ironclad resistance to both Ug99 and the new races.' The only way to overcome this threat is to increase research and development activities and breeding programs in order to produce new wheat varieties that have defences against Ug99 and its related strains.

I was pleased to learn that, since I gave notice to move this motion in this house, the GRDC has been doing a lot of work on this and I am reliably informed that it has been undertaking extensive testing and we now have a lot of resistant varieties ready if and when this rust strain reaches Australia. This new strain of Ug99 is still on the move and I understand other states are putting a lot of work into ensuring our wheat crops are secure as well.

All this research and development work is a good start, but there is also a need to ensure our borders are as secure as possible to prevent the transmission of this disease across our borders. Although it is spread by wind, there is also a need to maintain vigilance with the movement of farm machinery, etc. Also I urge the wheat and barley breeders, once they have bred these new varieties—and they are apparently—to plant it up. In other words, to aggregate as quickly as possible so that there is enough seed on hand to give our farmers an alternative if Ug99 ever arrives in Australia. I urge the house to support this motion.

Mr PEDERICK (Hammond) (11:42): I fully support the member for Schubert's very commendable motion which reads:

(a) notes with concern the spread of wheat stem rust Ug99 internationally, specifically throughout Africa, and the potential it has to reach Australia and decimate our wheat industry;

(b) notes that there is no known treatment at this time and therefore supports increased research and development along with other states to ensure Australia is ready if this ruinous disease arrives in Australia; and

(c) supports an upgrade of Australian quarantine efforts to ensure the disease does not enter over our borders.

This is a very serious threat and I must commend our researchers over the years who have spent hundreds of millions of dollars on plant protection for our cropping farmers.

We have had to fight against many pests and weeds, and stem and leaf rust is one of those diseases. Usually crops get affected by rust in a wetter season, and it is usually a pretty good crop as well. It really puts you off when you go out, especially when it is getting later in the day and you look across a paddock with the sun setting over it, and you see that rusty colour. If it has reached that stage, you need to have it sprayed immediately. So, it is a significant cost for farmers if crops are affected. It costs them many tens of millions of dollars in seasons across the nation to spray rust-affected crops. I commend the motion.

It is good to see the support of the Grains Research and Development Corporation getting behind breeding strains and breeding resistance against this threat, because we keep seeing threats from overseas all the time. We have seen it with the WTO's decision on importing apples that could possibly carry fire blight from New Zealand. We understand that New Zealand potato

growers are trying to export potatoes to Australia that could be infected with zebra chip, which, I understand, has no known remedy.

We must be vigilant in protecting our home-grown food industries. We also note the import of Chinese apples into this country and the possible threats that we could have there. It is interesting to note that yesterday the Premier mentioned how well the economy is doing, especially on the back of agriculture, but we have seen in the last budget and will see over the next three years $80 million stripped from primary industries and stripped out of vital research and development in this state, which I believe will put this state at risk in keeping out diseases like Ug99 if we do not have the relevant funding in place.

It has put SARDI in a position where it is looking at merging with the Adelaide University because of the lack of funding coming from government. It just goes to show that there is no attention to regional South Australia from the Labor government and no attention to supporting the people who grow the wealth in this state. It angers me when I see the Premier get up—he almost claims credit for the rain this year, which grew a 10 million tonne plus crop and which has got farmers out of trouble generally after probably up to nine fairly poor income years with drought, low prices and a lot of pest invasion.

The government really needs to take threats like Ug99 seriously because what it does is impact on the spending power of our rural producers if this is another threat for which they have to spend money on crop protection in getting their wheat crops through to harvest in a profitable manner.

I would like to think that the government would support this bill. If it does not support this bill, it shows its natural reaction to anything that happens outside Gepps Cross or Glen Osmond. It has no vision at all outside those areas, as we have seen with so many policies coming from this Labor government.

Ms Thompson interjecting:

Mr PEDERICK: It is interesting to note the interjections, but I will reiterate that if this type of rust comes into Australia it will cost the cropping economy not hundreds of millions of dollars but billions of dollars right across the country. We need to keep up the research effort. We need to support research, and the government needs to learn that we cannot keep turning our backs on the people who provide the wealth, not just for the state but also for the nation, instead of taking the accolades just because it has rained. I commend the motion.

The Hon. S.W. KEY (Ashford) (11:48): I rise to oppose this motion. Before I do talk about the reasons why the government is not supporting the motion, I would just like to place on record my admiration for the member for Schubert. He continually is a champion for the agricultural sector and his electorate. I must say that many of his speeches have really talked about issues to do with food security, which is particularly important; and he has raised a number of issues that, I think, really do make us all think, particularly us city slickers who do not have expertise in this area. There are many on this side who do, of course, and—

Ms Thompson: More than you might think.

The Hon. S.W. KEY: Yes. As the member for Reynell says, there is actually more information and expertise over here than I think the opposition assumes. I should say that, despite my admiration for the member for Hammond, who also is—

The Hon. R.B. Such: What about me?

The Hon. S.W. KEY: I will get to you in a minute, Bob, if you wish. The member for Hammond is a champion for his electorate and the sector. But I would ask him to just reflect on the fact that, although many of us on this side are not country members, it does not mean that we do not have concern for the issues that are raised and understand the politics of how we need to make sure that we look after the whole of the state, not just our own electorates, although, obviously, our responsibility is for our electorates. I just ask him to bear in mind that many of us are very concerned about issues other than in our area.

Stem rust, as we have already heard, is one of the three major rust diseases of wheat, including also leaf rust and stripe (or yellow) rust. A number of stem rust strains are already present in Australia—and we have heard that from both the members for Schubert and Hammond—and they are active, unfortunately, on Australian wheat varieties, dependent on resistance genes present in the wheat variety and the strains of the rust in the environment.

Dr Hugh Wallwork of SARDI has provided updated information on Ug99 strain of stem rust. The Ug99 strain of stem rust is not present in Australia, but there are already stem rust strains present in Australia that are active on current Australian wheat varieties and other strains not related to Ug99 overseas not yet present in Australia of at least equal if not greater concern than Ug99.

This summer's rains have caused self-sown 'volunteer' wheat plants to germinate, and they are actively growing throughout the cereal zone of South Australia and Victoria. Stem rust has already been reported on volunteer wheat in the Victorian Murray Mallee. There is a real threat of new mutations occurring within Australia, and it is very important that greater encouragement is given to adopting minimum disease resistance standards within Australia. This will help to reduce the chances of new mutations occurring in Australia and also reduce the spread of new strains like Ug99 that might be brought into Australia.

Plant breeders are pyramiding novel stem rust genes as a routine part of a breeding program to manage the commercial risk of new disease strains, whether through introduction from overseas, like Ug99, or mutations in the local disease population. Breeders have recognised the need for resistance genes to be present in the stable of wheat breeding material used in the program. Plant breeders are routinely exchanging breeding material for testing in overseas environments for resistance to strains of rust and through the Australian cereal rust control program based at the University of Sydney. All commercial breeders in Australia are part of the program. Dr Stephen Jefferies, CEO of the wheat breeding company Australian Grain Technologies (AGT) Pty Ltd, is expecting results from the latest tests for disease including stem rust in wheat breeding material sent to Kenya in the next few weeks.

The GRDC has funded research by Dr Ian Dundas of the University of Adelaide to identify novel disease resistant genes including stem rust genes from wild wheat varieties and to provide them to the wheat breeders. Stem rust is mostly spread by wind-borne spores but may also spread by sticking to clothes and shoes. Increased vigilance on the national border, while useful, would not necessarily prevent Ug99 from getting into the country.

As I said at the start, I do compliment the members opposite for raising this issue and being fierce advocates for the industries, particularly the agriculture and farming industries, but in this particular case the government feels that the action it is taking is appropriate.

The Hon. R.B. SUCH (Fisher) (11:54): I support this motion and I commend the member for Schubert for introducing it. For the life of me, I cannot see why the government would want to oppose it. I cannot see anything in here that is inappropriate or unnecessary. The member for Ashford was very kind about members opposite and their farming abilities. I point out that I left school at 14 and I was a—

Members interjecting:

The Hon. R.B. SUCH: I'm upset now. I'll have to go home early today; I am upset.

The ACTING SPEAKER (Mr Pengilly): You have the full protection of the chair, member for Fisher.

The Hon. R.B. SUCH: As a 14 year old I was a farm worker at Alford over near Kadina and, unlike the current minister for agriculture, who is the world's greatest farmer, I was almost the world's greatest farmer until a red-back spider took me out. The farmer's wife did more damage with a razor blade in trying to half sever my finger. So, when people look at my hand, I am not making a rude sign, it is just that the farmer's wife at Alford got a bit carried away with the razor blade. This motion, particularly paragraph (c)—

Members interjecting:

The ACTING SPEAKER: Order!

The Hon. R.B. SUCH: I do not believe we take quarantine measures seriously enough in Australia. I still think a lot of it is Mickey Mouse, and that includes the roadblocks. That is no reflection on the people at the roadblocks. I have spoken to them and I commend them for what they do. You only have to look at the consequences of what has come into this country, and not just rabbits and foxes, but things like branched broomrape, which I understand came from Israel.

I met the guys who are working on that program at the Karoonda Farm Fair last week; there are up to 50 people working on that program. The cost to the community is enormous from trying to deal with branched broomrape, and the chance of actually knocking it out is fairly remote.

What you have, once you get some of these things in, and if you can treat them, is the cost and the unwelcome addition of additional pesticides and fungicides. It also highlights the importance of genetic engineering. People criticise it for various reasons, but the only way you are ever going to be able to deal with some of the pest plants and animals is through genetic engineering.

That links in to the point that concerns me, both at the state and federal level: the continual cutbacks in agricultural research. If we want to lead the world and be efficient and effective producers, even more so than we are now, then we have to invest in agriculture and horticulture research. It is madness not to be doing that. Yet, what we have seen over time are continual cutbacks to those research programs and facilities.

As I say, I highlight paragraph (c) of this motion: upgrading quarantine. Instead of people getting a little fine, I would put some of these characters behind bars because the threat to the community, and the impact, is far more serious than a lot of other things for which people are incarcerated. I support this motion and I am surprised that the government would want to oppose it.

Mr VENNING (Schubert) (11:57): I want to thank all members for speaking to this debate, particularly the members for Hammond, Fisher and Ashford. I appreciate it. It is obvious that the government is not supporting this, which is quite a pity. I wonder why it would be contentious enough not to agree with it.

I have a particular interest in this, particularly after meeting the Jordanian scientists in 2009. I have a strong memory of when I was fully engaged in farming (some years ago) and we were all growing a variety of wheat called Halberd. The member for Hammond would know about that, and so would you, sir. Halberd was the universal wheat across this state. It was an extremely successful South Australian-bred variety, but it was too popular and far too much was being grown right across the state. We know what happens if you have all of your eggs in one basket, so to speak.

An honourable member interjecting:

Mr VENNING: Yes, it did happen. We grew a magnificent crop this particular year. It looked fantastic all year, but four to five weeks before harvest we noticed these blotches coming on the flag of the wheat—the deadly sign of rust. We reaped the crop. We took a penalty of a 50 to 60 per cent loss of yield and we were totally covered with this unpleasant, choking, red dust. It was over everything. Those were the days before cabins and you could not avoid it. So, it has left an indelible mark on me, of what a destructive thing this is, and there is nothing we could have done about it.

I am sad that the government will not support this. I wonder about the wisdom of that. Again, I thank the members who spoke. Since intimating that I will move this motion I am very pleased with the correspondence that I have had, particularly from Mr Don Plowman from PIRSA. I appreciate that Don, over many years, has given me, personally, very good advice, and he has contacted me. So, in that instance this whole exercise has been worthwhile. Also, regarding the comments from the member for Ashford—yes, there is work being done but as I always say (and believe very strongly) we could and should do more. I commend the motion to the house.

Motion negatived.

SIGNS ON COUNCIL LAND

Private Members Business, Other Motions, Notices of Motion No. 3: Hon. R.B. Such to move:

That this house requests the redrafting of council by-law Nos 2 to 6 of the City of Onkaparinga entitled Signs on Council Land, gazetted on 25 July 2009, to ensure that residents are not unfairly punished for having a 'For Sale' sign on their vehicle when parked on the side of the road.

The Hon. R.B. SUCH (Fisher) (12:00): With the leave of the house I will withdraw this because events have overtaken it in terms of dealing with the issue. I ask that it be withdrawn.

Leave granted; notice of motion withdrawn.

MEMBERS' ALLOWANCES

The Hon. R.B. SUCH (Fisher) (12:00): I move:

That this house calls for the provision of allowances to shadow ministers which will enable them to more adequately perform their roles and also for a review of the current system of allowances for members who sit on parliamentary committees.

I believe that people who perform the role of a shadow minister (and I am not one so there is no vested interest in calling for this) should receive an allowance because there is added work, added responsibility and added cost in what they do. To have a vigorous and effective democracy I think it is only reasonable that they be compensated or given an additional amount. I have not tried to set out what that amount should be. As members know, I have always advocated that the independent tribunal consider these things but the house has not chosen to go down that path. However, I believe that with some discussion between the Premier and the Leader of the Opposition it could be easily determined what that level of allowance should be. I put that forward. The other part of the motion—

The ACTING SPEAKER (Mr Pengilly): Order! If members want to talk I ask them to go outside. Thank you. I know the member for Schubert has a lot to say but he can do it outside.

The Hon. R.B. SUCH: I think the member for Schubert has been overcome with the adoration from the member for Ashford, so he is floating on a cloud! The other aspect of this motion is a review of the current system of allowances for members. Currently, we have the bizarre situation where some people get more than others, and those who are on select committees get two-thirds of nothing, or it is so close to that it does not matter.

Once again, I would urge the Premier and the Leader of the Opposition (and others who have an interest) to have a look at the question of allowances for members who sit on committees. It should not be just a mechanism for increasing what is in our pocket but it should be a fair and reasonable allocation for people who put in extra time and effort.

I do not believe in people working without being properly paid. I understand that is a basic union principle and so I am surprised that we have a situation where some members on some committees get paid more than others, and I think it is time that system was reviewed. I commend the motion to the house.

The Hon. M.J. ATKINSON (Croydon) (12:03): I think most members of the public would be surprised to know that members of parliament get paid an additional allowance above their salary for serving on parliamentary committees.

The Hon. R.B. Such: It's extra work.

The Hon. M.J. ATKINSON: The member for Fisher says it is extra work. I think members of the public would say that it is part of our core function.

Ms Sanderson interjecting:

The ACTING SPEAKER: Order!

The Hon. M.J. ATKINSON: When I was first elected to parliament in 1989 I went back to my union office to clear out my desk and one of my colleagues, who had also been elected, was coming down the stairs of the union office. He said, 'Mate, could you see your way clear to supporting me for the Public Works Committee?' I said, 'No worries; I'll do that.' He was duly elected to the Public Works Committee and received the extra salary attendant on being on that. I was one of three members of the parliamentary Labor Party who did not get a committee.

The ACTING SPEAKER: I am delighted that the member for Croydon is now on the Public Works Committee.

The Hon. M.J. ATKINSON: And I am now on the Public Works Committee, having had some experience. I suppose one of the benefits of the member for Fisher's motion is that, once we start paying allowances to shadows, they will get comfortable and probably will not press as hard to become ministers, because the differential between their total salary and ministers' salaries will not be so great.

The Hon. A. Koutsantonis interjecting:

The Hon. M.J. ATKINSON: Yes. The member for West Torrens is leading me on to a point I was going to make anyway, that is, that the parliamentary Liberal Party would then scramble madly for these positions and fight one another in order to obtain them, leading to regular coups d'état and overthrowing of leaders.

I was a shadow for seven years, and it is an onerous job writing second reading replies to ministers' speeches when, of course, the minister's speech is written by his or her staff, but the shadow minister's, of course, has to be written by the shadow. I would be here in parliament until after midnight some non-sitting weeks preparing my replies to Trevor Griffin's voluminous

legislation. I do not say anything about the quality of those responses other than to say that I can remember the member for Elder remarking once: 'Oh, Mick, peg-legging your way through another second reading reply.' I was always ready for when the government wanted its attorney-general bills to come on, unlike the current Leader of the Opposition who, when she was shadow for the attorney-general's portfolio, was repeatedly not ready to debate government bills. It seemed the dog always ate her homework. Perhaps paying her an allowance would have made a difference.

So far as I am aware, the opposition has not been calling for the provision of these allowances. There is nothing in the motion talking about hiring extra staff, specific remuneration, information technology equipment, stationery, chauffeured vehicles or an additional electoral allowance. I am not quite sure what the member for Fisher is proposing to the house.

Approval for such allowances would need to be considered more specifically by cabinet. Of course, I think these allowances would have to be set by the Remuneration Tribunal. For all those reasons, the government does not support the motion.

Mr BROCK (Frome) (12:09): I rise to support this motion. No matter who is in opposition, the shadow ministers must get out there, especially in the country. I take on board what the member for Croydon has indicated. Members of parliament get an electorate allowance. That is to serve their electorate itself, and they need it to get out there to understand what their electorates and the people out there are about.

Some country members cover a wide range of areas, and they need to get out there. The electorate allowance not only covers accommodation, it also covers meals, when you are talking to other people. So, that electoral allowance covers a wide range of issues, including donations, sponsorships and things like that. If you are a shadow minister, you need to be able to get out there and cover the whole of the state to be able to get out there to understand and to put pressure on the government of the day.

The motion by the member for Fisher is calling for the provision of allowances to assist those shadow ministers in doing so. He has not indicated whether they would get the same allowance as a member or a minister of the government of the day. He is suggesting that there could be discussion between the Premier and the Leader of the Opposition, or whoever it may be, to set up some form of the allowance. The allowance could be used to employ extra staff or resources to do investigative work because, bear in mind, they also need to do investigative work for their own electorate, and shadow ministers also need to undertake investigative work which covers the whole of the state.

I have no issues with supporting this, and I am sure that the communities of South Australia would have no problems with this. It is not as if you are asking for another $100,000, or whatever the figure may be: you are asking to have some sort of an allowance to cover it. I am very sure that people in this house do their jobs because they want to do their jobs; they are not in it for the money. However, if the shadow minister is going over to the West Coast and are staying overnight, it is costing them extra out of their electorate allowance for accommodation and meals. As I understand, they cannot claim that back.

I have no issues with supporting this. The member for Croydon has indicated that the shadow ministers will become complacent. I do not think they would at all. If you are on the opposition side it is a challenge to get into government, and vice versa. So, I have no hesitation in commending this to the house.

Debate adjourned on motion of Mr Pederick.

ELECTORATE SERVICES

The Hon. R.B. SUCH (Fisher) (12:12): I move:

That this house condemns the Rann government for hindering members of parliament in carrying out their electorate duties by refusing to allow the purchase of relevant Australian Standards from their electorate office global allowance.

I do not like using the term 'condemn', because it sounds as though they are going to face a firing squad and, the reality is, it is not the Rann government: it is an employee within Treasury who is, in my view, going outside their—

Ms Chapman interjecting:

The Hon. R.B. SUCH: Well, the tradition is that the government is responsible and accountable for its employees, so that is why I have worded it this way. But it is directed at a

practice which I think is unacceptable. I mention one example only: I asked if I could get the Australian standards relating to roadworks, and also in relation to speed cameras—now, remember, my road thing had nothing to do with speed cameras—and I was denied those by Mr Rodney Hobbs. I do not want to make this a personal attack on him, but he is the officer in charge. He said, 'You can get these out of your—'

An honourable member: Electorate allowance?

The Hon. R.B. SUCH: No, he said, 'You can put these in your private library,' or something like that. Now, that is ridiculous. He said, 'You can have the standards for bushfires.' I said, 'I don't want the standards for bushfires. I want to be able to talk to the engineer at the City of Onkaparinga about things like speed humps, chicanes and all that, and be able to talk the same language as the engineer.' He said, 'No, you can't have it.' I tried several times. I don't think the minister looked at the issue thoroughly; he just signed the letter saying, 'You can't have them.'

We are the elected members. What we purchase goes online: the public can have a look at it, my electorate can have a look at it. I am quite happy to defend any of the purchases in my office, and people can have a look at my tax return if they like—I don't care. I have nothing to hide, I don't go in for shonky things. I am not the only member here who has had difficulties with that Treasury officer.

The DEPUTY SPEAKER: You're not alone.

The Hon. R.B. SUCH: No. There have been a lot of arbitrary decisions—

Members interjecting:

The Hon. R.B. SUCH: Was that a voice from above?

The DEPUTY SPEAKER: No, it was the voice of me.

The Hon. R.B. SUCH: I was going to say, 'Thank you, Lord'! Other members can speak for themselves and, as I say, it is not a personal thing. I thought we had reformed the system with a bipartisan committee to allow members to buy things out of the global allowance that were relevant. I can get fridge magnets, which I am not seeking to do at the moment, but I cannot get the Australian Standards documentation that I need to communicate with the engineer and staff of the local council. As you might imagine, we get a lot of traffic issues, and we cannot interact with the relevant police and other agencies if we cannot talk the technical language.

I am saying that those new guidelines do not seem to be working. Other members have said to me, for example, that they have put in an ad, they have waited for approval, and it has come too late; they have lodged the ad, and then they have been told, 'You won't be able to get reimbursement for that.' This raises the wider issue of expenditure by MPs in relation to carrying out their duties. I think it should be controlled by and through the parliament, as is the case in other jurisdictions.

I do not see why a public servant—as I said, with no disrespect to this particular individual—should have the power of veto over an elected member seeking something to help them carry out their duties. Isn't that what we are in here for? I do not believe anyone in my electorate or anyone in South Australia would say that getting a set of Australian Standards is inappropriate. I have stopped reading them on a Saturday night for entertainment. I have moved on from Australian Standards, and I am now getting into *Biggles* and *Phantom* comics. Why would I want copies of the Australian Standards at home? It is just ludicrous.

I was going to say that I do not need to labour the point, but it is a Labor point, I guess. This particular practice needs to be reassessed. Some members have had difficulty getting newspapers. In the upper house, they get their papers without any query whatsoever. If you want to have them early in the morning to prepare for radio—and members here would know you are rung at all hours—you have to know what is in the paper. It has been a fight and a struggle to get even something like a newspaper.

A few years ago—and this was when the Hon. Rob Lucas was treasurer—he would not let me have newspapers in the office. He said, 'You don't need them,' and then he found out some of his own members were getting them through petty cash and he had to let me have newspapers in the office. How are you expected to do your job if you cannot have papers? These are not naughty magazines; these are the daily newspapers. If you talk to people in business, they shake their head in disbelief that a member of parliament is not entitled to have a newspaper or get a copy of the Australian Standards.

I move this motion, and I would hope that we get back to what I thought the reform package was about: giving members greater latitude in what they purchase. It goes on the web, so the world can see what you are purchasing, and if you are buying things that are in appropriate there will soon be some journalist who will take note of it and you will be brought to account, so I do not see why we are denied these things. I still have not got the Australian Standards, so I cannot interact with the engineer and the people in my electorate have to go over the humps and bumps without my good guidance.

The Hon. M.J. ATKINSON (Croydon) (12:19): I am in the odd position of having come to this debate intending to vote against the motion but, having heard the member for Fisher, I am now not so sure. I think the member for Fisher has made quite a good case for parliament having control over the global allowance of members, rather than a branch of Treasury. I know many members have had an experience similar to the member for Fisher. The member for Fisher has requested that the purchase of three Australian Standards be paid from his 2009-10 House of Assembly global allowance allocation.

The member for Fisher received approval from the Department of Treasury and Finance for the purchase of two Australian Standards relating to the construction of buildings in bushfire-prone areas and the construction of swimming pools, as these matters were held to relate to the day-to-day running of his electorate office. The purchase of Australian Standards for traffic control devices or radar speed detection from the member for Fisher's global allowance allocation was not approved by the Department of Treasury and Finance.

It seems to me that we are given a global allowance, and with the exception of using the global allowance for personal purposes or for commercial purposes to benefit a person personally or a commercial enterprise, it seems to me that we should be able to spend it as we see fit, up to the maximum. Of course, if we spend more, we have to pay for that ourselves.

For myself, I have always been modest in my use of the global allowance. Under the provisions introduced by the previous Liberal government, I have transferred thousands of dollars of it to other Labor Party members. I have a lot of volunteers who are prepared to walk in direct-mail material, so I do not have the costs for postage that other members have, and my electorate is flat and compact.

It seems to me that there are any number of officials in government who are wanting to make judgements about our global allowance, without the benefit of working day-to-day as a member of parliament. So, it is one of those occasions where I have been convinced by the member for Fisher's argument. I do not think the Rann government ought to be condemned in his motion. Perhaps he will consider amending it, but I would like the house to think further about his motion and parliament taking the global allowance back to itself and we governing ourselves and being directly accountable to the public for our expenditure, without the mediation, shall we say, of certain public officials.

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (12:23): The main point I want to make is that the member for Croydon made an extraordinary comment in his opening remarks about the attitude of the opposition. I have no understanding of why he made those comments.

The Hon. M.J. Atkinson: What's that?

Mr WILLIAMS: You said the opposition was coming in here to oppose this matter.

An honourable member: No, he was.

Mr WILLIAMS: Sorry, I misinterpreted what the—

The DEPUTY SPEAKER: And then he said that the member for Fisher was persuasive and he had changed his mind. He was not having a go at you.

Mr WILLIAMS: Sorry, I thought the member was—

The DEPUTY SPEAKER: No.

Mr WILLIAMS: I apologise; I misunderstood.

The DEPUTY SPEAKER: You missed that rare moment of bipartisanship.

Mr WILLIAMS: I thought the member was having a gratuitous slag at the opposition. I am pleased to hear that.

The Hon. A. Koutsantonis: You deserve to be slagged, though, regularly.

The DEPUTY SPEAKER: Okay, would you like to talk about the particular motion at all, member for MacKillop? I am sure you have some interesting things to share with us.

Mr WILLIAMS: I am sure I can come up with some interesting things to say about this.

The DEPUTY SPEAKER: Yes, do.

Mr WILLIAMS: I, too, am somewhat persuaded by the member for Fisher's comments.

The Hon. A. Koutsantonis: Dissuaded or persuaded?

Mr WILLIAMS: Persuaded. I think probably every member of this house has had an experience with—

The Hon. A. Koutsantonis interjecting:

Mr WILLIAMS: —an unnamed bureaucrat—

Members interjecting:

Mr WILLIAMS: Yes, an unnamed bureaucrat who, I think, has a misguided attitude to his role in keeping us out of trouble and protecting us from ourselves.

I think every member runs the gauntlet of public odium on a daily basis. That is what keeps us honest. That is what keeps us on the straight and narrow. With regard to the expenditure of global allowance, the arbiter should be public opinion. I think we should be open about what we spend our global allowance on.

There have been a number of instances where I have been frustrated by this process, and I will refer to one. When I became Deputy Leader of the Opposition, I thought it appropriate that I have that position highlighted on my business cards. When handing out my business card—some members put on them that they are the shadow minister, or whatever—I thought it would be appropriate to report the fact that I was the Deputy Leader of the Opposition. I did not understand why, but my office contacted an unnamed bureaucrat and was told that it was out of order for me to spend global allowance on a business card which had on it the fact that I was the Deputy Leader of the Opposition, notwithstanding that the Deputy Leader of the Opposition is a position recognised by the parliament. In fact, there is a substantial salary associated with the position and it is a position within the house.

It fascinated me that I was unable to use my global allowance to print business cards. However, the unnamed person suggested that there was a way out. He said that as of 1 July (last), the rules were changing somewhat and I did not necessarily need his permission; I could run the gauntlet of public opinion and print the business cards notifying that I was the Deputy Leader of the Opposition after 1 July. So, that is what I did. I did, in fact, print the business cards, and I suspect I have some in my pocket now. Here we go, with my name—Deputy Leader of the Opposition, member for MacKillop. How outrageous that I would print that on a little card to hand out to people to let them know who I was and how they might contact me.

I did have them printed and I forwarded the account to the electorate office, and it was duly paid. Having taken the opportunity to speak to the member for Fisher privately, I am somewhat disturbed. I said, 'I don't know why you didn't just go and buy the things and send the account in.' He said, 'Well, I tried that and they wouldn't reimburse me for the cost.' I think that is outrageous. I do have sympathy for his position, and I am somewhat glad that I was reimbursed for my business cards. I think this is an issue that members of the house need to think about and resolve.

Debate adjourned on motion of Mr Pegler.

REGIONAL ASSEMBLY

The Hon. R.B. SUCH (Fisher) (12:30): I move:

That this house calls on the Speaker to consider holding another regional sitting of the parliament.

As members who were here at the time would be aware—certainly the member for Croydon was—when we had a regional sitting at Mount Gambier (which went very, very well), there were some critics who said, 'Look, it's a waste of money.' Democracy is never a waste of money and, apart from the actual parliament itself operating in a regional centre, members, ministers and shadow ministers get out and about in that area, and so they inform themselves about the issues in that regional area.

Due to a range of circumstances, I was the Speaker at that time, following the departure of the Hon. Peter Lewis from the chair, and in my assessment it went very well. The cost in the future will not be anywhere near as high as it was in Mount Gambier because we already have the mock-up benches and a lot of the other infrastructure, and there was a financial benefit that came as a result of developing new technology. As I understand it, Hansard uses that improved technology as a result of that sitting of parliament.

When people quoted a figure—I forget what it was, several hundred thousand dollars—members have to remember that that cost will not be replicated because we already have the mock furniture and the other infrastructure, and we have the benefit of improved technology which has an ongoing benefit to the parliament.

The question is: where do we have the next one? I understand the Speaker is keen to have it somewhere in the area of Whyalla, Port Augusta or Port Pirie, and I think that makes sense. I understand the Army is acquiring a lot of land around Whyalla, so perhaps we could combine the sitting of the parliament with some combat. I think the so-called Iron Triangle would be an ideal location. The Riverland also has a strong claim. I believe there is merit. Queensland has been hosting regional parliaments for many, many years. I went to the one in Rockhampton; it was fantastic. That is where I saw the sin-bin in practice, that is, sending members out for five or 10 minutes.

I commend this motion to the house. I do not think it requires a long speech from me, but I would urge the Speaker, the Premier, the Leader of the Opposition and other interested members to get behind this proposal and to consider it in light of what are, in reality, modest costs for bringing the parliament to people in a regional area, as happened in the case of Mount Gambier.

Mrs GERAGHTY (Torrens) (12:33): I make the point that the Premier has already made a statement indicating support for this and therefore I think it is a bit superfluous.

Debate adjourned on motion of Mrs Geraghty.

NON-GOVERNMENT ORGANISATIONS

Ms SANDERSON (Adelaide) (12:34): I move:

That this house urges the government to better support non-government organisations by streamlining application processes for government funding and create electronic information sharing to reduce time wasted on applications and increase service delivery.

The Adelaide electorate is the base for a large number of NGOs that provide social services to South Australia's most disadvantaged. Since being elected, I have visited a large number of organisations, both big and small, and have found recurrent issues in relation to how Families SA and Disabilities SA provide government funding to such organisations. Aside from an overall lack of funding, essentially the problems raised with me are as follows.

First, I see a need to standardise the application processes across the departments. Applications made by NGOs are very complex, and each is different in the organisational information required, with copies of relevant certificates and documentation also required. This makes completing applications an incredibly onerous and timely exercise and makes applying for grants too hard for many of the smaller NGOs who do not have the financial resources to allocate to such administrative duties. At present, this wastes time and money that could provide more services to individuals.

One example I was given by a small NGO was that it would take up to two staff several weeks just to complete an application, and then it takes a long time to find out if you have been successful. The staff who spent all the time filling in the applications could be better used helping people and providing services.

Another area that I can see needs work is that funding approval should be granted within a minimum of three months' notice. At present, funding approval is often granted at the eleventh hour, so NGO staff need greater job security. If a staff member is unaware of the funding for a project they are working on or if they are aware that it runs out in, say, two months and have not heard from the department regarding continuing funding, they understandably find employment elsewhere, often in government departments where there is job security and higher rates. It is already very difficult for NGOs to source staff and then to keep them with no job security.

If the NGOs are successful in their applications, they are often only given a short time to be operational, so circumstances exist where new staff need to be sourced and trained and, in some

cases, work space provided in order to implement a new or continuing project. This current funding practice particularly disadvantages smaller NGOs, and a pattern is developing where larger organisations such as Anglicare or Centrecare are growing and smaller organisations, many of which create innovative programs, are dropping out of the market or being taken over. Many of them, for example, operate from funding grant to funding grant and their staff are often waiting to find out whether the next grant will go through; so, obviously, if they are offered a secure job, again, they will take it.

I also see a need for a master database of service delivery to clients so that respective NGOs are able to better communicate and coordinate services for clients that access the services from multiple organisations. Currently, a person could go to up to 10 or 20 different organisations for help but none of them would know the past history, what help they have had before, or how better to help them in the future, rather than perhaps duplicating the same services that the client has already received. An electronic database of all the services provided to the community would also be of great benefit. At present, services are spread by word of mouth and a booklet that becomes out of date very quickly. This is a piecemeal arrangement that is time-consuming to follow. An electronic database where an NGO could easily look up how many beds are available or the number of vacancies for drug rehabilitation, etc. would be advantageous to the client and to the organisation.

An example of this is in my own electorate, where I have been trying to work out what NGOs exist and what services they provide so that when constituents come into my office I know immediately where accommodation is available or where they can get help for drug rehabilitation, or where other different areas and services are provided. However, it is always changing because they have to apply for funding each time, and the same providers do not provide the same courses or financial counselling, or what have you. If this was online and accessible, you could easily do a search for what you were looking for and find out when the next courses in financial awareness were coming up, for example, and which NGOs were providing it and when they could apply, which I think would save a lot of time and energy.

Another example given to me by Lutheran Community Care, I think it was, was when a homeless family came in and they had funding available for three days' accommodation. They contacted Families SA and were told it would take a week to get an appointment. They asked, 'After this three days of funding dries up, where can we send this family?' They were given a double-sided A4 leaflet of places for emergency help that they could ring. They brought it into my office, and at least one-third of it was crossed out because the numbers do not now exist or the funding is not at that particular place. It is very difficult for the NGOs to help people when it is changing all the time and there is no central database for them to follow this up.

Whilst I believe many of these issues can be remedied by the sheer will of the government, the present arrangement is wasteful of time and money and change needs to occur as our population is getting older and the growth of our population needing such social services is increasing exponentially.

Mr PEDERICK (Hammond) (12:41): I rise to support the motion moved by the member for Adelaide:

> That this house urges the government to better support non-government organisations by streamlining application processes for government funding and create electronic information sharing to reduce time wasted on applications, and increase service delivery.

Is it not interesting that time and again we hear that the business of the world gets buried in bureaucracy. Here we have a critical human element where people involved in making applications, with decisions made at the eleventh hour, rightly look for other employment because they think they will not get their business off the ground, they have no funding and believe that they will not be viable, so why should they hang around.

People in the Public Service need to understand that not everyone has the surety of full-time employment or lifetime tenure. People need to realise that they are dealing with people who want to supply services in the disability sector and services supporting our families throughout this state. Many needs are satisfied by non-government organisations, and they provide a great support to people across the state, but they need support at the top end, especially if the government is not supplying the service and these non-government organisations are supplying that support.

It is interesting to note a lot of the information is kept on what is barely a database—it is word of mouth, it might be a note, a booking—and in this day and age of electronics, IT, the

computer age, there has not been an electronic database set up so that the NGOs and government offices can communicate more efficiently with each other to pass information between each other and streamline the whole process.

Ms Sanderson interjecting:

Mr PEDERICK: Exactly. As the member for Adelaide indicated, you could have an iPhone application. As the member for Adelaide indicated, an electronic database, where a non-government organisation could easily look up how many beds are available or vacancies for drug rehabilitation, would be advantageous to the client or the organisation. I fully support the motion and commend the member for Adelaide for bringing it to the house.

Debate adjourned on motion of Mrs Geraghty.

ANZAC ACTIVITIES

The Hon. R.B. SUCH (Fisher) (12:44): I move:

That this house requests all schools in South Australia to hold commemorative ANZAC activities to acknowledge the more than 100,000 Australian men and women who have given their lives in the service of their country.

The Hon. A. Koutsantonis interjecting:

The Hon. R.B. SUCH: The member for West Torrens says, 'They do, don't they?' Unfortunately, they do not. I wrote to minister Weatherill—and I understand that the government and he support what I am trying to do. Schools are not required to commemorate ANZAC activities, as I call them. ANZAC Day falls usually in their school holidays, so it is hard for them to come back just for ANZAC Day. So, I have used the term 'ANZAC activities'. It goes beyond commemorating ANZAC Day; it is to commemorate all those who have given their lives, more than 100,000 men and women.

I wrote to the Minister for Education, who informed me that schools are not required to acknowledge or commemorate ANZAC activities and I think that is unfortunate. Most of them almost certainly do something, but I believe they should all do it. The media reported it as mandatory; it is not. This is not a bill, this is a motion, and it says 'requests'. I would be very disappointed if any school chose not to acknowledge that sacrifice.

It is not about glorifying war. War is hideous and evil, except in some rare situations where people are fighting for a noble cause and they have no choice but to take up arms. I have probably mentioned before in this house that my uncle was killed in New Guinea in World War II on his birthday. That is where I get the name Robert from—Harold Robert Wescombe, a young man killed in the prime of his life. My English grandfather fought in the Battle of the Somme; he was gassed, but he survived that. Another relative was involved in the Boer War and he died shortly afterwards from, I think, disease contracted there.

My father was on the earlier *Sydney*. He knew a lot of the men who were on the *Sydney* that went down. He never talked about it, but it must have had a significant impact. I think 642 men drowned or killed when the *Sydney* went down, but he never ever talked about it, other than to say that he believed, as did most of the people in the Navy at the time, that the commander of the ship allowed the *Kormoran* to get too close, to get under the big guns, because they could have blown the *Kormoran* out of the water any time they liked. In defence of the captain of the *Sydney*, I think it needs to be pointed out that if he had blown up the *Kormoran* and it had turned out to be full of POWs, then people would have condemned him, so in some ways he was between a rock and a hard place, because those sorts of accidents did happen in World War II.

It is not about glorifying war. It is not about anything like that. It is about acknowledging that young men and women in particular gave their lives in large numbers so that we can enjoy the freedom we have here today. The least we can do is acknowledge that, and our schoolchildren should be part of that. When I went to Coromandel Valley Primary School as a kid we had special assemblies, and I can remember they were quite emotional and moving because in that little school, before my time, they had lost quite a few students in World War I.

In the Uniting Church at Cherry Gardens, which is now in my electorate, there are 39 names on a plaque on the wall of those who went to war in World War I, and I think about 10 or 11 were killed. In places like Coromandel Valley and Cherry Gardens nearly every family lost at least one son; in some cases they lost more than one. Recently, I think it was the member for—I am

trying to think who brought in the motion commemorating or recognising the sacrifice of the nurses in World War II, but—

Mr Sibbons: Torrens.

The Hon. R.B. SUCH: The member for Torrens. Once again, it is not about glorifying what was an evil act directed against those nurses but recognising that those people gave their lives. I think it is true to say that in Australia, in the First World War, we lost over 60,000 young people, and that had a very significant impact, I believe, on this country, because many of those young people thought they were going on an adventure, which turned out to be a nightmare, whether they went to Gallipoli or to the Western Front. Thousands of them died and, in many ways, we lost some of our top young people.

Whilst we are focusing naturally on our own who lost their lives, the loss to German, Italian and Russian mothers is just as painful as it is for people here. Someone in response on radio said that this is jingoistic; it is not. If you do not learn from the past, you do not have much of a future in terms of trying to avoid war. I think one of the best things any person can do in politics is to try to ensure that there is no war unless it is absolutely essential in order to defend your country. I commend this motion to the house. As I said earlier, it is in the form of a request—it is not a law, it is not mandatory—but I would be very disappointed if any school chose not to remind young people that the freedoms we enjoy in this country have been obtained at great cost and that, wherever possible, we should commit ourselves to ensuring that we have peace and that we have peaceful relations with other countries. I commend the motion to the house.

Ms THOMPSON (Reynell) (12:50): The government is pleased to support this motion. At the same time, I am personally quite bewildered as to why we are considering it. I am disappointed that we are considering the motion in this form because it implies that our schools are not undertaking appropriate recognition of ANZAC Day, and nothing could be further from the truth. The government does not actually control what happens in Catholic and independent schools, and even within its own area it does not go into each classroom to make sure that something is said about ANZAC Day, but, from my own knowledge, I know what happens in my schools on ANZAC Day and I know how this is supported by various government agencies.

For instance, each year the DECS chief executive sends a circular to schools reminding them about the significance of ANZAC Day. The chief executive via the circular asks all public schools and preschools to recognise and commemorate the bravery and sacrifices Australian men and women have made in times of great adversity. All preschools and schools are encouraged to take the opportunity to engage in learning about and celebrating the significance of the ANZAC Day spirit to Australian society. The government supports that learning each year by distributing to schools from the Department of Veterans' Affairs a package of information that can be used as additional resources to what is already available in schools.

Madam Deputy Speaker, as you know, our first resource in schools is teachers and it has been my experience that our teachers also recognise the importance of ANZAC Day within the community environment, and within the context of Australian studies and society so that it is not just on ANZAC Day. They go out of their way in the south during school holidays to escort children who participate in ANZAC Day activities, particularly through the ANZAC Youth Vigil. There are other opportunities to increase even further participation in ANZAC Day events and, more importantly, this spirit of ANZAC Day to ensure that this is a sacred trust that goes on to our children. I know our teachers recognise this and I know they recognise the importance of it for children and the community.

There have been additional initiatives taken by this government to enhance our learning even further. The Premier's ANZAC Spirit school prize for years 9 and 10 students has been conducted since 2007. This initiative has been developed by the state government in an effort to encourage young South Australians to understand, connect with, and maintain the ANZAC spirit made famous by the diggers during the Great War of 1914-18. Nine students and two teachers from DECS, independent and Catholic schools participate in a state government funded study tour to Europe to commemorate ANZAC Day. It will happen this year, as it has for the last few years.

Then, the History Teachers' Association of Australia through its state affiliates conducts the national Simpson Prize competition for years 9 and 10 students on behalf of the Australian government. Through this competition, students are required to write an essay or prepare an audiovisual presentation related to a set statement, with winners travelling to Gallipoli or the Western Front to attend ANZAC Day ceremonies.

The state government has also established an ANZAC Day Commemoration Fund to enable various community organisations to participate in the commemoration of ANZAC Day. In my electorate, the Morphett Vale East Primary School applied for a grant in order to erect a new flagpole. Unfortunately, the school was too late to get its entry in qualifying for the grant, so the Minister for Veterans' Affairs (thank you, minister Kenyon) has instead made a special grant to enable Morphett Vale East to have an additional flagpole.

It is a very interesting story, because, during their much-admired BER works, a stone was uncovered that contained a plaque recognising those from the Morphett Vale area who had served. They did not know it was there. So, having discovered that treasure, the school went about making the most of it. They did not want to move it. They do not know yet why it is where it is, but they thought that it was a special spot and that it should be maintained.

Instead, they asked for money to erect an additional flag next to the stone, and they have decided that, on the last Wednesday of term each year, they will have an ANZAC Day ceremony conducted by the local RSL; and the Morphett Vale RSL could not be more cooperative in assisting schools to commemorate ANZAC Day. Children will learn the ode and all the basic concepts about the formal recognition of ANZAC Day.

As I have already mentioned, the ANZAC Youth Vigil in the south now provides an opportunity for schools—in addition to what they have already done during term time—to come along out of term time to participate in the ANZAC Youth Vigil ceremonies. This year, at least 24 schools (and possibly more) are coming along, despite the fact that ANZAC Day as we know coincides with Easter and so many families are away and many teachers are away.

Nevertheless, 24 schools are sending at least two children to the ANZAC Youth Vigil in the south on Sunday 24 April. They will participate in the ceremony and lay a token of respect on the war memorial. I consider this quite amazing, as I saw the students last year sitting in the rain with their teachers, getting absolutely drenched. But, as one of them said to me, 'Well, this is putting up with nothing compared with what those diggers had to put up with. I'm not worried about being drenched.' Children understand what is happening. They understand why we are so proud of the ANZAC spirit. They are going out of their way to participate. At the dawn service there are more and more children. In Morphett Vale we now have the second largest dawn service in the state. As I look around, it is full of children.

Of course they are there because they have learnt about ANZAC Day in their classrooms and in their schools. We know that their parents are supporting them and that probably their parents have encouraged them, but I do not think they would be getting out of bed at 5 o'clock in the morning if they did not already know through their school curriculum and the respect shown in schools that ANZAC Day is important to us. It is important as Australians.

As I said, I completely support this motion, but I am disappointed that it has been brought forward in such a way that implies that this is not happening, and I am disappointed that the media that I have read from the member for Fisher is also failing to give credit to the huge amount of activity that occurs in schools.

I do hope that FIVEaa, in particular, takes note of the fact that our schools are very active in the way in which they recognise the ANZAC spirit, commemorate ANZAC Day and ensure that future generations know how important this is to us—and how important it is for them to think about the relevance of ANZAC Day in their current lives, to make that translation from 1914 to 2011-12 and how they can live up to the spirit of ANZAC in their everyday lives.

Debate adjourned on motion of Mr Pederick.

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

DRINKING WATER

The Hon. R.B. SUCH (Fisher) (14:00): Madam Speaker, can I just point out that the water being supplied in here is different. On your right-hand side, it is pure and nice; on this side, it is tainted. I do not know whether it is an attempt to poison the members on this side, but it is a totally different taste and content.

Members interjecting:

The SPEAKER (14:00): Order! Yes, member for Fisher, I am very aware and have been complaining about the water for the last couple of days. I think that the building attendant is checking it out for us. I wondered whether somebody had put something in the water. I was hoping that perhaps they might have, in some cases.

Members interjecting:

The SPEAKER: I think it is called bromide, isn't it?

Members interjecting:

The SPEAKER: Order!

VISITORS

The SPEAKER: Members, I draw your attention to the presence in the gallery of a group of TAFE students who are guests of the member for Adelaide. There are two groups in their adult years at TAFE. We have a group who are guests of the Treasurer from the Department of Further Education, Employment, Science and Technology (DFEEST), and also another group of students who are guests of the member for Adelaide—she seems to be very busy; she has lots of groups in here—who are from the Gilles Street Primary School. I think we have years 6 and 7 up there. Welcome to all those groups; we hope you enjoy your time here today.

MAGILL ROAD, PEDESTRIAN CROSSING

Mr MARSHALL (Norwood): Presented a petition signed by 392 residents of Beulah Park, Trinity Gardens and greater South Australia requesting the house to urge the government to take immediate action to install a pedestrian crossing on Magill Road by Salop/Osborn streets, Beulah Park.

MOUNT LOFTY BOTANIC GARDEN

Ms CHAPMAN (Bragg): Presented a petition signed by 14 residents of South Australia requesting the house to urge the government to take immediate action to ensure recurrent government funding is provided for adequate horticultural staffing of the Mount Lofty Botanic Garden.

ROYAL ADELAIDE HOSPITAL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:02): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: Yesterday, the Leader of the Opposition and the member for Davenport referred to figures from an alleged Macquarie Bank document to make claims about the cost of the new Royal Adelaide Hospital. The Leader of the Opposition must now show the public of South Australia the document that was used to make this claim, because we know that people in her position have in the past—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —had credibility issues—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —with documents used to make outrageous claims in this parliament, as the member for Waite well knows.

Members interjecting:

The SPEAKER: Order!

Ms Chapman: Scurrilous!

The SPEAKER: Order, the member for MacKillop, the member for Norwood and the member for Bragg!

The Hon. J.D. HILL: Talk about the cat calling the kettle black. Yesterday, the member for Davenport used deliberately ambiguous language referring to 'total use of funds spent come 2016' in parliament. The member for Davenport refused to appear on radio with me to discuss these figures this morning. What has he got to hide?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The Leader of the Opposition must now show the parliament the breakdown of the costs provided in the alleged Macquarie Bank document and come clean with the people of South Australia—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —about what these documents truly say about the construction cost of the new Royal Adelaide Hospital.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The Liberal Party has a questionable history of misusing or manufacturing documents for political claims, as the former leader knows only too well. Where is the member for Unley today, speaking of such matters?

An honourable member: He is working on documents.

The Hon. J.D. HILL: He is working on documents. If the alleged document is genuine, the aspiring leader, the member for Davenport—

The SPEAKER: Point of order! The member for Finniss.

Members interjecting:

The SPEAKER: Order!

Mr PENGILLY: Standing order 98: I believe the minister is just debating this matter.

The SPEAKER: This is a ministerial statement. Minister, continue on.

The Hon. J.D. HILL: If the alleged document is genuine—

Mr WILLIAMS: Point of order: I believe the minister did, a moment ago, make a very disparaging remark about the member for Unley who is not here to protect himself. I ask that the minister withdraw and apologise.

The SPEAKER: What in particular did he say, member for MacKillop?

Mr WILLIAMS: The minister suggested that the member for Unley, who is not here at the moment, was out somewhere manufacturing documents. It was a very disparaging remark, and the member is not here to protect himself.

The SPEAKER: Alright; sit down!

Members interjecting:

The SPEAKER: Order! Minister, did you say that?

The Hon. J.D. HILL: Madam Speaker, I think what I said was that the Liberal Party have a questionable history of misusing or manufacturing documents for political claims, as the former leader knows only too well. Then I said, 'Oh, where is the member for Unley?' My colleague made some witty remark, and I think I may have repeated it. If I repeated something which offended the deputy leader I am happy to withdraw it.

The SPEAKER: So you have withdrawn that remark. Minister.

The Hon. J.D. HILL: If the alleged document is genuine the aspiring leader, the member for Davenport, must know that the document reveals a construction cost that is lower, much lower, than the figure he used and does not support the claims he and the Leader of the Opposition made in the house yesterday.

The final contractual negotiations, as I have said many times, are currently underway with the winning bidder, SA Health Partnership, to design, build, finance and then maintain and operate the new Royal Adelaide Hospital over a 35-year period. Financial details—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —of the project are confidential until the contract negotiations with SA Health Partnership consortium are completed and a contract is signed and the financial close is reached. As has already been mentioned in the parliament, and outside, consistent with other PPP projects in South Australia—

Ms Chapman interjecting:

The Hon. J.D. HILL: —I have no idea what you're saying, Vickie—the government will release details of the new Royal Adelaide Hospital PPP contract within 60 days of the contract being signed, including the total value of the signed contract. We will provide full information to the public—

Ms Chapman: What about the contracts themselves?

The SPEAKER: Order, member for Bragg!

The Hon. J.D. HILL: —about the final cost of the project over 35 years, which will include construction cost, finance cost, transaction cost, facilities maintenance cost, equipment life-cycle cost.

Ms Chapman: What about contracts?

The Hon. J.D. HILL: It is interesting that the member for Bragg talks about contracts, because we have a lot of history in this place about contracts that her side of politics provided to us over time. Maybe we should talk about secrecy in the Liberal Party while we are talking about this. What we are offering to do, we are promising to do, is to provide as much detail as we possibly can to the public, so they can form their own opinion as to the benefits of this project.

So, construction cost, financial cost, transaction cost, facilities maintenance cost, and equipment life-cycle cost will be made available to the public. I am advised that the cost of risk is built into every element of the costing process. The government will release all information—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: We will release all information that is not commercially confidential. The government will not pay a single dollar until SA Health deems the hospital—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —is ready for use. This is one of the benefits of this contract. It gets built, it's constructed, we do not start paying until we move into the hospital. I repeat: this is a very good deal for the taxpayers of this state—

Mr Marshall interjecting:

The SPEAKER: Order, member for Norwood!

The Hon. J.D. HILL: —and the Leader of the Opposition should come clean and show the public document that she is relying on to make these kinds of claims.

The SPEAKER: I call on questions without notice—and I'm warning people that today I am a bit cross, and they might end up out of the chamber.

QUESTION TIME

GRIFFITHS, DREW CLAUDE

Mrs REDMOND (Heysen—Leader of the Opposition) (14:09): My question is to the Minister for Correctional Services. How many times does the notorious criminal, Drew Claude Griffiths, have to attempt to escape before the minister realises that special measures may be necessary whenever that man is being transported or dealt with, given that the said Drew Claude

Griffiths has today made yet another escape whilst at the Royal Adelaide Hospital, in the process threatening a guard—indeed, some reports say stabbing a guard in the chest—and attempting a carjack before being recaptured?

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Point of order: can I just point out that if the Leader of the Opposition wishes to explain a question she needs to seek leave. She just gave a lengthy explanation to the question without seeking leave.

Members interjecting:

The Hon. P.F. CONLON: I'm sorry, we do have standing orders—we do.

Members interjecting:

The SPEAKER: Order! Yes, I'll uphold that. Minister.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (14:09): Thank you, Madam Speaker. It is interesting that yesterday the opposition were briefing journalists that they had the biggest story of the century, and today, first question, not one question.

Members interjecting:

The Hon. A. KOUTSANTONIS: Now, Madam Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Madam Speaker, the Leader of the Opposition, rather than get up and commend the actions of what I think are South Australia's bravest public servants—a correctional officer was stabbed in the chest today; his throat viciously attacked. Rather than stop and deal with his injuries, he chased that criminal down and brought him back to justice. That, I think, is the greatest example of South Australia's public servants—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: —doing their job for the people of this state. Now, Madam Speaker, I commend those officers—

Members interjecting:

The SPEAKER: Order!

An honourable member: It was your fault!

The SPEAKER: Order! Stop yelling across the chamber.

The Hon. A. KOUTSANTONIS: I commend the actions of Corrections. The emergency response group were the ones who were guarding this prisoner. They were the ones who responded and brought this person back to custody quickly. Now, I am not going to stand here and let the Leader of the Opposition—

Mr Marshall interjecting:

The SPEAKER: Order! I warn the member for Norwood.

The Hon. A. KOUTSANTONIS: —and other members degrade the bravery of those officers who went out, risked their lives, sustained serious injuries and brought this person back to justice. However, I am still awaiting a full brief on the issue, and there are some details which I can inform the house. As the house is aware, there was an incident involving a prisoner, Drew Claude Griffiths, at the RAH this morning. While under supervision of the emergency response group, the prisoner escaped from his hospital bed while a leg shackle was being repositioned—

An honourable member: Are you reading?

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: You are such a coward.

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: He forced his way out of the room with officers in pursuit. And I will say this: the officer who was stabbed and still led the pursuit is, I think, one of South Australia's bravest officers. The emergency response group personnel—

Members interjecting:

The Hon. A. KOUTSANTONIS: Because in the question of the Leader of the Opposition, she stated, and I am paraphrasing, 'Didn't this prisoner need extra security?' The emergency response group are our best. They are our best officers, and the Leader of the Opposition laughs at their bravery. She laughs at their bravery!

Members interjecting:

The Hon. A. KOUTSANTONIS: You've never put your life at risk once—not once—and you get up and you criticise officers. How dare you? How dare you?

Members interjecting:

The SPEAKER: Order! Member for MacKillop!

The Hon. A. KOUTSANTONIS: I can only imagine—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. Foley: Shame on you, Isobel!

The SPEAKER: Order! This is not a funny matter. This a very serious matter and we should listen to what the minister says in silence. As I said, somebody will go out today if you're not careful. Minister.

The Hon. A. KOUTSANTONIS: Madam Speaker, the emergency response group are our best. I don't think for a second that their bravery can be questioned, and I think—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: I think the imputation in her question that more could have been done is outrageous. However, as he attempted to take possession of the vehicle from an innocent member of the public, he was restrained and returned, of course, to the hospital ward. He was then transferred to maximum security (G Division) at Yatala. An investigation is currently underway.

This government applauds the actions of officers. This government stands by the bravery of those officers, and I stand by the officers who put their lives at risk, and I won't hide behind parliamentary privilege.

Members interjecting:

The SPEAKER: Order!

ADELAIDE CABARET FESTIVAL

Ms THOMPSON (Reynell) (14:13): My question is to the Premier. Can the Premier tell the house about the program for the 2011 Adelaide Cabaret Festival?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:14): As Minister for the Arts, I am delighted to reveal some of the details of the festival which is becoming a major feature on our events calendar, as well as our festival calendar. Last year's 10th Adelaide Cabaret Festival was the most popular to date. It broke all previous box office records.

The annual festival has grown to become the biggest cabaret festival in the world held under one roof. South Australians and cabaret followers from around the world have warmly embraced the festival, and international artists clamour to be included.

This year marks the 11th anniversary of the annual Adelaide Cabaret Festival. It will be Artistic Director David Campbell's third and final Cabaret Festival. In keeping with the energy and pizzazz that has been brought to the festival under David Campbell's directorship, with his associate producer and wife Lisa, this year's line-up is as dynamic as it is diverse. Since taking the reins in 2009, they have lifted the festival from what was an already significant festival to one that is even stronger.

The program offers 15 international shows, 32 Adelaide premieres, three Adelaide exclusives, seven Australian premieres and 15 world premieres. The Adelaide Festival Centre Trust received an additional one-off grant of $250,000 from the state government this financial year—in fact, it was during the treasurership of the Minister for Police, whose interest in the arts is legendary—specifically to assist in securing international headliner artists for the 2011 Cabaret Festival program.

With Australia's international chart topper, Olivia Newton-John; New York's master of song, Michael Feinstein; legendary Broadway star, Chita Rivera; Rhonda Burchmore; Jimmy Webb, who is Chairman of the Songwriters Hall of Fame internationally; as well as Australia's much-loved country music star, Melinda Schneider; chart-topper, Leo Sayer; and Adelaide's international legend rock singer, Glenn Shorrock, heading up a star-studded list of Australian and international entertainers, there is little wonder that interest is high.

Once again, patrons will have the chance to walk the red carpet—I know some members opposite like that—and to taste the line-up of cabaret artist at the opening night variety gala performance on Friday 10 June. Opening on the Queen's Birthday long weekend, this year's festival will include 129 performances of some 47 different shows across 16 nights, with plenty of variety to appeal to different age groups, and a range of ticketed and free activities.

There will be performances paying homage to the great musical masters, as well as musical comedy, jazz, an exhibition of Peter Allen memorabilia (which I'm sure will interest many members), masterclasses, and the critically acclaimed show (having sold out four seasons at the Opera house) entitled *Drag!*

David Campbell and Musical Director Matthew Carey are once again working to inspire and help the next generation of cabaret artists in the weeks leading up to the festival. The High School Cabaret initiative will this year see students from Blackwood High School and Pembroke School presenting their own programmed cabaret performances during the festival.

The queue to buy tickets immediately after the launch snaked around the festival theatre foyer, and the BASS counter did not close until 12.30am the following morning, due to the very strong demand for ticket purchases. Saturday night's program launch sold 30 per cent more tickets and took 63 per cent more in the box office over last year's launch, and in the days following has continued to deliver strong sales. I understand that, as of yesterday, we have sold almost 7,000 tickets. Shows across the program are selling very well. We are already at 26 per cent of our box office target, which has been lifted by 15 per cent on last year's result.

Shows regularly sell out at this very popular midwinter festival and, given this remarkable result just days after the program launch, is expected to be the case again this year, so I urge members and the public to check out the 2011 Cabaret Festival program soon and not waste any time in making their bookings.

Members interjecting:

The SPEAKER: Order!

LYELL McEWIN HOSPITAL

Mrs REDMOND (Heysen—Leader of the Opposition) (14:19): My question is to the Minister for Health.

An honourable member interjecting:

The SPEAKER: Order!

Mrs REDMOND: When the government announced—

Members interjecting:

The SPEAKER: Order! Members on my right will behave.

The Hon. A. Koutsantonis interjecting:

The SPEAKER: Order, minister for corrections! Leader of the Opposition.

Mrs REDMOND: My question is to the Minister for Health. When the government announced the $201 million Lyell McEwin stage 3 redevelopment, did the $201 million figure include non-building costs such as professional fees and market risk?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:19): I can get some detailed information for the member in due course as to exactly what was covered in that figure, but traditionally, as I said to the house yesterday, when the government announces a cost for the construction of a facility, whether it is a hospital, a school, a prison, a railway line, or any of these things, which is procured in the traditional way, what we are really talking about is the design and construction costs. If we say it is a $100 million project, that is design and construction.

What we do not include is the cost associated with all the other costs that will come into account in due course, for example, the cost of the finance, that is, going into the marketplace to borrow the money and then having to pay that back over time. That is usually brought into the books of Treasury, as I understand it. When we give that initial figure we do not take into account how much it costs to repair that building, the life cycle costs of that building. We do not do that. That is how we traditionally procure.

When we procure through a PPP arrangement, of course, all those matters are brought to the accounts at the very beginning and so we know the life cycle costs, whether it is financial, transactional and so on. So, all of those things are brought into account, but in relation to the Lyell McEwin, without checking exactly, I imagine it was a design and construction element, but if there is anything in addition to that I am happy to find out for her.

LAW REFORM INSTITUTE

Mr PICCOLO (Light) (14:21): My question is to the Attorney-General. Can the Attorney-General inform the house about a new body formed to streamline laws and improve access to justice?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (14:21): Members of the house may be interested to know that towards the end of last year an agreement was reached between the University of Adelaide, the Law Society and the Attorney-General's Department to bring into being a law reform institute, which will be housed at the University of Adelaide. This is something which I regard as a very positive and exciting development for law reform in South Australia. Members may be aware that South Australia really has not had a law reform commission since the 1980s and up until now has been the only jurisdiction not to have one in any way, shape or form. That, however, is now a feature of the past.

The institute is governed by a board which has appointees from the Law Society, from the courts and so forth, as well as the Attorney-General's Department. Presently the director is Professor John Williams of the University of Adelaide. Also being board members are Ingrid Haythorpe, who is a member of the Attorney-General's Department, Rosemary Owens, the Dean of the University of Adelaide Law School—

An honourable member interjecting:

The Hon. J.R. RAU: Indeed. Terry Evans, who is a nominee of the Law Society of South Australia, Justice Tom Gray from the Supreme Court, Justice David Bleby from the Supreme Court and Jonathan Wells QC, who was nominated by the SA Bar Association.

I can report that the inaugural meeting of the board was held last night and I was delighted to be able to attend that meeting for a period of time. I would like to indicate to the house that the board has formed the view that they are intending to make inquiries into two matters, the terms of reference for which are being settled now. I can advise the parliament that the first area that the board will be looking at is the modernisation of the Evidence Act to deal with new technologies, and

the exact framework of that inquiry, as I said, is being worked through by members of the board at the present time.

The second matter, which is a very important matter, I think, for all of us, because it is a matter which will ultimately concern all of us, is a review of the law in South Australia regarding wills and estates. I am pleased to say that Mr Frost, whom I am sure the member for Bragg knows and who is a very well respected solicitor in Adelaide, and his committee in the Law Society are going to be involved in that matter. In due course I will get back to the parliament with more details about exactly what the terms of reference for these inquiries are.

In conclusion, I would just like to say how absolutely delighted I am to have the people of the calibre that we have on this board and that this is a very positive step for South Australia. I look forward to being able to keep the parliament advised of developments with the institute.

Members interjecting:

The SPEAKER: Order!

LYELL McEWIN HOSPITAL

Mrs REDMOND (Heysen—Leader of the Opposition) (14:25): My question is again to the Minister for Health. Will the minister confirm that the $201 million Lyell McEwin stage C redevelopment budget included non-building costs such as $25.5 million for market risk and $40 million in professional and managing contractor fees?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:25): Madam Speaker, it is curious, isn't it, and it's probably an abuse of the process of the parliament, for the Leader of the Opposition to ask me a question to which she had the answer in her hand. I said I would get any detail if she needed to know.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I said that I assumed it covered design and construction and, as my colleague here says, there is usually an element associated with risk in those figures as well, which is a contingency level of some sort. As I said, I will get a fuller briefing for her if she wants. What it doesn't contain, of course, is the cost of borrowing that money. It doesn't include the cost of maintaining that facility over the 30 or 35 years—

An honourable member: It should.

The Hon. J.D. HILL: —all of those other things that the member says it should. I actually agree that the smart way of looking at any building, whether it is a private building or a public building, is to take into account the whole of the life-cycle cost because that focuses you on the real cost, and that means you invest in a better way at the very beginning because you know what it's going to cost you to look after the building. Traditionally, governments have just looked at the cost of construction and not the whole life-cycle cost and, I think, from an environmental point of view, that makes a lot of sense to do that. So, I am very pleased. I think that one of the benefits of the new Royal Adelaide Hospital will be that we are taking into account the life-cycle costs and we'll be able to design a better hospital as a result of that.

HOSPITAL SAFETY

Mrs VLAHOS (Taylor) (14:26): My question is to the Minister for Health. What action is the state government undertaking to ensure a safe environment for patients, staff and visitors is maintained in our hospitals and other health facilities?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:27): I thank the member for Taylor for this question and I thank her as well for often representing me at health events when I am unable to attend. I know she has got a very strong interest in this area. The Building Code of Australia prescribes the minimum standards for new constructions. The code also adopts certain Australian standards which offer prescriptive construction or installation methodology to meet 'deemed to satisfy' solutions.

The code is revised on a regular basis, I am advised. Each revision applies to all buildings that are constructed within the time frame of the current revision and applies to current

redevelopment works within existing buildings. The current requirements in the code do not apply to earlier buildings other than those development works being undertaken. Technically, existing buildings only need to be compliant with the code provisions that were applicable at the date of construction.

Many of our hospitals are, of course, ageing, and some older buildings are not compliant with recent versions of the building code. The government is funding a massive capital works program—some of it was referred to by the leader just recently—to rebuild or redevelop every single metropolitan public hospital. All new works will be compliant with the latest version of the Building Code of Australia.

SA Health prioritises the safety of all those who use the health system as patients, staff or visitors, and therefore goes to considerable effort to ensure that, where possible, modern and contemporary standards of safety are met, even in old buildings. To meet these challenges, in relation to fire safety in particular, SA Health has negotiated an arrangement with the Metropolitan Fire Service and the Country Fire Service for a triennial report on fire safety at all of the state hospitals. While the current requirements in the code do not apply to older hospital buildings, the Metropolitan Fire Service and the CFS assess all buildings against the current provisions of the code in the interest of fire safety.

The three yearly Metropolitan Fire service inspections allow major hospitals to develop an action plan to review and address issues that are raised in these reports.

Members interjecting:

The SPEAKER: Order! There is too much background noise.

The Hon. J.D. HILL: While triennial reports address fire safety issues, a fire master plan and action plan addresses both fire safety and condition issues and is, therefore, a more comprehensive review. Having a safe environment—

Dr McFetridge interjecting:

The Hon. J.D. HILL: Just look in the letterbox. Just look in the letterbox, my friend. Having a safe environment, including regular reviews and action plans to address recommendations are an imperative requirement in achieving formal accreditation of the health service. Hospital accreditation processes specifically include a review of fire safety systems and practices, with particular reference to ensuring key recommendations of the MFS/CFS triennial reports are implemented.

The constant revision of standards in areas such as fire safety, earthquake proofing, electrical services, lifts and disability access presents a major challenge for existing buildings, and this is compounded in hospitals such as the existing Royal Adelaide Hospital which comprises very old buildings with subterranean tunnels across the site. It would be very complex and costly to bring the site to—

The Hon. M.J. Atkinson interjecting:

The Hon. J.D. HILL: —a point to the member for Croydon—the current Building Code of Australia standard. I am glad someone was listening to what I was saying. I thank him very much for that. For example, at the existing RAH, some 30 separate fire safety projects have been funded over the past five years, including fire sprinkler installations, emergency and exit lighting, installation of fire doors, fire suppression systems and an emergency warning intercommunication system upgrade.

About 45 per cent of issues raised in the December 2009 MFS report (the most recent one) have been completed, and SA Health will work to address outstanding matters on a priority basis. As the new Royal Adelaide Hospital is an entirely new build, it will meet all of the latest building regulations and standards (yet another advantage of the new hospital). The new RAH will therefore have higher standards of fire safety, disability access and earthquake resistance than the current Royal Adelaide Hospital. The new RAH will also have higher environmental standards as well as better and more modern medical facilities than the current hospital.

In relation to our other hospitals, the Lyell McEwin Hospital is predominantly Building Code of Australia compliant and will be fully compliant at the completion of stage C (mentioned a little while ago by the Leader of the Opposition). The Queen Elizabeth Hospital patient accommodation is fully compliant, and the whole site will be compliant on the completion of the redevelopment works.

Works undertaken as part of stage 1 of the Flinders redevelopment will be fully compliant, and 32 of the 35 recommendations made in the June 2010 Metropolitan Fire Service report have been completed and all will be complete by the end of the financial year. However, we are aware there are issues on the remainder of the site to address the full fire master plan, and this will be funded over time in part through the SA Health compliance program.

Major works at Modbury Hospital and the Women's and Children's will ensure that extensive proportions of these sites are fully compliant. Extensive rebuilding at Ceduna (which was mentioned yesterday), Whyalla and Berri hospitals will make these sites predominantly compliant as well. The relatively newer hospitals at Mount Gambier and Port Augusta are predominantly compliant.

In relation to aged-care facilities, the commonwealth provided $16.1 million over the four years to 2009-10 for the upgrade of services at aged care facilities in country hospitals, and about $13 million supported fire safety compliance in that figure. So a lot has been done and there is more to be done still. I thank the member for the question.

ROYAL ADELAIDE HOSPITAL

The Hon. I.F. EVANS (Davenport) (14:32): My question is to the Minister for Health. As the government announced the Lyell McEwin stage C redevelopment cost of $201 million, which included non-building costs such as market risk and professional contractor fees, why is it not reasonable for taxpayers to believe that, when the government announced the new Royal Adelaide Hospital cost of $1.7 billion, this cost, too, would include those non-building items?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:33): I thank the member for the question. I invite him, as I invited the Leader of the Opposition, to table or show the document that he relied on yesterday, the alleged document that he relied on yesterday. Show it to the public. Be honest with the public of South Australia. If you think you have got something, show it to the media, show it to the public. They will not do it, Madam Speaker, because they know it undermines the argument that they are making.

In relation to the Lyell McEwin project and other government-built projects, I am advised that it includes all costs that contribute to the capital costs but not only ongoing maintenance costs. The capital costs include things such as contingencies, professional fees, engineering fees, DTEI fees, contract management fees and builders' fees for managing contractor. It is like the cost of building a house and having the connection fees, development application fees and all the other levies. The net cost of borrowing or maintaining of costs, of course, is not included, and that is the distinction.

What we are getting is an arrangement for the management company of the RAH to look after the non-medical part of that hospital for 35 years. We do not pay an up-front sum of money. We pay every quarter, effectively, a lease fee for access to that hospital, with all the conditions that are provided. That is what we get out of a PPP arrangement. It is different from the arrangements in place at the Lyell McEwin and all the other hospital upgrades, as I am sure the member for Davenport understands. If he would show the document that he has, the public would understand; he understands that, too.

ROYAL ADELAIDE HOSPITAL

The Hon. I.F. EVANS (Davenport) (14:34): My question, again, is to the Minister for Health. Can the minister confirm that the government is liable for 80 per cent of the costs of removing any unknown contamination that is identified in the construction process at the new Royal Adelaide Hospital site?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:35): I thank the member for the question. What I can confirm is that the project company is responsible for cleaning up the site, and an assessment is made—whether or not it is 80 per cent I cannot tell you because I do not have the documents you are relying on for that information, but you should table it so that we could all have a look at it.

I am happy just to check the detail, but let us be clear, Madam Speaker, what the member is talking about is 'unknown' pollution. We are pretty certain that we know what is on that site—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —and the project company will clean that site up.

ROYAL ADELAIDE HOSPITAL

Dr McFETRIDGE (Morphett) (14:35): My question is to the Minister for Health. Minister, how does the government justify its argument that a PPP transfers risk away from the government to the private sector, when, under the new Royal Adelaide Hospital PPP, the taxpayer is still liable for 80 per cent of the cost of cleaning up unknown amounts of contamination at the rail yard site?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:36): Madam Speaker, I guess it is kind of PPP 101—

Members interjecting:

The SPEAKER: Order, the member for Davenport and the member for MacKillop!

The Hon. J.D. HILL: It is PPP 101. We enter into an arrangement with the project company and there is—

Ms Chapman interjecting:

The Hon. J.D. HILL: You've got witty things to say, Vickie? Please, have the floor.

The SPEAKER: Order!

The Hon. J.D. HILL: It is a fatal flaw, Madam Speaker. She can talk when someone else is talking but when it comes to her, she hasn't got the bottle to actually say what she means. We are talking about the way that PPP—

Ms Chapman interjecting:

The Hon. J.D. HILL: Oh, there she goes again. Please, go ahead.

The Hon. K.O. Foley: Well, don't forget, you stopped them coming over here.

The SPEAKER: Order!

The Hon. J.D. HILL: Yes, that's right.

The SPEAKER: Order!

The Hon. K.O. Foley: If you hadn't opened your mouth—remember that. All there, guys; remember that.

The SPEAKER: Order, members on my right!

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! I warn the Minister for Police.

The Hon. J.D. HILL: Thank you, Madam Speaker.

The SPEAKER: Minister, could you get back to the answer to your question?

The Hon. J.D. HILL: I am trying to, Madam Speaker, but you might have trouble hearing what I am saying, is the point I am making, because the interruptions are continuous. What I was trying to do is to explain to the opposition and to anyone who was listening that a PPP arrangement transfers risk.

It does not transfer all of the risk, of course. There is a negotiation about which risk is transferred. But the substantial risk that is transferred is the risk associated with the building of the project. There are two sorts of risks, as I understand it. There are risks that are integrated in that project, so, for example, if the building company is unable to get contractors to do a particular piece of work and they have to pay more for them, or if something associated with the contract is unable to be completed, then that risk is on the head of the builder.

Then, Madam Speaker, there are the risks associated with global events, which might mean that there is difficulty completing the project. They are the major risks that would focus on the construction of the site.

An honourable member interjecting:

The Hon. J.D. HILL: Well, the member keeps saying '80 per cent', but it is 80 per cent of nothing because it is an unknown risk. 'Unknown', that means that there is nothing there. If we were aware of anything there, it would have been incorporated in the project, so—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Yes, well, let's not talk about American vice presidents, but it is an 'unknown unknown' in this case.

The Hon. A. Koutsantonis: Secretary of Defense.

The Hon. J.D. HILL: Secretary of Defense. I beg your pardon, I got the wrong title. What we are really talking about is something which bears not a lot of risk associated with it, because we have a very good understanding of the pollution on that site. There has been a lot of drilling and lots of work done to identify the pollution, and the building company takes on that issue.

VETERANS' ADVISORY COUNCIL

Ms BEDFORD (Florey) (14:39): My question is to the Minister for Veterans' Affairs. Can the minister advise the house of any recent appointments to the Veterans' Advisory Council?

The Hon. T.R. KENYON (Newland—Minister for Recreation, Sport and Racing, Minister for Road Safety, Minister for Veterans' Affairs, Minister Assisting the Premier with South Australia's Strategic Plan) (14:39): I thank the member for her question. She has a very well-known interest in veterans' affairs. In fact, I think that we will be turning up at Tea Tree Gully at quarter to six on ANZAC Day. We will be cold together and honour our veterans.

Members will recall that the veterans' affairs portfolio was created on ANZAC Day in 2008 to recognise the needs of the veterans' community in South Australia. Indeed, South Australia led the—

Members interjecting:

The SPEAKER: Order, member for Bragg! I warn the member for Bragg.

The Hon. T.R. KENYON: The appointed members of the Veterans' Advisory Council represent just about every ex-service organisation in South Australia. This gives every member of the veterans' community a voice at the highest level of the state government. It is also pleasing to note that the composition of the Veterans' Advisory Council has received the overwhelming support of the ex-service community.

Recently, I hosted a reception to thank all members of the Veterans' Advisory Council for their hard work on behalf of the veterans' community in South Australia during the last two years. The reception provided an opportunity to farewell previous council members who have represented the veterans' community with distinction and to also welcome new members to this valued advisory body.

The Premier, who has played a pivotal role in raising the profile of veterans' affairs, not just within government but also in the community, was in attendance. The Premier has sought to ensure that the contribution of all men and women who have served Australia is recognised and commemorated in South Australia. The Premier's attendance was greatly appreciated by all at the reception.

Late last year, a number of members stepped aside to allow new members to join the Veterans' Advisory Council. I would like to place on the record my thanks to the following people for their efforts in representing the veterans' community in South Australia: Brigadier Max Lemon AM, representing the Legacy Club of Adelaide; Squadron Leader Jennifer Dowling, representing the Partners of Veterans; Mr Paul Coppock, representing the Vietnam Veterans Association; and Mr Bob Ellis, representing the Vietnam Veterans Federation.

The newly appointed Veterans' Advisory Council members, effective from 1 January 2011, are: Lieutenant Commander John Godwin, who served as a Weapons Electrical Engineer Officer in the Royal Australian Navy for 13 years; Mr Michael 'Moose' Benyk—there are two Moose on the council, the other one being Moose Dunlop.

The Hon. M.J. Atkinson: 'Meece'.

The Hon. T.R. KENYON: No, they are not 'meece', they are moose.

An honourable member interjecting:

The Hon. T.R. KENYON: Two moose is moose—Mr Michael 'Moose' Benyk, who served in the Navy from 1963 to 1972. His rank on discharge was Petty Officer Engineering Mechanic. Mr Benyk completed two tours to Vietnam in 1965 on HMAS *Sydney* and HMAS *Duchess* and tours on HMAS *Duchess* and HMAS *Hawk* in 1965 to 1966 during the Malaysia/Indonesia confrontation. Interestingly, he was on HMAS *Voyager* when she collided with HMAS *Melbourne* on 10 February 1964 and was also serving on HMAS *Melbourne* when she collided with USS *Frank E. Evans* on 3 June 1969. I think that is a point that the relevant committees of inquiry missed.

Mr John 'Gillie' Gillman, who was a national serviceman from 1966 to 1968 and then served in South Vietnam from 1967 to 1968. Mrs Jan Wallent, who is the current president of the South Australian branch of the Partners of Veterans Association. Lieutenant Colonel John Spencer, who has over 35 years of military service, including as a national serviceman from 1965 to 1972. Gerrald Francis Harrison OAM, who served with the 3rd Battalion, Royal Australian Regiment, and served in the Korean War. Mr Harrison was wounded in the Battle of Maryang San in October 1951 and again in July 1952. He has been a long-serving office holder, including president and vice president of the Korea and South East Asia Forces Association of Australia (SA Branch).

I am also pleased to inform the house that the Veterans' Advisory Council is privileged to retain the services of former governor Sir Eric Neal as the independent chairman for a further period of two years. Sir Eric has made an enormous contribution to the veterans' community as the inaugural chairman of the Veterans' Advisory Council. I look forward to working in partnership with the Veterans' Advisory Council and being a strong advocate for the veterans' community in South Australia.

ROYAL ADELAIDE HOSPITAL

Dr McFETRIDGE (Morphett) (14:43): My question is to the Minister for Health. As the minister claimed that he does not know the cost of delivering the new Royal Adelaide Hospital on the radio this morning, how did the government determine that a PPP is the best value for taxpayers?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:44): I thank the member for Morphett. Before I—

Mr Williams interjecting:

The SPEAKER: Order, member for MacKillop!

An honourable member interjecting:

The Hon. J.D. HILL: Yes, that's true. I have just been advised that the question asked by the member for—

Mr Pengilly interjecting:

The SPEAKER: Order, member for Finniss!

The Hon. J.D. HILL: —Davenport, I think, was why a whole range of figures were not included in the RAH capital cost and I am advised that they were in fact included, and that was presented to the Leader of the Opposition at the time that we gave her a briefing on it. In relation to the member for Morphett's question about—what was it again?

The Hon. K.O. Foley interjecting:

The Hon. J.D. HILL: Yes. The reality is that we have yet to reach financial settlement with the contracting parties, because we are going into negotiations with them and—

Mrs Redmond interjecting:

The Hon. J.D. HILL: Look, I don't know if the Leader of the Opposition has ever entered into a contract with anybody, but when you go into a contract, both parties start off with pretty well an understanding about where they are going and then you just nut out the details. We are very confident that the details, once they have been made available to the public, will establish very clearly that this is a good deal for the public, and the cost comparator that the government has is used as the basis to determine when—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The cost comparator indicates that the arrangement we are making with the project company will give the South Australian public a good deal in relation to this hospital and that will be all apparent once the final transactional arrangements are put in place and are revealed to the public. I keep saying the same thing over: we are being perfectly open and honest about this, unlike the opposition, which will not show the document they are relying on to make the outrageous claims that they are making.

NATIONAL PARKS

The Hon. S.W. KEY (Ashford) (14:46): My question is directed to the Minister for Environment and Conservation. Minister, what significant additions have recently been made to South Australia's reserve system that will further protect South Australia's unique biodiversity?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:46): I thank the member for Ashford and again reinforce the point that I made yesterday about her attention to environmental matters and also her outstanding stewardship of the Natural Resources Committee on behalf of the parliament.

Today, I am pleased to draw to members' attention that the state has been gifted two significant additions to its public reserve system. Commodore Station is a perpetual lease pastoral property located in the Flinders Ranges, abutting the north-western boundary of the Flinders Ranges National Park, and South Australians have been gifted a unique 26 square kilometre parcel of scenic rangeland.

This stunning area—and I know, Madam Speaker, that you are very familiar with that area—includes scenically impressive range country and steep gorges and forms part of the great iconic landscape of the Flinders-Olary region which is recognised nationally and, indeed, internationally for its rich Aboriginal history and culture, its geological history and its impressive fossil remains.

On behalf of all South Australians, I would like to thank the owners of Commodore Station, Mr Ian McAuley and Ms Carola Cox, for their generous donation and for maintaining the rangeland in such outstanding condition. It is important to note that the government is currently in negotiation with the Adnyamathanha people regarding indigenous land use and co-management agreements for the Flinders Ranges National Park. With finalisation of negotiations, when that occurs, this generous land gift will also come under the co-management arrangements once they are finalised.

Some members would be aware that South Australians are also the beneficiaries of a gift of 16 hectares of land located adjacent to Salt Creek and the Coorong lagoon. This land has been most generously donated for inclusion in the Coorong National Park by Mr Christopher Legoe QC as a gesture of respect for the late author, Mr Colin Thiele. The member for Fisher is acutely aware of this and actually went down there at the time of a ceremony recognising that event. Of course it has only just been proclaimed, as we are aware.

Most members will know that Colin Thiele chose the beautiful Coorong as the setting for some of his best literary works, many having achieved worldwide acclaim and admiration. The Coorong National Park was first proclaimed in 1996 and, with this recent land addition, the park now comprises an area of 48,991 hectares.

The Hon. A. Koutsantonis: 1966.

The Hon. P. CAICA: Did I say 1996? Tom has corrected me and I thank him very much for that. I thought you were going to talk about *The Sun on the Stubble* as well as *Storm Boy*, but—

The SPEAKER: Order!

The Hon. P. CAICA: Sorry, Madam Speaker. This land addition—

Ms Chapman interjecting:

The Hon. P. CAICA: You're of the vintage to remember *The Sun on the Stubble* because you would have done it at school. I am not being disrespectful because we are the same vintage.

Ms Chapman interjecting:

The Hon. P. CAICA: Yes; it's an outstanding book. This land addition includes a significant portion of the riparian zone abutting Salt Creek and supports potential food sources and with—

Members interjecting:

The Hon. P. CAICA: I'm not going to bite, Madam Speaker. The riparian zone abutting Salt Creek supports potential food sources for the nationally endangered orange-bellied parrot. This land also includes suitable habitat for the vulnerable rufous bristlebird and the rare beautiful firetail.

The Hon. J.D. Hill: Can you impersonate it?

The Hon. P. CAICA: We have squawking parrots on the other side; I'm not going to do any form of impersonation. These additions to our state's reserve system also form significant parts of the Flinders-Olary and River Murray-South East NatureLink corridors which aim to connect nature conservation and restoration efforts on both public and private lands across landscapes. Within these corridors South Australian species and ecosystems will be better able to survive, evolve and adapt to environmental changes, including changes arising from climate change impacts.

I would like to once again to acknowledge and thank the McAuley family and Mr Legoe for their generous donations. South Australians will now be to enjoy even more wonderful scenic areas which will be conserved for the benefit of generations to come.

SUICIDE

Dr McFETRIDGE (Morphett) (14:51): My question is to the Minister for Health. With regard to today's *Advertiser* front page, are there other instances of a person with a mental health issue presenting to The Queen Elizabeth Hospital not being admitted and then a short time later taking their own life?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:52): I do have some respect for the member for Morphett, but that, even by the standards of this place, was a really unfortunate question. We are dealing with the loss of a young man's life, which is on the front page of the media today. Of course, that is a tragic event for his family and friends. I take this opportunity to offer my condolences to his family and friends, at least one of whom works in this place and has already spoken to me about it.

I assure the house that a full review is now being undertaken by the Adelaide health service. Of course, the matter will have to go to the Coroner as well. It will be up to the Coroner to determine whether or not a coronial investigation should occur. It would also be inappropriate to discuss the personal details of this particular case because it would be premature to draw any conclusions.

I think this was the unfortunate thing about the media reporting this morning. Clearly, the media was relying on somebody else's conclusions which were drawn. It is often easy to say that A happened, B happened, then C happened, therefore C was caused by A and B, but there is a whole lot of other things—X, Y, Zs—that occur in a case which we do not necessarily know about.

I am absolutely certain that the doctors and nurses and others at The Queen Elizabeth Hospital who dealt with this gentleman on a variety of occasions provided the very best care that they could. I am also advised—and I think this was not in the report in the paper this morning—that Mr Cologne had seen a private psychiatrist the day prior to his death. I am advised that the last health professional he saw was, in fact, a private psychiatrist. I am not drawing any conclusions from that, but I am just saying that to make it clear that the last site that he sought medical help from was not the QEH, so we cannot draw any conclusions. I am not sure exactly what the member for Morphett is fishing for. No doubt he will come up with some next question which will highlight some other death that he is aware of. Any loss of life by self-harm is absolutely appalling. There is a very big issue in our community, and it was reported, I think, in the press today that there are more deaths by suicide than by motor car.

There is a question about how we should talk about these issues in the community. The media has tended not to, over recent years, deal with these issues for very sensible reasons, because there is a fear of copycat behaviour. Perhaps the media has gone too far, in a sense, because we do not talk about suicide at all, and it does need to be brought out into the open.

The fear in the past has been what the media used to do years and years ago, to give intricate details of a particular suicide. If there are 150-plus suicides a year and details of each of those suicides was provided in the media, that might create an atmosphere where suicide by those

who are depressed is seen as a reasonable way out and might encourage copycat behaviour. That is always the fear, and we have certainly seen that in relation to members in Aboriginal communities in the past in this state, so there is a very fine line.

We do need, in my view, to have an open discussion about suicide, and about what we can do to assist people who are feeling so unwell that they are wanting to take their own lives. I know there was a discussion in the other place yesterday, I think, in relation to this, and I have certainly asked my agency—before this incident—to do some work about how we can better deal with some of these kinds of issues, and also, of course, provide support to people who are vulnerable.

There are a whole range of services available; telephone lines 24 hours a day, emergency departments of hospitals, and a whole range of other services being established. However, it is just not possible to always prevent somebody killing themselves when that is what they choose to do. It is tragic and deeply regrettable, and we will do whatever we can to try and minimise the number of events that occur.

SCHOOL SERVICES OFFICERS

Mrs GERAGHTY (Torrens) (14:55): My question is to the Minister for Education. What is the government doing to address job security concerns of the school support officers and early childhood workers, whose work is so important in our schools?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (14:56): I thank the honourable member for her question. As you might be well aware, a month ago I released a draft policy which was about addressing the question of teacher recruitment in our public schools, a key feature of which was the creation of more permanent jobs. In the meantime, we have also been working quietly away on the question of school service officers (SSOs) and about providing them greater job security in our schools. SSOs are the unsung heroes of our schools; whether they are supporting classes through handling parent enquiries, providing office and finance assistance, ICT support, or working with some of less able students to assist them to learn, or the early education workers, they are all vital for the work of our preschools and our schools. Every member here knows how dependant schools and preschools are on these fantastic workers.

Many of our more than 6,000 SSOs and early childhood workers have tenuous employment security, and are employed only on a term-by-term or year-by-year basis. So, over the last few months, we have been going through a conversion process that has seen about 800 temporary SSOs and early childhood workers given permanent jobs. These are people who have been working at school, on contracts for 15 hours a week or more, for two years or more. Many, indeed, have been working longer hours and for longer periods, yet without the security of knowing whether they will have a job from year to year or term to term.

I am pleased to say that we have been able to repay some of the support that they have been giving our schools and preschools and, of course, the obvious benefit is that they can now have the security to plan their financial futures, including the sorts of things that financial institutions expect when people are seeking loans.

Of course, there are many other long-term SSOs who, despite their long service, have not met the particular criteria that was established for the conversion process, and we accept that there might be some anomalies. They may have worked for more than 15 hours a week for all but a few weeks, for instance, or they may have worked casually for a period. Therefore, we have initiated a review process so that other long-term SSOs, with the support of their school, can be made permanent in the school, even if they don't quite meet the eligibility criteria that were originally established for the conversion process.

This comes on top of some significant investments in the recent budget to provide more SSOs in our schools. We have injected an extra $12 million into our school budgets to provide particular support for those SSOs that assist schools with their ICT needs. This, of course, is becoming a much bigger issue, with all the whiteboards and the new computers in schools, so that was a pressure. It was one of the early things that principals said to me, and we were very keen to respond to that so that we could, not only meet that need, but also respond quickly to something that was really causing an enormous amount of distraction, if you like, for principals, away from the job of them being the educational leaders.

We are also ensuring that each special class—once again, a budget measure—whether taught in a special school, special unit or special class within a school, has at least one SSO, so

that has lead to the employment of additional SSOs. We are recognising now the whole-of-school workforce. We are giving principals greater flexibility on how they allocate funding, now giving them a greater say in the selection of teachers. We are putting more teachers in schools, providing the opportunity for temporary teachers to get permanent jobs, and now giving long-term SSOs and early childhood workers greater employment security. We are investing in education in a dramatic way to ensure that we can meet the needs of every single child seeking an education in the South Australian education system.

ELECTRICITY PRICES, COOBER PEDY

Mr VAN HOLST PELLEKAAN (Stuart) (15:00): My question is to the Minister for Energy. What advice does the minister have for the Coober Pedy business which took government advice to undertake an energy audit, then spent $700,000 on new energy efficiency measures, and now, as a result of the government's changes to electricity prices, the business's annual power costs have increased from $320,000 to $700,000; and why did the minister write offering another energy audit?

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture and Fisheries, Minister for Forests, Minister for Energy, Minister for the Northern Suburbs) (15:01): There are some businesses in Coober Pedy that have not undertaken the audit.

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: We currently put around $5.2 million into remote communities to service the needs of 2,800 customers—that is, $5.2 million over 2,800 customers. I think that is a fair and reasonable contribution from the South Australian government. We have suggested that businesses that are going to be impacted by this particular change in charging structure undertake the audit, but I have also indicated that we are looking at a renewable solution for that community. Like all remote communities, it ultimately has to wean itself off diesel, because year in and year out the cost of generating electricity in those communities is going to progressively escalate.

As much as the member for Stuart may question what we have done, we have to send the price message. Without sending the price message, there will be no incentive whatsoever for those communities to look to alternatives. We believe that $5.2 million over 2,800 customers is a fair padding for that community, but at some stage that community and the state government will have to get together and look at the alternative, which I believe will be a solar solution. I have a team working on it. I hope we will have a solution sooner—

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: —or later. It appears that the proposition being put by the opposition is: ignore the steady escalation in the price of oil and continue to pile in, year after year, an additional million dollars on top of the $5.2 million that we are already contributing. We are dealing with the issue.

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: I am aware of the issues that are confronting that particular community.

Mr Williams: Have you given $2 million to the Coober Pedy council yet?

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: In response to the question from the member for MacKillop, in large part, the proposition that we are putting in place was borne out of a recommendation from a review that had been conducted by the Auditor-General. He indicated that, probably for the space of several decades, we had in place a regime in remote communities that had no structure to it, and the Auditor-General was of the view that we could not continue to operate in those remote communities the way in which we had been doing.

So, we have responded to a recommendation from the Auditor-General. He has strongly recommended that we put in place a funding agreement and an agreement that basically corralled the manner in which electricity is generated and distributed. That is what we have done. Now we have to look through the issues that are arising out of that particular recommendation and that is what we are doing.

KAPUNDA PRIMARY SCHOOL

Mr VAN HOLST PELLEKAAN (Stuart) (15:05): My question this time is for the Minister for Education. Has the government been overgenerous in providing the Kapunda Primary School with $50 towards its $10,000 electricity bill shortfall following requests for assistance?

Members interjecting:

The SPEAKER: Order! Was that the Minister for Education? I presume it was.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (15:05): I thank the honourable member for his question. I have not been accused of being overgenerous before in this place, certainly not by those opposite. I am not familiar with the circumstances of that case and whether $50 was seriously suggested as meeting that particular need. I will ask for a response and get back to the house. I am aware of the general pressure that schools are facing in relation to their utility bills, and it is something we will continue to work with schools on.

BAROSSA VALLEY AND MCLAREN VALE

Mr BIGNELL (Mawson) (15:06): My question is to the Minister for Urban Development and Planning and Minister for Food Marketing. Can the minister inform the house about the work he is doing to protect the Barossa Valley and McLaren Vale?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (15:06): I thank the honourable member for this question. Everybody in the house would be aware of what an effort he has been making on behalf of his constituents in McLaren Vale, and might I say that his support for this work has been constant and greatly appreciated. Can I also thank the Premier for his tremendous work in relation to this matter. He has been a fierce advocate for the people in the Barossa and McLaren Vale areas.

Finally, but certainly not least, can I pay tribute to the member for Schubert, who has given me tremendous support in this project, and I look forward to him continuing to do so. I listened to him in parliament the other day when he was saying very nice things about what we are doing and I look forward to him continuing that support and speaking to his colleagues about it in due course.

What we are doing is this: we are attempting to first of all draw a line around the McLaren Vale region and say that within that line there will be no incursion by the urban sprawl that hitherto has been a problem for both northern and southern districts around Adelaide. In addition to that, we are looking at what sorts of development rules might apply within those zones. That does not mean that we are actually in any way trying to impede development within those zones; quite the contrary. What we are attempting to do is to make sure the development within the zones is appropriate for those zones. So, for example, I think it is reasonable to assume that the member for Mawson and his community will be asking us to include viticulture as one of the preferred activities within McLaren Vale. I am just guessing about that. I think the member for Schubert has indicated to me that he would not mind viticulture continuing in the Barossa Valley as well.

On Thursday last week, I went and met with representatives of the Onkaparinga council, and in particular the mayor, Lorraine Rosenberg, and we had a very constructive discussion about how the council might be involved with assisting the government in coming to some of the detailed elements of this, including where the boundary will be for this zone. I also had the opportunity of meeting some local community representatives in McLaren Vale who are very interested in this matter, and of course, as I said before, the member for Mawson has been doing a lot of work with the communities not only in McLaren Vale but also in the Barossa Valley, which have similar interests.

On Friday last week I was given the opportunity of speaking at the Regional Development Australia forum in the Barossa Valley at the Lehmann winery, and again the member for Schubert was there, one of the many luminaries at that meeting. That was a great opportunity to share some of the thoughts about ways of protecting the valley with that community, and they all appeared to be very keen on that. Indeed, afterwards I had a meeting with representatives from the Light regional and Barossa Valley councils—again a very productive meeting. They indicated they are very keen to get back to us with more information, and we are very keen to have those conversations with them.

I think it is really important that we are seeing in this process an opportunity for these communities not only to define the boundaries beyond which urban sprawl will not encroach into their very unique zones, but also to give some definition and future to the exact sort of development and character that those regions are going to have and, again, I think that is a very positive thing. This matter about the incursion of urban Adelaide into those two areas is something that will continue to be an issue until we have these boundaries settled, and we are looking at having a statutory boundary there, not simply some code which might quite easily be amended in due course. We want the parliament to actually fix those boundaries and we are quite keen to see that move forward.

We are looking forward to having a good response back from the two communities involved, and we are looking forward to seeing that shape up and legislation being introduced during this year. Can I say, again, that the Premier and the member for Mawson have been very enthusiastic advocates for this sort of approach, and I believe the member for Schubert as well. You do not always give praise to people who are not on your side but the way in which the member for Schubert speaks with pride of his constituents out there is very heartening. At that meeting the other day, you could tell the warmth that he was generating in the room as they moved amongst him and him amongst them.

I look forward to all members here supporting this very important initiative and we will be getting back to the house as soon as possible with further details.

GRIEVANCE DEBATE

ROYAL ADELAIDE HOSPITAL

The Hon. I.F. EVANS (Davenport) (15:11): I want to make some comments in response to the extraordinary ministerial statement by the Minister for Health today in relation to the costs of the new Royal Adelaide Hospital, as his ministerial statement is titled. It is extraordinary that the government is trying to beat up on the opposition to release the figures about the government's own project. It may have come as a surprise to the government but I think it has access to Macquarie Bank on a far more regular basis than Her Majesty's Loyal Opposition.

If the government wants to know the figure, just ring up Macquarie Bank and, if I am wrong, why did they not come in today and simply tell the house that the $2.73 billion figure is not in the Macquarie Bank document and is wrong. I did not hear the Premier say that, I did not hear the Minister for Health say that, and, in fact, I did not hear the minister for corrections, who was very vocal during question time, say that. During all the press interviews that have been going on about this, not one minister has said that the $2.73 billion figure that is in the Macquarie Bank document is wrong—it is as simple as that. They have tried to explain it, they have gone around in circles, and they have twisted themselves in knots trying to explain the $2.73 billion figure. The reality is that under parliamentary privilege today, and on radio this morning, the Minister for Health could not bring himself to say that the $2.73 billion figure used by Macquarie Bank in the document used by the opposition is wrong. It is as simple as that, they did not do it.

For the government to stand up and point the finger at the opposition and say, 'This is outrageous, the opposition is not releasing their figure'—this is the government who went to the election and deliberately hid the cost blowout on Adelaide Oval. It deliberately hid it for the whole of the campaign. They also hid the public sector comparative figure on the Royal Adelaide Hospital project, being changed by cabinet in November 2009 prior to the election—they hid that figure—and they hid that $100 million increase in the public sector comparator.

So, excuse me for doing this, but I laugh when the Minister for Health stands up and points the finger at the opposition and says, 'It's outrageous, you're not releasing the figure about a government project,' when the government itself will not release a figure about a government project. Guess what? It is not the opposition's job. If you want to know the figure, ring up Macquarie

Bank, they are in the phone book, they are over in Sydney, you will find them, it is under 'M'. Ring them up and if they tell you they can release the document, release it.

The minister for corrections was interjecting that the member for Davenport is a coward because I would not go out in front of the cameras and make some comment on this issue. The member for Davenport might be a lot of things but one thing is that I am usually pretty cautious. When a lawyer tells me that it would be wise not to comment outside the chamber, unlike some members on the government side, I decided that I might take that legal advice. It is very simple for the government. The government has signed a whole range of documents about this particular project. It would have gone to cabinet a number of times. The government can come in any time it wants and say, 'The $2.73 billion figure is wrong.' It can deny it, but it hasn't done it. Today was a bit of theatre for the government, and it was a good try for the government, but the point will not be lost that the Premier did not deny it, the Minister for Health did not deny it, and the Treasurer (who is interstate) has not put out a press release denying it. The reality is they did not lay a glove on the claim. They have access to Macquarie. They can do that any time they want.

The public should be a bit suspicious. The government says it is going to release all the figures—except the ones that are commercially confidential. They will not release those. So, what do you think we are going to get? Do you really think we are going to get all the figures? I suspect not. The government has been caught out. The opposition has done some hard work and got the figures, and good on us, and the government came in today but could not deny it.

PENFIELD RECREATION PRECINCT

Mrs VLAHOS (Taylor) (15:16): I rise today to speak about the Penfield recreation precinct within my electorate. I particularly wish to mention two clubs in my area, the Penfield Bowling Club and the Penfield Model Engineers Society. On Sunday 27 March, my family and I joined both these clubs on celebration and outdoor recreation days that they held.

First, we visited the Penfield Bowling Club to partake in the 50th year celebration luncheon. Joining us at the lunch was the Mayor of Salisbury, the effervescent Gillian Aldridge; the manager of the local community CPS credit union, Mr Dale Arnfield, who kindly sponsors the club; Mrs Ivy Kluske, the President of Bowls SA; and Mr John Hill, the Region 9 Bowls SA representative. A special guest at the club was the longest-serving member, Esme Delvin, who joined the club in 1964 when the joining fee was the equivalent of around $2.

The club was formed in 1960 but was not registered with Bowls SA, or its preceding incorporated association, until 1961. It was built by the then Weapons Research Institute, which was originally a men's-only club, and membership was restricted to workers at the institute. The clubhouse was rebuilt around 1974-75 and in 1978-79 the club was renamed to the Defence Research Bowling Club before being handed over to the local community in 1988, when it became the Penfield Bowling Club, the name it retains today. More recently, the club has benefited from several sports and recreation grants that have renewed and improved the lawns, lighting, cooling within the building and carpet bowls during poor weather.

I praise and thank the following Penfield bowls officials and club members for their hard work, friendly advice and happy chiacking on the greens as they have initiated me into the bowls fraternity and quietly served their club. They are club president, the effective but happy Tony Brown, Vice President Jane Peters, the gentle John Elvin, Brenda, Brian, Peter, Murray, Joe, Darryl and Ellen, and the many other merry members at that club who make my family and me welcome there every time we visit.

The second club on the site that I visited on that day, much to my children's delight, was the Penfield Model Engineers Society. This group of happy hobbyists, which include Ray Hall (their president), Peter Henley, Lyn Venning, Terry Kenyon, Barry Grieger and Mike Carmody, are involved in the making and the running of miniature trains. Also, many of the club members are involved in radio-controlled quarter scale race cars and radio-controlled speed boats, and children can ride these various devices and participate in the sailing of the boats and the operation of the miniature cars during their open days, which occur once a month.

The society was formed in 1969 by a group of live steam model makers and enthusiasts, and the first 1.5 kilometres of 7¼ inch and 5 inch rail track at ground level and 250 metres of siding and various other equipment was used in the early Defence Institute's Christmas parties. There is also a 3,000 cubic metre boat pond at the institute which people used in the early days and which is still there today, and, apart from the ducks in the local area, the children enjoy using the boats

there, both sail and mechanical. There is also an elevated railway and some quarter-scale dune buggies which are often built upon and which are used by the local community.

I wish to place on the record my thanks to club members for opening their rooms to the general public each month for children to attend and hold parties, to ride the model trains and to recreate in the lovely gardens the club maintains. I wish them well for their future conferences, which they are looking forward to hosting at the site for Australia.

PORT AUGUSTA POWER STATIONS

Mr VAN HOLST PELLEKAAN (Stuart) (15:20): I rise today to speak about the Port Augusta power stations and the very serious predicament they are in at the moment. As many members would know, Alinta runs these power stations, but management is soon to be handed over to TPG. That is actually not what I want to talk about, other than to highlight that the upcoming issues will undoubtedly be TPG's to deal with.

The two Port Augusta power stations employ about 250 people and closely linked to that employment are approximately 250 people who work at the Leigh Creek coalfields. As people may or may not know, power stations are generally built to burn the fuel that is available; so, they are set up quite specifically. Even when it comes to coal-fired power stations, they are built to burn the coal that is available, and the coal at Leigh Creek is running out.

There are a lot of estimates, and they vary from between five to 15 years before the coal will run out, and, of course, through that period there is likely to be a decline in quality of the coal as well. Suffice to say that the coal that is used at the Port Augusta power stations is not going to be available for much longer. An average estimate of about 10 years is it.

We are going to be forced to do something else, not only in Port Augusta to replace those approximately 500 jobs but also statewide because the electricity that is supplied at the Port Augusta power stations is typically 30 to 40 per cent of our entire state's supply. So, we as South Australians cannot do without the electricity that is generated in Port Augusta. This is a statewide problem, as well as the very, very important issue of employment in Port Augusta.

The Port Augusta power stations, it is no secret, create pollution. All coal-fired power stations create pollution. In fact, all power stations that are not run wholly and solely from renewable sources create pollution, and we all want to reduce that pollution. The federal government's proposed carbon tax is actually going to put even more pressure on the power stations because, of course, there will be a great new big fat tax coming onto the operators of the power stations very shortly care of the federal government.

But the problem exists already, anyway, so what this means is that it is just a little more urgent to resolve this problem. My main message today is to implore the government to focus on this problem. It takes approximately a year to get a regular home built in South Australia. We are not going to get a new power station built quickly. It may well take a decade to solve this problem. We would all like to think that the Port Augusta coal power stations could be replaced by beautiful clean, green energy production immediately. That would be everyone's wish, no doubt, but we all have to face the fact that it is just not possible. Technology is not available for that; it is not possible to do it.

The resources, such as wind and solar, that we can harness at the moment, (1) cannot supply the volume of electricity that is required, and (2) cannot supply the baseload electricity that is required. We are going to have to use a non-renewable source. We are going to have to use a source that does create some pollution, hopefully far less than the coal that is burnt at the moment.

The options include swapping to gas, although that would be incredibly expensive; some solar or wind component potentially down the track, but certainly not today; geothermal; solar thermal is another option; and nuclear is talked about. However, none of these things is viable or feasible within the time frame that we have to address—within the five to 15 years before the coal runs out—and nothing will be cheap. I really urge the government to focus on this issue, not to sweep it under the carpet, not to just leave it and say, 'Well, look, it won't be our issue. We think we might be able to just sneak through in government before this problem really raises its head.' It is inescapable: we must have electricity.

I want the solution to be based in Port Augusta. I want the solution to be there for the jobs. It is also very sensible that it is there because the transmission lines already run from Port Augusta throughout the state to where the electricity needs to be generated. So, Port Augusta, in my mind, is the logical place for the solution to be placed.

There are other projects proposed, such as Linc Energy's coal to gas and gas to liquid project near Orroroo, which I very much hope gets up, both for the Orroroo and Peterborough district but also because it may be able to contribute to this. Essentially, what is very important for the government, and particularly the Minister for Energy, is that this problem is not ignored. It is not going to go away. We cannot pretend that it does not exist because we are okay now and we are okay next year and we are okay the next year. The reality is that a few years down the track we will need a power station to replace the power that is currently produced in Port Augusta and we will not be able to start creating the solution the day that we have to shut the power station.

NORTHERN FUTURES

Mr ODENWALDER (Little Para) (15:26): Last Friday I had the absolute pleasure to attend, along with the Minister for the Northern Suburbs and the member for Taylor, the launch of the Northern Futures Northern Adelaide Skills, Workforce and Employment Blueprint.

Northern Futures is a group of business people and stakeholders in the north who have established a not-for-profit organisation, which aims to develop and progress government programs to advance education, training and workforce development in the northern suburbs. The board of Northern Futures enlisted the help of Professor Ed Carson and Dr Lorraine Kerr to develop a blueprint and an action plan to help residents in Adelaide's north take advantage of the growing employment opportunities in the region, which, as we all know, is the focus of much of Adelaide's economic growth. As everyone who lives and works in a professional capacity in the northern suburbs knows, the employment situation there has been the subject of study after study and, despite growing economic activity in the area, it has rarely translated into jobs specifically for locals. There is a skills deficit in the northern Adelaide region associated with poor educational outcomes, early school leaving and generational unemployment and underemployment.

The state government is addressing all of those issues and making considerable headway, but it is also up to local leaders in education, training, business and politics to take action in our own community. We all need to work together in the north, and, as the federal member for Wakefield Nick Champion said on the day, we need to smash the status quo and stop doing things the same old way. We need to have an action plan instead of more studies telling us things we already know.

So, this blueprint was developed, and I will quote and paraphrase from this blueprint from time to time. It identifies both long and short-term areas for action. The major aims are to upskill existing workers and place local unemployed and underemployed job-ready people into jobs, and also to upskill and re-skill those who are unemployed but not yet job ready, and then, importantly, to carefully monitor and evaluate the outcomes over a longer period.

As most of us who live out there would know, and as this report, like many before it, details, there are several barriers to employment for many, but by no means all, people in the north. Some of these barriers include: being of Indigenous or Torres Strait Islander origins; being from a culturally and linguistically diverse background; and also, quite importantly, having low literacy and numeracy levels. Young people, particularly in places like Elizabeth, Elizabeth South, the Grove and Davoren Park, are still grossly over-represented in early school leaving and rates of post-school qualifications are very low there.

The report notes that low literacy and numeracy among children is so significant that it will prevent future job seekers from benefitting from any employment programs offered now. For example, the NAPLAN results demonstrate that in excess of 25 per cent of children in some of these poorer areas are below minimum national standards for literacy and numeracy. The report accurately notes that:

> It is imperative that these learning, literacy and numeracy shortcomings are addressed now for current unemployed people, and for the children who will be in the labour force of tomorrow.

So, the blueprint points to six distinct areas, or pillars, for action, both short and long term. The first pillar is to address the aspirations of young people in the area, to support and grow proven initiatives, which increase young people's aspirations, and to develop new initiatives. The second is to promote numeracy and literacy in the north and to continue to work with schools and state government programs to make sure that young people leave school work ready in terms of their basic literacy.

The third pillar is coordinated career development; that is, working with schools, training providers and employment services and exposing young people to work and career options at an

early stage. The fourth pillar is to encourage and further develop links between industry, education, training and employment providers, and we are making considerable headway in that area already in the north.

The fifth pillar—and I think this is an important point—is to collate an accessible evidence database, a hub of statistical information, and to agree on sets of measures that can be monitored and built on as time goes by. The final pillar is 'to establish a regional governance body, with links to the Australian government and state and local government, industry, business and education and employment providers, to lead and coordinate responses to priority regional needs'.

As I said, the last thing we need in the north is yet another report telling us things we already know gathering dust on the shelves of MPs and councillors in the area. I have a lot of faith, after attending that launch, in the team at Northern Futures as well as the other local MPs, business leaders and leaders like Lea Stevens at Northern Connections that we can translate some of these sobering statistics into real action for the future.

ONE NIGHT STAND CONCERT

Mr TRELOAR (Flinders) (15:30): Today, I would like to talk briefly about an event that was held recently in my electorate in the seaside town of Tumby Bay. It was as a result of a well-known radio station, Triple J, taking its One Night Stand concert to one of the country areas in South Australia. Tumby Bay was lucky enough to win the right to host that event, and they did a truly wonderful job of it.

The crowd who came to Tumby Bay and celebrated on the town oval was estimated to be about 10,000 people. There were three great Australian bands. I have a new favourite band: Art vs. Science is my new favourite band. They were very good; I did not realise that until I had been to the concert. I would like to pay particular tribute to a local West Coast talent, Joshy Willo, otherwise known as Josh Williams who was unearthed and had the opportunity to broadcast live across Australia. It was a real thrill for him, his family and a lot of the locals who had come along to see him perform that day. He grew up originally not far from Elliston.

Tumby Bay turned on its usual hospitality with food, fun and families catered for. People came from all over the Eyre Peninsula, from Adelaide and even, as I understand it, from interstate, to be at the concert. It is an extraordinary boost to the town's economy. There has been an estimate by council that approximately $2 million was injected into the local economy to businesses, clubs and accommodation. Indeed, a lot of the local service clubs and sporting clubs had the opportunity to run services, barbecue stands, cool drinks and that sort of thing, and it was a wonderful fundraising opportunity for them. Some of those clubs reported their biggest profit day ever, so it was a good opportunity to them.

I felt that it was putting Tumby Bay on the map for all the right reasons. The crowd was extremely well-behaved. My wife and I attended along with our four children, three of whom are teenagers, so they very much enjoyed the show

Mr Pederick: What was the mosh pit like?

Mr TRELOAR: Annette and I did get halfway into the mosh pit, member for Hammond. I am glad you asked. We got about halfway in. I was not game to go any further. I wanted to go crowd-surfing but could not find anyone to lift me, so that was my great disappointment. I digress.

One of the things that did strike me about the crowd was the age group that attended. It was a rock concert, but the ages really were from 7 to 70. I know that because I saw all age groups attending and having a good time. The overall planning was done by the council under the watchful eye of its new CEO, Tony Irvine. Tony has had experience with catering and organising events previous to this, so I would congratulate him and his council on the work they did organising, managing the night and cleaning up afterwards.

Certainly, there was a policy of no drugs or alcohol at the event, and security and police presence was evident. Absolutely I can say that the crowd was very well behaved, so congratulations to Tumby Bay. They can be justifiably proud of their hosting of that event.

In the time that remains to me, I would like to touch very briefly on another issue. The issue of time zones and daylight saving has come to prominence, as it always does at this time of year, particularly my part of the world, in the west of the state, in the electorate of Flinders and on the West Coast. There are particular difficulties that residents in that part of the world have in dealing with a time zone that is half an hour ahead of the true Greenwich Mean Time zone (as it would be)

and, in addition to that, six months of daylight saving. Daylight saving finished in this state last weekend, but we are fully 4½ months after—out from—the summer solstice. I was in Ceduna last week, and the sun rose at 10 to eight in the morning. So, the difficulties are numerous and compounding the further west you go.

I thought I would do a little bit of research on how this time zone and particular situation arose. I have discovered that, prior to 1895, South Australian time was set at the meridian of Adelaide. Following that, it was for a time aligned with the meridian of 135 east, which lies in the geographical centre of the state. The discussion is around, again, with the flagging of a motion in the other place.

COMMONWEALTH WOMEN PARLIAMENTARIANS

Ms THOMPSON (Reynell) (15:36): In this brief period after we celebrated the Centenary of International Women's Day early in March, and as I approached recognition of that event with a dinner for about 60 women in my electorate, I was pleased last week to be able to participate in Wellington in the Conference of the Commonwealth Women Parliamentarians regional seminar for the Pacific region.

This was a very inspiring reminder of the privileges that we have in our community, whether we are men or women, whether we are young or old. We live in a very privileged society with economic development and a measure of social equality. Our neighbours in the Pacific are not so privileged. Many of them have lived a subsistence existence most of their lives. Even those who are members of parliament come from a subsistence existence.

The people in the Solomons and Bougainville have been through periods of great difficulty, with horrific events happening in their communities. However, they have survived, and the women in particular are determined to build a culture that goes forward towards economic prosperity, peace and social equality for all.

The women of Kiribati are particularly concerned that their country will not exist in 50 years' time. There is a high likelihood that global climate change will mean that Kiribati, which is on atolls, will simply be drowned. They are trying to prepare their community, young men and women, for a future away from their island, mainly probably in Australia and New Zealand.

I do personally feel a responsibility to do anything I can to assist those people to adjust to their futures, whether it is the future of moving or whether it is the future of trying to build a strong, equitable society after years of colonial domination and, in most cases, between 30 and 50 years of independence. They have quite a difficult road ahead of them and behind them. It was in this spirit that the conference passed a statement in support of affirmative action in Papua New Guinea, which I would like to place on record in this place. It states:

> Members of the Commonwealth Women Parliamentarians Pacific Region Gender and Democracy Conference note the poor performance of Pacific nations in advancing democracy by failing to ensure the full participation of women in their communities. The small number of women in the parliaments of the region is a demonstration of failure to comply with the Convention on the Elimination of All Forms of Discrimination Against Women and means that there is little representation of about 50 per cent of the population. The Pacific Islands region now has the second-worst record in the world for the proportion of women in national legislatures.

I would like to correct that. We were later informed by representatives of the United Nations that the Pacific islands region has the worst record for participation of women in the parliaments, worse even than the Arab states. However, the fact that women in the Pacific are quite capable of participating is demonstrated by the fact that, in the French-dominated regions of the Pacific, where participation by women is mandated, women are participating very competently and very confidently to the great benefit of the community as, madam, I know you would expect. To return to the statement:

> With this in mind, conference members note with pleasure that the parliament of Papua New Guinea is currently considering a bill to guarantee some participation of women in the parliament through the Equality and Participation Bill, which creates 22 women's seats by elective process.
>
> The conference congratulates the sponsors of this bill and urges all members of the parliament of Papua New Guinea to take a clear leadership role in the democracies of the Pacific by supporting this bill. We also encourage all political parties to take ownership of the bill and actively endorse candidates for these women's seats.

The statement also notes that 'affirmative action such as this can be a catalyst for change in other Pacific nations'. This was signed by all members of parliament who were present at the conference, and supported by those who attended by virtue of the fact that they intend to be candidates in future elections.

ROYAL ADELAIDE HOSPITAL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:41): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: During question time today, I was asked a question about pollution on the new Royal Adelaide Hospital site and the attribution of responsibility for cleaning up unknown areas. I have sought further advice, and the unknown area that is specifically being referred to, I am advised, is the area underneath the tram sheds that are on the site—a reasonably small proportion of the site—that could not be drilled by the company assessing environmental issues. That is why the risks have been ascribed in the way that they have been so ascribed. This is just for the benefit of the house, so members know what is going on.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (15:42): Obtained leave and introduced a bill for an act to amend the Community Titles Act 1996 and the Strata Titles Act 1988. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (15:42): I move:

That this bill be now read a second time.

This bill will improve protections for consumers who buy into or own units in strata and community titled developments. I am particularly pleased to now be bringing this project to fruition. I have long held the conviction that greater protections are required for community and strata title property owners, especially those that engage strata managers, having undertaken my own investigation into community and strata titles in South Australia before becoming Attorney-General.

This project started with calls to introduce licensing of body corporate managers. It became clear, however, during early consultation that the concerns of unit owners extend beyond concern about the performance of body corporate managers. These concerns are to be addressed in this bill through specific measures designed to increase the transparency and accountability of body corporate managers, as well as giving owners greater access to information about the affairs of their strata or community corporation.

Although this bill does not introduce licensing or restrictions on who may act as a body corporate manager, the idea has not been abandoned completely. The National Occupational Licensing System, due to commence in mid-2012, will bring a national licence for property agents. Those jurisdictions that currently regulate body corporate managers will be bound to adopt that licence. It would have been confusing and inefficient to introduce a state-based licence scheme and to have that replaced shortly thereafter by the national scheme. It is intended to re-examine the issue of licensing body corporate managers under the national licensing system once that is operational.

The comprehensive suite of measures contained in this bill includes pre-contractual and contractual disclosure for body corporate management contracts, restrictions on the duration of such contracts, better disclosure of conflict of interest and commissions, as well as restrictions on the grant and exercise of proxies for body corporate voting and a penalty notice system for by-law and article breaches. Concerns about the actions of developers during the period of establishing a new community title development are addressed by making it clear that a developer is a fiduciary of the community corporation and must act in the interests of the corporation as it will be constituted after the developer ceases to control the corporation.

A significant new consumer protection initiative will accompany the bill. A dedicated strata information and advice service will be established to provide unit owners with information about the rights and obligations attaching to community and strata titled properties. Another message that emerged strongly through the development of this bill was that unit owners are confused about their rights and obligations and about where to turn for information. Once armed with this information, many of the disputes between unit owners and their body corporate or body corporate manager can be avoided.

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

Leave granted.

The law of agency already prohibits some allegedly common abuses by body corporate managers, such as the making of secret profits at the expense of the body corporate. A body corporate manager is an agent of the body corporate. Agents owe their principals duties of good faith and not to make improper use of the manager's position to gain, directly or indirectly, an advantage personally or for any other person. The Bill is intended to augment these duties. While the Bill and the existing legislation impose criminal sanctions for breaches of duties such as failure to disclose conflicts of interest, these provisions are not intended to derogate from the common law fiduciary duties.

History of the Bill and consultation

This project started with the release of a discussion paper by the former Attorney-General, the Hon. Michael Atkinson MP in late 2003, which canvassed opinion on a wide range of possible reforms to the regulation of community and strata titles. Shortly thereafter I presented the then Attorney-General with a report of my own private member's inquiry into this area.

That early consultation led to the drafting of a Bill to amend the *Community Titles Act* and *Strata Titles Act*, which was released for consultation with affected parties in December 2008. Comment was invited on the draft Bill from organisations likely to have an interest in the Bill as well as people who had written to the Attorney-General in recent years with complaints or concerns about strata matters. It soon became clear that many members of the community wanted to have a say on this issue and so the consultation was opened up to the general public.

The draft Bill was significantly revised as a result of that consultation, in particular to remove provisions that would have changed how community and strata corporation finances were managed.

In light of the significant changes to the draft Bill, the revised Bill was released for a further brief period of public consultation in December 2010, as a result of which further adjustments have been made to the Bill.

During consultation on the draft Bill comment has been received from over 50 respondents, including the National Community Titles Institute (NCTI), the Property Council (SA Division), the Commissioner for Consumer Affairs, the Law Society, the Legal Services Commission, the Real Estate Institute of South Australia, the Australian Institute of Conveyancers (SA Division), several strata managers and a number of strata owners.

There was broad support for the measures contained in this Bill. The NCTI and individual body corporate managers who commented supported the proposed disclosure and insurance requirements for managers. The NCTI was concerned that the proposal to allow contracts with managers to be terminated at any time could lead to managers suing for damages for termination without cause, however the effect of this provision is that it will prevent such litigation.

In parallel with finalising the draft Bill, work has been undertaken on the feasibility of establishing a specialist information service on community and strata title matters. It became clear from consultation that many unit owners are confused about their rights and obligations under the community and strata titles legislation and unsure about where to turn for information and advice. I have had discussions with the Minister for Consumer Affairs, the Hon. Gail Gago MLC as well as the Real Estate Institute and Institute of Conveyancers about funding such an initiative from the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. I appreciate their strong support for this significant new consumer protection initiative, which is underpinned by amendments contained in this Bill.

Rights to terminate contract with body corporate manager

When a community corporation comes into existence, the lots are owned by the developer. The developer therefore has control over the corporation and can appoint the body corporate manager. There have been some cases reported interstate where developers are said to have auctioned body corporate-management rights for terms as long as 25 years. The developers receive the money from the sale of the rights and leave the incoming owners bound to pay management fees that are well above market rates. Future owners are bound by the contract with the body corporate manager, even if its terms are unfavourable.

Currently the *Community Titles Act* provides that a community corporation may revoke a delegation of its functions to a body corporate manager at any time, even if there is an agreement to the contrary. The Bill provides the same for strata corporations. Further, for contracts made or renewed in future, the Bill provides that a body corporate can end the contract with a manager at any time. If the delegation of power is revoked, as can now happen in the case of a community corporation, then the manager is no longer able to act for the body corporate. In that case, the contract has no further work to do and should come to an end. Any term of the contract requiring a period of notice prior to termination would be void.

To guard against inertia the Bill also limits the term of body corporate management contracts to two years to prompt corporations to periodically review the manager's performance and competitiveness.

As well as preventing the practice of developers auctioning body corporate management rights, these provisions should go a significant way towards increasing the accountability of body corporate managers.

Pre-contractual and contractual disclosure

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* defines the role of the body corporate manager. The *Community Titles Act* limits the functions of the corporation that can be delegated, thereby setting

bounds to the manager's authority, but, within those bounds, the functions that the manager is to perform are a matter of contract. Unless promises are clear, disputes will arise. The Bill requires that contracts for the management of a corporation be in writing and must specify:

- the term of the contract (which must not be more than two years);
- that the corporation may end it at any time;
- the functions that are delegated to the manager;
- that the delegation of any function can be revoked at any time; and
- the charges that will be made for the services provided under the contract.

Other contractual provisions may be required by Regulation and at this stage it is intended to prescribe the following provisions:

- that the manager promises that he or she is insured as required by law and will maintain that insurance throughout the life of the contract; and
- that each member of the corporation has the right at any time in business hours to inspect the records of the corporation in the possession or control of the manager, and how inspection can be arranged.

A copy of the proposed contract is to be available for inspection by any owner at least five clear days before a vote is taken to appoint a body corporate manager. It should also attach a copy of the manager's current certificate of insurance as well as prescribed documents demonstrating the person's eligibility to act as a body corporate manager (for example, a statutory declaration as to eligibility). Before entering into the contract, the body corporate manager will have to give the owners a prescribed pamphlet that explains the role of the manager and sets out the rights of the corporation and its members, including the rights to:

- inspect records held by the manager;
- revoke the delegation of a particular function;
- appoint the manager as a proxy and to revoke that appointment;
- be told of any payment or benefit that the manager receives from another trader for placing the corporation's business; and
- terminate the contract.

Compulsory insurances

Commercial body corporate managers will be required to maintain throughout the life of the management contract a policy of professional indemnity insurance providing cover of at least the amount prescribed by regulation. It is intended to prescribe the figure of $1.5 million per claim, which is derived from the equivalent requirement under the Victorian *Owners' Corporations Act*. It is known that many body corporate managers already buy this insurance out of prudence.

Nearly everyone who has commented on this proposal to date supported it. Two commentators raised the problem of hobbyists who act as managers for just a handful of bodies corporate and could not easily raise the likely premium. However, the risk insured against is substantial. A manager who, for instance, forgets to insure the common property of even one corporation puts the owners at risk of substantial loss.

The corporation itself will also be required to buy fidelity guarantee insurance, covering the risk of theft or fraud of the corporation's funds by the manager or other persons authorised to handle the funds (for example, committee members). Such insurance is sometimes automatically included with community and strata building insurance policies. The amount of the cover will be prescribed and is proposed to be at least the maximum total balance of the corporation's bank accounts at any time in the last three years or $50,000, whichever is higher.

Both of these insurance requirements will be subject to Ministerial exemption in case problems arise with availability of the insurance.

Meetings, proxies and disclosure of conflicts

Participation in meetings remotely

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* provides for owners to participate in meetings by telephone, video-link or internet. The Bill provide for this, where facilities exist, at the expense of the owner concerned.

Court power to convene strata corporation meeting

An owner may need to call a meeting of the corporation. An owner who wants to sell his or her unit, for example, must provide information about the financial state of the corporation to a potential purchaser. Meetings can be convened with the approval of 20 per cent of members, but in some circumstances it might be difficult to obtain even this level of approval. The *Community Titles Act 1996* provides, as an alternative, for a meeting to be convened by order of the Magistrates Court. The *Strata Titles Act 1988* is amended to the same effect.

Length and revocation of proxies

Purchasers of new lots off-the-plan are sometimes asked to assign their right to vote to the developer, whether by proxy or by power of attorney. The assignment is often expressed to be irrevocable. The *Community Titles Act 1996* gives owners an express right to revoke a proxy at any time but the *Strata Titles Act 1988* is silent about this. The Bill amends that Act to make clear that that the appointment of a proxy or a power of attorney can be revoked at any time and that any agreement to the contrary is ineffectual. Also, having appointed a proxy is not to prevent an owner from attending the meeting and exercising his or her vote in person.

The Bill ensures that an owner is still entitled to receive notices of meetings, although these can go to a proxy as well if the corporation agrees. The Bill also limits the life of proxies to no more than 12 months under both Acts. This will compel the owner to take a decision at least every year about whether to take part in meetings in person or by proxy and, if the latter, whom to appoint. Further, a proxy appointing the body corporate manager will lapse automatically if the appointment of the body corporate manager ends.

Disclosure of conflicts of interest

The interests of holders of proxy votes may sometimes conflict with the interests of the owners they represent. A body corporate manager may, for example, hold a proxy vote for a meeting at which there is a motion to appoint a new manager. Proxy notices are required to be given to the secretary of the corporation, who is required to ensure that they are available for inspection at meetings prior to voting. If the manager holds any proxy or power of attorney for the meeting, he or she will be required to produce this for inspection at the meeting before any vote is cast by proxy or power of attorney.

Other people who vote at meetings may also have a conflict of interest. Later discovery of the conflict can cause disputes among members. Under the Bill all members of the corporation and any proxies or attorneys who attend the meeting on their behalf have to disclose any interest that they or their principals have in matters being considered by the corporation.

Chairing of meeting by body corporate manager

Often there is no member of the corporation who wishes to chair the meeting and the body corporate manager is asked to do so. The Bill provides that a body corporate manager may chair the meeting if a majority of those present votes for this. The Regulations will provide that a body corporate manager may only vote if the manager holds specific proxies to this effect and only after telling the meeting at the outset:

- that he or she may only chair the meeting if a majority of those present vote for this; that he or she has no right to vote, except when exercising a specific proxy for a member;
- whether he or she holds any and what proxies for this meeting and that they are available for inspection; and
- that he or she has no right to prevent any member from moving or voting on any motion.

Timing of meetings of secondary and tertiary corporations

At present, under section 82 of the *Community Titles Act*, a primary corporation must hold its annual general meeting within three months after the end of each financial year. A secondary corporation must then hold its annual general meeting within one month after the meeting of the primary corporation. By section 86, however, any secondary corporation that is a member of the primary corporation is entitled to vote at a meeting of the primary corporation, if authorised to do so by its members. Further, if a proposed resolution of the primary corporation is a special or unanimous resolution, then the vote of the secondary corporation on that matter will, in turn, require a special or unanimous vote of the secondary corporation. Notice of such resolutions will only be given within the weeks before the proposed meeting. In practice, therefore, there will need to be a meeting of the secondary corporation before the meeting of the primary corporation, but after the distribution of the agenda for that meeting, so that the representative of the secondary corporation knows how he or she must vote at the meeting of the primary corporation. The minimum notice period for an annual general meeting is 14 days. The result is that a secondary corporation may have to meet within 14 days before the annual meeting of the primary corporation and again within one month thereafter. Otherwise, the secondary corporation will not be able to take part in the running of the primary corporation. The tertiary corporation, if there is one, faces similar difficulties.

The Bill removes the requirement that the secondary and tertiary corporations must meet within one month after the annual general meeting of the primary corporation. It is enough to require them to hold an annual general meeting for a financial year by 31 December of the next year. Corporations are free to hold the meeting either before or after the meeting of the primary or secondary corporation.

By-laws and articles

Penalty notices for breach

The *Community Titles Act 1996*, by section 34, provides that the by-laws may impose a penalty of up to $500 for breach of a by-law. The *Strata Titles Act 1988*, however, does not provide for such penalties. The Bill rectifies this and provides that a higher maximum fine of $2,000 should be available where the scheme includes only non-residential lots. Further, the corporation under either Act will be able to issue a notice requiring a member or occupier to comply with a by-law within a specified time and warning that if this is not done, a penalty will be incurred. If satisfactory action is not taken, the corporation can issue a notice requiring payment of the penalty. The recipient can apply to the Magistrates Court within 60 days for an order that no penalty is payable but otherwise the amount is recoverable as a debt due to the corporation. An unpaid penalty will also be recoverable by the corporation on the sale of the unit, in the same way as unpaid levies.

The Court is empowered to revoke a penalty notice if satisfied that the breach was trifling in the circumstances. The issue of continuing breach has been left to the general law as the question of when continued action or lack of action amounts to a new breach is a complex one that will depend on the particular circumstances.

Corporations should notify tenants before they enter premises to carry out work

A corporation can issue a notice to an owner to carry out work on the owner's unit. If he or she does not, the corporation can arrange for a person to enter the property and carry out the work and can recover the cost from the owner. Although the owner must be given reasonable notice of the proposed entry, there is no requirement for the corporation to notify tenants. The owner ought to notify the tenant, but an owner who has disregarded a notice to carry out work might also disregard the duty to notify the tenant. The Bill amends both the *Community Titles Act 1996* and the *Strata Titles Act 1996* to require a corporation to give written notice to an occupier, before exercising a power of entry to carry out work. It will be sufficient for the corporation to leave the notice, addressed to the occupier, in a mailbox belonging to the unit. Two days' notice will be required, except where urgent action is necessary to avert a risk of death or injury or significant damage to property.

Remedy for discrimination against unit owner

The *Community Titles Act* permits an owner to apply to the Magistrates Court for a remedy if a by-law is made that reduces the value of the unit or unfairly discriminates against the owner. The application must be made within three months of the date this happens or of the date on which the owner should reasonably have found it out. An application can be made only by a person who is an owner at the time the by-law is amended. That is because a person should not be able to complain of a by-law that already existed when he or she bought the unit.

It is common, however, for lots in new community schemes to be bought off the plan. In that case, the buyer does not become the owner for some time after the contract is made. A person who has signed a contract to buy a lot should have the same rights as an owner in respect of a by-law made after the date of contract that reduces the value of a unit or unfairly discriminates against the person. The Bill amends the *Community Titles Act* to that effect.

The *Strata Titles Act* does not provide a similar remedy for the owner of a strata unit if the articles are amended in a way that reduces the value of the unit or unfairly discriminates against that owner. The Bill provides for the same rights under the Strata Titles Act.

Insurance and maintenance of buildings

Under the *Strata Titles Act*, the buildings in a strata scheme are common property and so are insured by the corporation. Under the *Community Titles Act*, however, buildings (other than those divided by a strata plan) are the property of individual lot owners and the responsibility to insure lies with them. The Act compels insurance only where one building provides an easement of shelter or support to another, for instance, where they have a party wall. Even then, the mechanism of compulsion is to make failure to insure a criminal offence. The Act requires these owners to give the corporation a copy of the current certificate of insurance, again on pain of criminal penalty. That does not assist the other owners if, in fact, no insurance has been arranged.

Concerns were expressed some years ago by the Real Estate Institute and some body corporate managers that this approach might not adequately protect owners in community schemes. It is said that many owners would prefer the security of knowing that all the buildings in the scheme are insured and would also like the convenience and economy of dealing with a single insurer through the agency of the corporation. Often, the by-laws of a scheme are drafted so as to permit the corporation to arrange insurance of all the buildings. The validity of this approach seems not to have been challenged.

The members of a community scheme, by majority vote, should be able to agree to insure some or all of the buildings in a community scheme through the agency of the corporation if they wish. Such a vote authorises the corporation to arrange the insurance and to collect the premium from the owners according to their lot entitlements. The Bill amends the Act to make it clear that the by-laws may so provide.

As an added protection, both Acts will be amended to require the agenda for annual general meetings to include presentation of copies of all required insurance policies to encourage annual review of these policies and to impose timeframes for providing evidence of insurance status to the corporation or a unit owner.

Register of owners

The corporation will be required to keep a list of the contact details of the unit owners and make these available to other unit owners on request. This will help a unit owner who is trying to convene a general meeting.

Access to records

The corporation already has a statutory right to require anyone holding its property, including records, to return the property in response to a notice. The Bill introduces two further rights. First, all owners will be entitled to inspect any records of the corporation in the possession or control of the body corporate manager within three business days of a written request. Second, the corporation will be required to send copies of the bank statements of the corporation each quarter to any owner who asks unless a body corporate manager is handling the corporation's money, in which case the manager will be required to send a quarterly financial statement to an owner on request. In the case of a community corporation, accounts for the previous financial year must be presented to each annual general meeting. The Bill stipulates this also for strata corporations.

Time limits are also introduced for the provision of other information. In particular, the corporation will have five business days to provide a statement detailing the financial situation of the corporation and copies of general

meeting minutes, most recent statement of accounts and insurance policies. This information is generally sought for prospective purchasers and it is important for the sale process that this information is provided promptly.

Corporation funds: mandatory sinking fund budget

Apart from two-lot corporations, all community corporations must establish a sinking fund for irregular maintenance or capital works and make annual estimates of future spending (section 116 *Community Titles Act*). Contributions to the sinking fund can, however, be set at negligible levels. Under the *Strata Titles Act*, there is no requirement to have a sinking fund or to estimate future spending. The Government is not persuaded that the law should require all strata corporations to establish sinking funds. To improve planning, however, and to encourage such funds, strata and community corporations other than the small groups should have to prepare a forward budget for maintenance and capital works. The Bill provides for compulsory budgets of prescribed duration, up to five years, for groups of various sizes. It is intended that a minimum three year budget (or statement of proposed expenditure) be prescribed for medium sized groups (e.g. of between seven and 20 units) and a minimum five year budget for large groups (e.g. larger than 20 units).

Audit

In the case of community corporations without managers that have more than six lots or collect more than $3,000 income a year, the corporation is obliged to have its accounts audited annually under the current law (s138). There is no corresponding obligation on strata corporations. The Bill will not change this. In New South Wales, audits are not required for corporations of fewer than 100 lots. In the case of small schemes, the sums handled are not likely to be large (probably under $10,000 per year) and the accounts will often be quite simple. Many of the owners will be able to follow these accounts for themselves and the extra cost of an audit would be an unnecessary impost.

In the case of community corporations, it is proposed to retain the requirement but to exempt corporations that collect no more than $10,000 per year, as well as those with no more than six lots and those that are owned wholly by one person. The Bill provides that any owner may apply to the Magistrates' Court for an order requiring an audit. The Court could order that the corporation must pay for the audit. Alternatively, any member could obtain copies of the financial records from the corporation and arrange an audit at his or her own expense and then apply to the Court for reimbursement of the cost from the corporation. This is a safeguard so that if a member has suspicions about the accounts, he or she will be able to have them independently checked, even if the majority of owners is unconcerned.

In the case of audits of the body corporate manager's trust account, the auditor will be required to send a copy of the audit report to the secretary of the corporation rather than simply filing the report in the manager's office as is reported to occur.

Dispute resolution

The *Community Titles Act* provides, by section 142, for an owner to apply to the Magistrates Court for a remedy if prejudiced by the wrongful act of a delegate of the corporation, including a manager, or if he or she claims that the delegate's decision is unreasonable, oppressive or unjust. The Bill includes a corresponding provision in the *Strata Titles Act*.

The Court may, on application, make orders resolving a dispute, including orders:

- requiring a person to provide reports or information
- requiring a person to take action to remedy a default
- requiring a person to refrain from specified further action
- altering the articles or by-laws
- varying or reversing a decision of the corporation or
- giving judgment on a money claim.

Without cutting down the general power to make such orders as are necessary to resolve the dispute, the Bill enables the court to also:

- declare that a vote has been validly or invalidly taken and
- declare that a by-law or article is valid or invalid.

Contracts made while the corporation was controlled by the developer

By section 87(3), once a developer sells even one lot, it loses control of the corporation. The developer is then treated as having the same number of votes as the other owners combined. As it is thought to be common for developers to require that purchasers appoint the developer as a proxy, however, the developer should be treated as controlling the corporation as long has it is in a position to control the corporation using proxy votes that are not subject to written directions on the exercise of the vote. Other examples have been cited of developers including a requirement in the by laws that a corporation must enter into an agreement with a certain service provider. Victoria has addressed the issue by a requirement that the developer act in the interests of the corporation.

This is consistent with the decision of the New South Wales Supreme Court in the case of *Community Association D. P. No. 270180 v Arrow Asset Management Pty Ltd*, handed down on 30 May, 2007. That case confirmed that a developer owes a fiduciary duty to a community corporation by analogy with the duty owed by a promoter to a company. This means that the developer must not act in conflict of interest and must not make secret

profits. That decision is persuasive, but not binding, authority in South Australia so the Bill states, for the avoidance of doubt, that a developer stands in a fiduciary relationship with the community corporation or proposed community corporation of the development. Further, without derogating from these general duties, the Bill provides that where corporation intends, during the developer control period, to delegate functions or powers to a body corporate manager or to enter into a contract for services, the developer must exercise reasonable skill, care and diligence and act in the best interests of the community corporation (as it will be constituted after the developer control period ends).

This approach should deal with the variety of ways in which a developer may prejudice a future body corporate whilst still in control of a new development.

In addition, the Bill gives the Court power to vary or terminate an agreement between a body corporate and a developer, body corporate manager or associate of either where the contract involves a breach of fiduciary duty or other duties under the Act.

Voting and special resolutions

Special resolutions are required for decisions such as changing the by-laws, giving permission for substantial alterations to the buildings or taking out insurance over and above that required by law.

Under the *Strata Titles Act*, a special resolution is passed if two-thirds of all lot holders vote for it at a validly-convened meeting. Thus, in a group of 15 units, at least 10 owners must vote in favour for the resolution to pass. If fewer than 10 owners attend the meeting, the resolution cannot pass, even though the members not attending might have no strong views on the resolution. The *Community Titles Act* takes a different approach. Under that Act, a special resolution is passed if no more than 25 per cent of all lot holders vote against it at a validly-convened meeting. Thus, for example, in a group of 16 units, if nine owners attend the meeting and four of them vote against the resolution, it will pass even though it has the active support of only five of the 16 members. The result is that a special resolution is much more easily achieved under the *Community Titles Act*, because it is not defeated by those who are indifferent but can only be defeated by those who are actively opposed.

A meeting is only validly convened if 14 days' notice has been given to all owners, including notice of the text of the proposed special resolution. That means that anyone concerned about the resolution has his chance to vote.

The Bill amends the *Strata Titles Act* to match the *Community Titles Act* so that a special resolution is more easily achieved, that is, such a resolution could not be defeated by apathy but only by active opposition. The notice of meeting will include a statement that anyone opposed to the resolution should ensure that he or she makes arrangements to vote against it, because it will pass unless at least 25 per cent of units vote against it.

Deposits for off-the-plan sales to be held in trust

Purchasers of units in yet to be constructed developments, who buy “off-the-plan”, pay a deposit. Several other jurisdictions (at least Queensland, Victoria and Western Australia) require off-the-plan vendors to pay all deposits to a stakeholder, such as a lawyer or land agent, who holds the money in trust until the plan is registered. Western Australia's former Strata Titles Referee advised that this provision does not deter development. Developers obtain finance to complete developments by borrowing against the security of the trust funds.

To protect consumers who provide large deposits, the Bill amends the *Community Titles Act 1996* so that developers who sell off-the-plan are required to pay deposits to a solicitor's, conveyancer's or land agent's trust account to be held on trust for the buyer until the plan is deposited and lots created. This is intended to protect the buyer in that the developer cannot spend the deposit, leaving the buyer exposed if the development does not proceed.

Developers' agents often suggest that early starts on new developments are expected, creating an expectation and allaying concerns, whilst developers cover themselves in sale contacts with extended periods, in years, for commencement of projects and include the ability to terminate contracts for lack of sales. Marketing may start before any plan is lodged with the Council. The Bill provides that if no plan has been deposited within the agreed time, required to be prominently set out in the contract for sale, the buyer can rescind the contract and recover the deposit. If an agreed period is not specified prominently in accordance with the prescribed requirements, a default period of six months applies.

First general meeting and voting - associates of developer

By section 79, a general meeting must be convened within three months from the date on which two or more community lots are first owned by different persons. The Bill amends this section to make clear that the developer and an associate of the developer are not 'different persons'. The same principle applies to the value of votes under section 87(3). The value of votes exercisable by the developer and any associates, taken together, is not to exceed the value of the votes of other owners.

Email communications

Both Acts provide for documents to be served by post. Some body corporate managers take the view that all communications with owners must be by post, even when owners wish to receive them by email. The Bill makes it clear that service can be effected by email if the recipient agrees.

Development contract enforcement

Under the *Community Titles Act*, a development contract is required where a community parcel is to be divided in stages or where the scheme description indicates that a developer is (or is likely) to erect buildings or

other improvements on the common property. This can include completion of works on common property such as landscaping and fencing common areas. The development contract requires the developer to carry out this further work or development in accordance with the scheme description.

There is no statutory requirement to comply with a development contract (other than where these requirements might also be conditions of development approval). Enforcement therefore relies on owners taking legal action. The *Community Titles Act* provides that a community corporation, or lot owners, may enforce the development contract in a 'court of competent jurisdiction'. Accordingly, this would be either the Magistrates Court or District Court, subject to the monetary limits on the jurisdiction of the Magistrates Court. To minimise the costs for owners to enforce development contracts the Bill amends the *Community Titles Act* to give the community corporation and owner or occupier of a lot the right to apply to the Magistrates Court to enforce a development contract.

It has been brought to the Government's attention that in some cases the works to be completed include basic infrastructure such as access roads and water and electricity connections to the individual lots. There has also recently been a community titled development where the developer became insolvent before satisfactorily completing works on common property.

In ordinary Torrens titled subdivisions councils enforce requirements for completion of works such as access roads, landscaping of open space, connection of services, etc as this infrastructure and open space vests in councils on completion. They do this by taking security from developers such as bonds or bank guarantees. The Government is concerned about purchasers of lots in community titled developments being at a comparative disadvantage when it comes to ensuring developers satisfactorily complete works on common property. Councils have expressed some preparedness to play a greater role in enforcing satisfactory completion of infrastructure works on community titled developments and it is intended to explore that option further separately to this Bill. However, recognising that that may not eventuate, it has been decided to include in this Bill a mechanism to enable requirements to be placed on developers to provide security for fulfilment of their obligations under development contracts. The requirement itself and details of the form of security would be imposed by regulation. This step is taken without having yet explored or consulted on acceptable forms of security, however it is envisaged that this would be either a bank guarantee or a form of insurance similar to the building indemnity insurance that builders must take out to cover owners for the risk that a builder goes bankrupt before completing domestic building work. There is a risk that a workable scheme for providing this security will not be identified and cannot be prescribed. However, this mechanism has been included in the Bill to enable this issue to be dealt with by regulation as soon as investigations and consultation about the provision of security is complete, without needing to return to Parliament with another Bill.

Termination of schemes for redevelopment

Developers have expressed concern about one or two objecting owners impeding a majority of other owners from terminating or amending a strata scheme to redevelop the land (and thereby potentially unlock greater value in the land). Presently it is possible where owners are not unanimous to apply to the Court for an order to terminate a strata or community scheme. It is proposed to make this process more accessible by providing for applications to cancel or amend a strata or community plan to be heard in the Environment, Resources and Development Court rather than the District Court (under the *Community Titles Act*) or the Supreme Court (under the *Strata Titles Act*). Applications to the ERD Court are cheaper and the ERD Court is practised in dealing with applications of a planning nature.

It is also intended to prescribe matters to which the Court should have regard in assessing such an application. Some of the proposed factors intended to be prescribed include the relative percentages of owners for and against cancellation or amendment, the adverse consequences to the minority if the Court grants the application and conversely to the majority if the Court refuses the application and the extent to which these could be ameliorated or alleviated by court-ordered or other action.

Housing Improvement Act

The Bill clarifies the relationship between the *Community Titles Act* and *Strata Titles Act* and the *Housing Improvement Act*, under which a council can require an owner to rectify or demolish a building. The council's powers will apply to buildings that form part of a strata or community titled development, without the need for approval of the works by the corporation.

Strata and community title information service and enforcement

This Bill lays the foundation for the establishment of a dedicated community and strata title information and advice service by providing that the service may be funded from money in the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. One of the existing purposes of that Fund is to fund education programs about real estate matters for the benefit of members of the public. This is therefore a logical application of that Fund. Similarly, the Bill provides that that Fund can be used to pay for investigation and prosecution of breaches of the community and strata titles legislation and confers power to prosecute breaches of the legislation on the Commissioner for Consumer Affairs.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Community Titles Act 1996*

4—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definitions of *special resolution* and *unanimous resolution* to allow the regulations to prescribe information that must be given in the notice given prior to the resolution.

5—Amendment of section 4—Associates

This clause makes the definition of *associates* have general application (rather than just applying in relation to developers as is currently the case).

6—Amendment of section 34—By-laws

This clause amends section 34 to allow by-laws to authorise or require a community corporation to act as agent for the owners in arranging policies of insurance and to set out a scheme allowing community corporations to enforce their by-laws by serving penalty notices. The maximum penalty that may be imposed by such a notice is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

7—Amendment of section 35—By-laws may exempt corporation from certain provisions of Act

This is consequential to the amendments in clause 18 and the new definition of *first statutory general meeting*.

8—Amendment of section 37—Restrictions on making of by-laws

This is consequential to the new by-law making power relating to policies of insurance.

9—Amendment of section 38—Certain by-laws may be struck out by Court

This clause makes minor drafting amendments and extends the ability to apply for a by-law to be struck out to a person who has contracted to buy a lot (where currently it is only owners who are able to apply).

10—Amendment of section 47—Development contracts

This clause provides that the regulations may require a developer to provide security of a specified kind to a community corporation in accordance with the regulations in relation to the performance of the developer's obligations for the implementation of the scheme description.

11—Amendment of section 49—Enforcement of development contract

This clause provides for proceedings for enforcement of a development contract to be brought in the Magistrates Court (but with the capacity to transfer the proceedings in appropriate cases).

12—Amendment of section 59—Amendment by order of ERD Court

This clause requires the ERD Court (rather than the District Court) to deal with applications for amendment of a community plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

13—Amendment of section 64—Cancellation by Registrar-General or ERD Court

This clause gives the ERD Court (rather than the District Court) power to cancel a deposited community plan.

14—Amendment of section 67—Application to ERD Court

This clause substitutes references to the ERD Court (consequentially to clause 13) and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

15—Amendment of section 69—Cancellation

This is consequential to clause 13.

16—Amendment of section 75—Functions and powers of corporations

This is consequential to clause 17.

17—Insertion of Part 9 Division 1A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 1A—Delegations by corporation

78A—Delegation of corporation's functions and powers

This clause provides for a community corporation to delegate its functions or powers to certain other persons. This provision is the same as one currently contained within the regulations however it also provides that a community corporation may revoke a delegation at any time and despite any agreement to the contrary.

78B—Body corporate managers

This clause proposes to regulate the relationship between a community corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the community corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the community corporation, certain information has been provided to the corporation prior to entering into the contract and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the community corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides for the community corporation to terminate the contract at any time despite any term to the contrary.

78C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the community corporation and specifies some of the duties of a body corporate manager.

78D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a community corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

18—Amendment of section 79—First statutory general meeting

This clause amends section 79 to require the first statutory general meeting of a community corporation to be held after there are at least 2 different members of the community corporation (not including the developer or a person who the developer knows, or ought reasonably to know, is an associate of the developer).

19—Amendment of section 80—Business at first statutory general meeting

This is consequential to clause 18.

20—Amendment of section 81—Convening of general meetings

This clause includes consequential amendments and an amendment to provide that a member may not nominate another person to receive notices of meetings on his or her behalf.

21—Amendment of section 82—Annual general meeting

This clause amends section 82(2) to provide that the annual general meeting of a secondary or tertiary community corporation must be held within 6 months after the commencement of each financial year. Currently this annual general meeting is to be held within one month after the annual general meeting of the primary or secondary corporation of which it is a member (which must be within 3 months after the commencement of each financial year).

22—Amendment of section 83—Procedure at meetings

This clause amends section 83 to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides.

This clause also amends section 83 to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

23—Amendment of section 84—Voting at general meetings

This clause amends section 84 in relation to nominations made by an owner of a community lot for another person to vote on his or her behalf. A nomination must be in writing and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the community corporation.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

Copies of any nominations or appointments relating to a meeting must be available for inspection at that meeting before any voting occurs.

24—Amendment of section 85—Duty to disclose interest

This clause amends section 85 to require a persons attending and voting, or presiding, at a meeting of a community corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken.

25—Amendment of section 87—Value of votes cast at general meeting

This clause amends section 87 to take into account the combined voting power of a developer and certain associates of the developer (*prescribed associates*). The aggregate of the votes of the developer and the prescribed associates may not exceed the aggregate of other owners of community lots (if any).

26—Amendment of section 88—Special resolutions—3 lot schemes

This clause amends section 88 so that the regulations may prescribe additional information that must be served along with the proposed resolution under subsection 88(2)(a) for the resolution to be a special resolution of the community corporation.

27—Amendment of section 101—Power to enforce duties of maintenance and repair etc

This clause amends section 101 in relation to power to enter premises of a community corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a lot for maintenance and repair under subsection 101(2) may be used. Currently the requirement is to give the owner reasonable notice.

It is also proposed to include a new provision for the entry into a lot, by an officer of the community corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a lot under this provision must give the owner of the lot such notice as her or she considers appropriate in the circumstances (if any).

28—Amendment of section 102—Alterations and additions in relation to strata schemes

This clause amends section 102 to provide that subsection 102(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

29—Amendment of section 104—Other insurance by community corporation

This clause amends section 104 to require a community corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

30—Amendment of section 106—Insurance to protect easements

This clause amends section 106 to extend the right to be provided with evidence of insurance to owners, prospective owners, registered mortgagees and prospective mortgagees (where a request is made for such evidence) and to provide that a change to terms and conditions of an insurance policy will also trigger a requirement to provide evidence to the community corporation.

31—Amendment of section 108—Right to inspect policies of insurance

This clause amends section 108 to extend the right to inspect insurance policies to prospective owners and prospective mortgagees and to impose a time limit within which a request to inspect policies must be complied with.

32—Amendment of section 113—Statement of expenditure etc

This clause amends section 113 to include additional information that must be presented by a community corporation to each annual general meeting of the corporation. That additional information is a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A community corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

33—Amendment of section 126—Keeping of records

This clause amends section 126 to define a time period, namely 5 business days, in which an agent must, at the request of a community corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a maximum of a fine of $500 from $8 000.

34—Amendment of section 127—Audit of trust accounts

This clause amends section 127 to specify that an agent must forward the statement to the secretary of a community corporation.

35—Amendment of section 135—Register of owners of lots

Currently section 135(1) requires a community corporation to maintain a register of the names of the owners of the community lots showing the last known address of each owner. This clause amends section 135(1) to include in that register the last known telephone number and email address of each lot owner and also each owner's lot entitlement.

36—Amendment of section 138—Audit

This clause amends section 138 to provide additional circumstances in which an audit of a community corporation's annual statement of accounts is not required under the Act.

37—Amendment of section 139—Information to be provided by corporation

This clause amends section 139 to require a community corporation to provide information under the section within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection on application by an owner, prospective owner, mortgagee or prospective mortgagee (being any contract entered into with a body corporate manager under proposed section 78B and the register of owners kept under section 135). This amendment also provides for the community corporation to provide an owner of a community or development lot, on application, with statements for all bank accounts maintained by the corporation (unless a body corporate manager maintains the accounts on behalf of the corporation).

38—Amendment of section 141—Persons who may apply for relief

This clause amends section 141 to include a person who has contracted to purchase a community lot in the class of persons who may apply to a court for relief under Part 14 of the Act.

39—Amendment of section 142—Resolution of disputes etc

This clause amends section 142 to expand the powers of a court in relation to dealing with an application under Part 14 of the Act.

40—Insertion of sections 142A and 142B

This clause inserts new sections 142A and 142B.

142A—Holding of deposit and other contract moneys when lot is pre-sold

This proposed clause prohibits the sale of a lot in a proposed community scheme prior to the depositing of a plan of community division in the Lands Titles Office unless any consideration paid by the purchaser prior to the deposit of the plan is paid to, and held of trust by, a legal practitioner, registered agent or registered conveyancer, who must be named in the contract of sale. The contract for sale may be avoided by the purchaser (before the plan of community division is deposited) in the event that this is not complied with or if the proposed plan is not deposited in the Lands Titles Office within an agreed time (which must be specified in the contract in accordance with any prescribed requirements) or 6 months if no time is agreed in accordance with the statutory requirements.

142B—Developer stands in fiduciary relationship with community corporation

This proposed clause clarifies that a developer stands in a fiduciary relationship with the community corporation (or proposed community corporation) and that the duties owed by the developer under this Act are in addition to, and do not derogate from, the duties arising out of that fiduciary relationship.

41—Substitution of section 152

This clause deletes the provision on vicarious liability for management committee members and substitutes a provision allowing for prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

42—Amendment of section 155—Service

This clause amends section 155 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

43—Insertion of section 155A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Community Titles Act 1996* and the cost of prescribed advisory services or educational programs.

44—Amendment of section 156—Regulations

This clause amends section 156 to provide for the regulations to assign specified functions to an officer of a community corporation of a specified class.

Part 3—Amendment of *Strata Titles Act 1988*

45—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definition of *special resolution*.

46—Amendment of section 13—Amendment by order of Court

This clause amends section 13 to make the ERD Court the relevant court to hear and determine applications to amend a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

47—Amendment of section 17—Cancellation

This clause amends section 17 to make the ERD Court the relevant court to hear and determine applications to cancel a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

48—Amendment of section 19—Articles of strata corporation

This clause amends section 19 to provide that the articles of a strata corporation may, by notice, impose a penalty for contravention of, or failure to comply with, any article. The maximum penalty is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

49—Insertion of section 19A

This clause inserts a new section 19A providing that any articles of a strata corporation may be struck out by order of the Magistrates Court or the District Court if they reduce the value of a unit or unfairly discriminate against a unit holder. A unit holder (including a person who has contracted to purchase a unit) may apply to a court if he or she was a unit holder when the articles came into force and an application must be made within 3 months after the person first knew, or could reasonably be expected to have known, that the articles had been made.

50—Insertion of section 26A

This clause inserts proposed new section 26A that provides a strata corporation can only delegate its functions or powers to the extent permitted by Division 2A (see clause 52).

51—Amendment of section 27—Power to raise money

This clause amends section 27 to provide that a strata corporation may, by ordinary resolution, permit contributions to be paid in instalments and fix (in accordance with the regulations) interest payable in respect of a contribution, or an instalment of a contribution, that is in arrears.

52—Insertion of Part 3 Division 2A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 2A—Delegations by strata corporation

27A—Delegation of corporation's functions and powers

This clause provides for a strata corporation to delegate its functions or powers to certain other persons. The clause also provides that a strata corporation may revoke a delegation at any time and despite any agreement to the contrary.

27B—Body corporate managers

This clause proposes to regulate the relationship between a strata corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the strata corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the strata corporation, unless certain information has been provided to the corporation prior to entering into the contract, and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the strata corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides for the strata corporation to terminate the contract at any time despite any term to the contrary.

27C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the strata corporation and specifies some of the duties of a body corporate manager.

27D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a strata corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

53—Amendment of section 28—Power to enforce duties of maintenance and repair

This clause amends section 28 in relation to power to enter premises of a strata corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a unit for maintenance and repair under subsection 28(3) may be used. Currently the requirement is to give the owner reasonable notice.

It is proposed to include a new provision for the entry into a unit, by an officer of the strata corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a unit under this proposed provision must give the owner of the unit such notice as her or she considers appropriate in the circumstances (if any).

54—Amendment of section 29—Alterations and additions

This clause amends section 29 to provide that subsection 29(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

55—Amendment of section 31—Other insurance by strata corporation

This clause amends section 31 to require a strata corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

56—Amendment of section 32—Right of unit holders etc to satisfy themselves as to insurance

This clause imposes a time limit within which a request to inspect insurance policies must be complied with and extends rights under the section to mortgagees and prospective purchasers and mortgagees.

57—Amendment of section 33—Holding of general meetings

This clause amends section 33 in relation to the holding of general meetings in the following ways:

(a) to enable a meeting to be convened by order of the Magistrates Court (on the application of a person of a class specified in section 41AA);

(b) to provide that a unit holder may not nominate another person to receive notices of meetings on his or her behalf;

(c) to require the notice of a meeting to include an agenda for the meeting including those matters listed in the clause;

(d) to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides;

(e) to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

58—Insertion of section 33A

This clause proposes to insert section 33A which would require a statement setting out certain specified information be presented by a strata corporation to each annual general meeting of the corporation. The required information includes a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A strata corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

59—Amendment of section 34—Voting at general meetings

This clause amends section 34 in relation to nominations made by an owner of a strata lot for another person to vote on his or her behalf. A nomination must be in writing to the secretary of the corporation and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the strata corporation.

The secretary of the corporation must make copies of any nominations in relation to a meeting is available for inspection at that meeting by another person attending and entitled to vote at the meeting.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

60—Insertion of section 34A

This clause inserts a new section 34A to require persons attending and voting, or presiding, at a meeting of a strata corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken. Additionally a nominee representing a unit holder at a meeting must disclose any such interest to his or her principal prior to the vote taking place or as soon as practicable after.

61—Amendment of section 36G—Keeping of records

This clause amends section 36G to define a time period, namely five business days, in which an agent must, at the request of a strata corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a Division 9 fine from a Division 5 fine.

62—Amendment of section 36H—Audit of trust accounts

This clause amends section 36H to specify that an agent must forward the statement, that is currently required to be lodged with the strata corporation, to the secretary of a strata corporation.

63—Insertion of section 39A

This clause inserts a new section 39A which requires a strata corporation to maintain a register of the names of the unit holders which includes last known contact address, telephone number, email address and unit entitlement.

64—Amendment of section 41—Information to be furnished

This clause amends section 41 to require the information to be provided by a strata corporation under the section to be provided within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection by a strata corporation on application by a unit holder, prospective owner, mortgagee or prospective mortgagee. Those additional documents being any contract entered into with a body corporate manager under proposed section 27B and the register of unit holders kept under proposed section 39A. This amendment also provides for the strata corporation to provide a unit holder, on application, with quarterly statements for all bank accounts maintained by the corporation.

65—Insertion of section 41AA

This clause inserts a new section 41AA that lists the persons who may apply for relief under Part 3A. Those persons are a strata corporation, the owner or occupier of a unit, a person who has contracted to buy a unit and any other person that is bound by the articles of a strata corporation (other than an invitee or visitor).

66—Amendment of section 41A—Resolution of disputes etc

This clause amends section 41A consequentially on the insertion of proposed section 41AA (see clause 65) to refer to an applicant that has standing to apply for relief under Part 3A. The clause also includes additional grounds under which a person may apply for relief and additional orders that a court may make under the Part.

67—Substitution of section 47

This clause removes the current provision on vicarious liability of committee members and inserts a general defence (in the same terms as section 153 of the *Community Titles Act 1996*).

68—Amendment of section 49—Service

This clause amends section 49 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

69—Amendment of section 50—Proceedings for offences

This clause amends section 50 to allow prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

70—Insertion of section 50A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Strata Titles Act 1988* and the cost of prescribed advisory services or educational programs.

71—Amendment of section 51—Regulations

This clause amends section 51 to provide for the regulations to assign specified functions to an officer of a strata corporation of a specified class.

Schedule 1—Transitional provisions

1—Delegations made prior to commencement

The transitional provision ensures that delegations made before commencement of the new provisions about body corporate managers will be revocable by the community or strata corporation despite any agreement to the contrary.

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

Consideration in committee of the Legislative Council's amendment.

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

That the Legislative Council's amendment be agreed to.

In relation to this particular matter, there has been, as we know, a proposed amendment in the other place. I rise to advise members of this house that the amendment is not opposed. Although section 6(4) of the Personal Property Securities (Commonwealth Powers) Act 2009 provides for the state to refer power to the commonwealth over security interests in transferrable water rights, this was not part of the initial reference. The water subgroup of the COAG Working Group on Climate Change and Water agreed that, to avoid inconsistencies between the water registries and the proposed national PPS Register, security interests in water rights should be excluded from the PPS Register. Security interests are only one small part of the information contained on the register, but they are integral to it.

Given that nationally consistent registers are being established as a part of the National Water Initiative, it is most unlikely that states will commence section 6(4) of the referral act and, even if water rights were referred, states would still be able to exclude water licences from the operation of the PPS act.

The proposed amendment will not affect the scheme or the current arrangements for developing the South Australian water register. However, I note that the Department for Water was not consulted on this proposed amendment. The Attorney-General's Department was the coordinating agency for this bill and each of the amendments was developed and drafted in close consultation with and on instructions from the relevant departments so that they could properly consider the legal and policy implications of those amendments.

Ms CHAPMAN: I indicate that, on behalf the opposition, I welcome the government's decision to accept the amendment from another place. Members may recall that, during the course of the primary debate on this matter in this house, the government moved an amendment which was substantially to do two things to the bill. The first was to have a catch-all clause, which we acceded to, and the second was to deal with the issue of water, in particular that which may come to pass under the NRM Act 2004, which is an important piece of legislation in this state. I and others in another place have raised questions about the introduction of any water entitlements, rights, licences, consequential levies, and the like when there had been such a history in respect of what should be within the definition of personal property and therefore that that should be excluded.

Personal property specifically does not include currently, as a matter of law, land, water or fixtures. There has been a lot of debate over a long time about whether there should be some change to that. There has been very good reason why, in my view, water and fixtures have remained excluded from any definition of personal property. In any event, in this state, some rather unique legislation has developed and the opportunity for governments of the day to deal with levies, which I think is pertinent to this debate.

In another place an amendment was moved to ensure that water management or authorisation is not personal property for the purposes of the Personal Property Securities Act 2009, and that is a specific amendment to the Natural Resources Management Act 2004. We strongly support that and welcome it, and I thank the government for its agreement. It does give me the opportunity to acknowledge the appointment of Professor Chris Daniels as the new chair of the Adelaide and Mount Lofty Natural Resources Management Board.

I have had the opportunity, with the Minister for Environment and Conservation, to meet Professor Daniels. I have had the opportunity, in the past, to listen to him speak and I understand he has considerable experience in some of the areas, which I am sure will stand him in good stead as the new chair. I am sure he will be pleased to know that I have since located his publications, *Adelaide: Nature of a City* and *Adelaide: Water of a City* (more recently), to which he and other academics have made contributions. They have produced some rather outstanding publications, as a summary of these two important topics. I therefore take the opportunity to acknowledge his summary in respect of the area that we are looking at. He identifies in his publication, *Adelaide: Water of a City*, the history and current application of the Natural Resources Management Act 2004 and how the state NRM plan had been launched in February 2006. Under that, eight NRM regions

operate. He is now the chair of a board which oversees an area in which some one million South Australians live. He says in his book:

> Within the Adelaide and Mount Lofty Ranges region there are five 'prescribed areas' for water resources management: Western Mount Lofty Ranges, McLaren Vale Prescribed Wells area, Northern Adelaide Plains Prescribed Wells area, Barossa Prescribed Water Resources area, and Central Adelaide Prescribed Wells area. Where a water resource is prescribed, the NRM Act requires that a water allocation plan be prepared (some of the plans were established under the Water Resources Act 1997 and have been adapted under transition arrangements to the NRM Act). Once completed, WAPs became government policy. Licensed users are limited in the volume of water they may take and use from a prescribed area.
>
> Prescription of a water resource follows extensive consultation with community and consideration of economic and environmental consequences. Where a water resource is not prescribed, it is less protected. However, if there is a mention of a water and development plan then it is possible, under some decisions of the South Australian Supreme Court, that the impacts of the water source may be regulated.
>
> ...The wording of the WAPs has created some ambiguity and it is desirable in the long-term to standardise their wording to create certainty for all stakeholders. There have been many appeals to the Environment, Resources and Development Court regarding this issue.

He goes on to outline a number of other aspects but, particularly on levies, he states:

> The NRM Act gives the power to impose regional levies on all properties in order to address issues identified in the State NRM plan. This levy is one of the few of its type in Australia and in the world. In 2004, the levy became known as a 'natural resource management levy'. The levy is collected by local government along with the collection of council rates. The average amount paid per household by urban residents was between $16 to $32 in 2006/07. The levy is struck on the value of urban rateable land in the AMLRNRM Board region. It is also possible to strike a levy in relation to the amount of water taken by licensed water users which is also—

The Hon. J.R. RAU: I rise on a point of order: given that the amendment which was moved by the honourable member's colleague elsewhere has been accepted and the present remarks do not appear to be necessarily advancing this or, indeed, relevant to this particular matter anyway, I take a point of order as to whether we are doing something that we should be doing here. It does not appear to be relevant or pertinent to the matter, and, as I said, we have agreed to the amendment proposed in the other place by the honourable member's colleague.

The ACTING CHAIR (Ms Thompson): I have no option but to uphold that point of order and ask the member for Bragg to very quickly draw her argument to how her history is relevant to the definition of personal property.

Ms CHAPMAN: I regret to note, Madam Acting Chair, that it appears that neither you or the Attorney-General were listening. I am not outlining history at all. I am outlining the current position as it applies under the Natural Resources Management Act. The Attorney should note that this is an amendment to the Natural Resources Management Act 2004, specifically relating to water management authorisation to be excluded, and I am referring to the Natural Resources Management Act and how it applies levies—

The ACTING CHAIR: Order! I know that the member for Bragg knows much better than to think that the subject of the whole bill is open. What is open is the insertion of the schedule of the amendment made by the Legislative Council. I refer to the history—the history is quite brief, and much of it applies now, but it is still the history. I would ask the member to address her remarks to the definition which is before us.

Ms CHAPMAN: Regarding the Natural Resources Management Act 2004, specifically in relation to water management, the professor outlines:

> A meter must be installed on the well or pump. If that is inaccurate, other means may be used to estimate the volume used (NRM Act, Section 101)...The levy can be payable even if the water is not used. There is provision to authorise special purpose levies in relevant regional plans and this can be used to pay for special projects.

This amendment is particularly important, and whilst we have noted in the principal debate that water levies and water licensing under this prescription plan are under consideration as we speak, it may well be the government's expectation that there will be the creation of obligations, responsibilities and, hopefully, rights at the conclusion of that debate, as was outlined by the Attorney when we discussed this before. We have said, and the other place has agreed with us, that it is not appropriate that we change the personal property securities legislation to include what might happen at some future date. What is appropriate is that we deal with that issue if and when it ever comes to fruition. That is exactly why this amendment is so important and why we welcome its inclusion.

I place on the record that the opposition is quite prepared to have the debate on ultimately whether water management authorisation—or, indeed, any aspects in relation to water—is brought into this legislation or whether there is any transfer to the commonwealth if and when we ever get through the debate on the establishment of water levies. But at this stage we have one levy and it is unique, and we note it is in existence. Levies for water, specifically, as I have outlined previously, are within the power of the act and we are at the stage of hot debate.

I conclude by saying that I think I understood the Attorney to say that the origin of this idea, which has been rejected in the other place and which is now being acknowledged today, came from the Attorney-General's Department. I raised this with the minister for environment in a briefing on an ancillary matter. He indicated that he had no knowledge of any approach to anyone seeking that the NRM levies be incorporated at this point. Indeed, there were a number of representatives from the Department for Water and the department of environment from whom I inquired on the day as to whether they had any knowledge of a request for this matter to be mentioned. So, I think I am hearing it correctly that the Attorney-General says, 'This is something that emanated from my department' and not from those, frankly, who it is very pertinent to; and I place on the record that is the position as I have been informed.

It is a shame, perhaps, that there was not consultation on this even by colleagues in other departments—we might not have been brought to this. Nevertheless, that has occurred and hopefully this will remedy it, and I look forward to the further debate on those aspects in due course.

The ACTING CHAIR: Attorney, do you have anything to which you could respond, although I remind you that debate is confined to the clause under debate?

The Hon. J.R. RAU: No, I think we have really covered the ground pretty thoroughly, thank you.

Motion carried.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March 2011.)

Ms CHAPMAN (Bragg) (16:03): I rise to continue my remarks in respect of the Evidence (Identification) Amendment Bill. Members might recall that I made a brief contribution on the previous occasion. I will not upset the Attorney-General by suggesting that these will not be further brief concluding remarks. This bill was introduced only last month to remove a common law preference for identification of suspects through a live line-up of persons over other identification methods. I did point out previously my concerns on questions of consultation and the repeated occasions on which the bill has been brought before the house requiring debate without opportunities to consult; and, indeed, notwithstanding the Attorney-General being the new champion of consultation, in fact his complete and utter failure to consult on this matter other than, it appears, with the police department.

However, moving along, I will say that I think it is fair to say for the record that, at the time that this election policy was announced last year, the current Attorney-General was not the attorney-general of the day. Indeed, we were in the era of Atkinson, the age of Atkinson, I think it is fair to say. I am pleased to say that some extinct species never come back and that the dinosaur age is gone. We now have the age of Rau, and I think it is also fair to say that all members expected that this would be an era of enlightenment, that we would have a new regime and expect a very high standard not only on consultation, as the Attorney tells us on a daily basis he is keen to pursue, but also that we would have considered and reasoned debate about issues, and that we would carefully look at matters to ensure that they did not need to have comprehensive reform, or that they were complete duds and that they could be eliminated along the way.

I am disappointed to note that, on this occasion, this is one that is very disappointing in that expectation, and that, unfortunately, we have not concluded the era of announcement of policy and new law reform with one-page press releases. Nevertheless, the opportunity has passed, it seems, for the current Attorney-General to be able to dispose of something—this being a classic example—which has been announced in the heat of an election campaign.

It obviously has some defect, but instead of coming in and saying to the house, 'Look, I have properly consulted on this. I have now got further advice and, although that seemed to be a

good idea at the time', and with whatever other meritorious descriptions he could give to his predecessor, he would confirm to the house that this was not the direction which should be pursued and that he had wisely counselled the Premier not to pursue this and to be able to explain to the people of South Australia why he had done so.

Disappointed, nevertheless, we are here to complete the bill. I confirm that, with the extra time to investigate this matter, the opposition will not be supporting this bill. The adjournment of this matter on the previous occasion was at a time when I was discussing the academic treatment of this issue which sits behind the question of removing this common law preference and, indeed, some assessment of what the body of knowledge was on this question of preference for identification of suspects (or model which is used for that) and the reliability of identification practices.

I think that it is fair to say that, in summary at that point, the scant legal basis which was relied upon, I thought, was actually more on our side rather than on the case that the Attorney was presenting, but then we came to Professor Brewer, who, I think it is fair to say, is a well-regarded professor at one of our South Australian universities. I have had an opportunity to look at some of his material. However, this has been comprehensively researched and considered by the Hon. Stephen Wade in another place, and he has been able to come to some conclusions about which he has advised me.

I do wish to say, before I come back to Professor Brewer, that, in addition to that, the Hon. Stephen Wade, and perhaps other members of the parliament (although not me, because I was dealing with the bill at the time in this place), have had the benefit of advice from Mr Tony Harrison, who I keep calling the deputy commissioner, but I think that is wrong. He is an assistant commissioner, yes. He has always been willing to provide briefings to the opposition on a number of pieces of legislation. I note that, in fact, he was recently appointed chair of Minda Inc., so he is obviously continuing service in other categories in the community, and I am sure that he will do a sterling job. But I digress. He was also able to give quite comprehensive advice to the Hon. Stephen Wade on current SA Police practice as to how and when this is applied.

I think it is fair to say that the one thing we all need to be clear on when we are discussing this issue is that the practices of the SA Police Department are not, in any way, reflected by the practices of what one sees on television in those dreadful American programs that seem to educate the population, inaccurately, as to what happens in a number of police and court procedures, and this is not the least of them.

Unfortunately, that is the diet upon which much of population relies, and certainly the younger population, so I think it is important to identify what we do here in South Australia. They use three identification methods. One is the live line-up, where the witness is asked to identify the offender from a physical line-up of people. The second is a photo array, where the witness is asked to identify the offender from a set of photographs. In South Australia they may be in hard copy or they may be on a screen. Thirdly, an informal identification where the witness is asked to identify the offender from a group of people beyond.

As we know, the common law identification of suspects through a live line-up of persons is preferred over other identification methods and this bill is about removing that preference. The Attorney-General advised the house, in his explanation of this bill, that the identification by photograph is not 'inherently inferior'. In briefings, the police, apparently, in advising the Hon. Stephen Wade, have gone further to assert that the unanimous academic opinion is that photo identification is as good as, if not superior to, a live line-up.

Professor Brewer from the psychology department at Flinders University produced an article in 2009 in which he examines:

> ...results aggregated across studies, as reported in Cutler et al (1994). The conclusions that emerge from these analyses are (1) false alarm rates (cf. false identification of innocent suspects) do not differ significantly for photo and live line-ups, and (2) hit rates are slightly (but not meaningfully) higher for live than photo line-ups.

In a recent unpublished article he summarises the research as follows:

> Across a number of controlled studies, the evidence does not indicate that either [live line-up or photo array] produces superior performance in terms of preventing identification of innocent suspects or maximising identifications of the culprit...[At] present, there is no compelling evidence for the superiority of either method. I suspect that this may reflect the fact that witnesses generally simply do not store the rich details in memory that would allow them to take advantage of the additional memorial cues that the live line-up would appear to offer.

I think it is fair to say that the balance of the academic evidence is that the current judicial preference for line-ups over photo array is not supported by the science. The government's proposal, and this is what is important, is to reverse the presumption and presume against the reliability of line-ups. That, we suggest, is not supported by the research and could inhibit further development of the science of eyewitness identification. Professor Brewer's article continues:

> Given the above, which method should we prefer? The photo line-up offers a number of significant advantages—provided its development and implementation follow best practice guidelines.

That is a key element of what is being presented here, because while the science is equivocal on the relative merits of the two identification methods, all other things being equal, the factors that make identification more reliable are clearer and more easily achieved with a photo array with those provisos; that is, it is a question of what these factors are.

If they are not up to standard, if they do not follow best practice guidelines, that is why it is so important that we rely on the judge and continue to rely on the judge (who is the responsible person for advising either himself or a jury but in this instance a jury) on the question of the admissibility of the evidence. His job is always to ensure that there is a fair trial, that the matter is fairly prosecuted, but also that, when evidence, whatever it is, becomes unreliable, either the appropriate caution is given or a direction or determination by the judge is pronounced to render that piece of evidence inadmissible. Let us just consider a few of these. Firstly, on the question of construction, whether you are constructing a live line-up up or a photo array, the key attribute of a good set is that every line-up member matches the witness's description of the culprit. Only as a secondary factor is it sufficient that the line-up members should be reasonably similar in appearance.

The example given to the Hon. Mr Wade was, if a witness described the suspect as a male, 35 to 45 years old, heavily built, with piercing blue eyes and shaved head, is it crucial that all line-up members contain the features in the witness's memory when the description was provided? If the live or photo line-up contains a group of highly similar-looking people but only the suspect has noticeably blue eyes, then only the suspect is ever at risk of being chosen.

In a circumstance where we now have very large photo databases, there is an argument that the likelihood of being able to compile a photo line-up that meets such criteria is much greater than that of assembling an appropriate live line-up. In other words, where there is a particular feature (in this case piercing or noticeably blue eyes) in that description, which is the first piece of information to be taken from the witness as to what they might be able to describe of the suspect, then the likelihood of finding that group from the photo database is much greater than being able to go out and find a person who meets that description.

The second is the retention interval. It may appear to members to be common sense, but it is important to note that the longer the interval between the event and the identification, the greater the decay of the witness's memory and the more likely it is that the witness will positively identify an innocent suspect or fail to identify the culprit. Again, if in fact the process of having to assemble and conduct a live line-up causes an inordinate delay relative to the availability of a large photo database that would allow a suitable photo array to be arranged quickly, then logically, there is an opportunity to shorten the retention interval between the apparent crime and the identification test. That is another factor to be considered: if a live line-up is going to cause a delay, that could severely interfere with the reliability of the witness's memory.

The third area is this question of contamination. It is always an issue in respect of evidence to ensure as best as possible that the evidence that is coming before the jury is uncontaminated. Contaminated evidence can be dangerous. It can completely destroy the reliability of the evidence and, of course, make any ultimate decision vulnerable to appeal if that is subsequently successfully argued. So, the identification test administrators can provide verbal and non-verbal cues either deliberately or inadvertently to the witness during a test.

The photo array, which is delivered on a computer, would, arguably, allow for if not ensure dispassionate delivery of the material, clear presentation of the key instruction that the culprit may or may not be in the array, and a precise record of the witness's response, including a record of any witness who did not choose the suspect, including how long the witness took to make the identification and their confidence in the identification at the time it was made. These are aspects of the factors that are important, that we take into account and that can also give us a direction, as the legislators, of where, in certain circumstances, Professor Brewer's assessment comes to fruition and is realised.

In a recent paper, Professor Brewer summarises a range of procedures enhancing quality; for example, no feedback on identification, and sets should only include one suspect. Here again we have a number of practices which are contentious. Professor Ian Coyle of Bond University is one person who has been brought to the attention of the opposition, via the Hon. Stephen Wade's investigations. It appears that he disputes Professor Brewer's preference for sequential over simultaneous line-ups. This is again an aspect which is important to consider.

In a circumstance where there is conflicting academic treatment, in a circumstance when the practitioners, who also work in this area (namely, through the Law Society of South Australia, the legal profession) and other individual counsel (Lindy Powell QC is one who I have referred to already in the previous debates) line up and tell us that live line-ups are able to provide more reliable, or better evidence, than other forms of identification, then they cannot be ignored, especially in a circumstance where no case has been presented to the parliament (through the Attorney-General's contribution) of any injustice and no judgement, including any obiter dicta, which supports the basis upon which the government is going down with this bill. I would suggest that the parliament should not pass this legislation, and that we leave this not as a matter which is determined by what is convenient or cost effective for the SA police force, but one which remains as it is for determination by a judge.

I just want to say at this point that the Attorney-General says, 'Look, we're not actually removing live line-ups as an option here. We're not outlawing them or removing them as an option,' but we all know in reality that any law enforcement agency that is under the pressure of financial cuts, or any financial accountability, obviously they are going to take the cheaper option. It is not acceptable to the opposition that we either place them in that position of having to do so or weaken the justice system and protection of the criminal law system by doing so.

I think the government's eagerness to bring this in, after an election announcement, to extract out from the science and academia the reason to increase the use of photo arrays without addressing the more significant issues, which affect the quality of the identification tests, demonstrates that it is the government that is actually keen to drive a reform that will give it a cost benefit—a cost reduction—and not a commitment to the quality of justice.

Another matter which is being considered by the opposition is that it would be open for the government to try to run a test case in the courts to seek judicial reconsideration of the law around identification testing. That might be a way of providing a better development of law in this area, if one is either justified, appropriate, or has any merit at all. However, we do need to always consider if there is evolving science, and that is to be acknowledged. In this instance, we suggest that the proposed reversal of the presumption is ill-founded and that the parliament should be cautious in controlling a judge, in particular, in what they should say to a jury. So, we will not be supporting this.

I just want to raise one other aspect, and I am not certain whether the Attorney has looked at this question, but the Commonwealth Crimes Act 1914 prohibits the use of photo boards unless it would be unreasonable in the circumstance or unfair to the suspect to conduct an identification parade. And so, we would like to know if the government has considered whether that produces any inconsistency or any problems when state courts exercise federal jurisdiction, if this bill were to pass.

Further, section 3ZO of the Commonwealth Crimes Act 1914 relates to the use of photo boards and lays down a series of requirements to promote quality. In relation to each requirement, I think it is reasonable for us to identify—and perhaps the minister already has—whether it is a requirement which officers of SAPOL using photo boards follow. These, as I understand, are as follows:

(a) the constable must show to the witness photographs or pictures of at least 9 different persons;

(b) each photograph or picture of a person who is not the suspect must be of a person who:

(i) resembles the suspect in age and general appearance; and

(ii) does not have features visible in the photograph or picture that are markedly different from those of the suspect as described by the witness before viewing the photographs or pictures;

(ba) the photographs or pictures shown to the witness must not suggest that they are photographs or pictures of persons in police custody;

(c) the constable must not, in doing so, act unfairly towards the suspect or suggest to the witness that a particular photograph or picture is the photograph or picture of the suspect or of a person who is being sought by the police in respect of an offence;

(d) if practicable, the photograph or picture of the suspect must have been taken or made after he or she was arrested or was considered as a suspect;

(e) the witness must be told that a photograph or picture of the suspect may not be amongst those being seen by the witness;

(f) the constable must keep, or cause to be kept, a record identifying each photograph or picture that is shown to the witness;

(g) the constable must notify the suspect or his or her legal representative in writing that a copy of the record is available for the suspect;

(h) the constable must retain the photographs or pictures shown, and must allow the suspect or his or her legal representative, upon application, an opportunity to inspect the photographs or pictures.

I think we need to know whether these are standards that are applied here when they use photo boards, as they are quite prescriptive under the Commonwealth Crimes Act. Also, in relation to the jury warnings themselves—after all, that is what this bill is really focussed on. Section 3ZO(3) of the Commonwealth Crimes Act 1914 states:

(3) If:

(a) a photograph or picture of a person who is suspected in relation to the commission of an offence is shown to a witness; and

(b) the photograph was taken or the picture made after the suspect was arrested or was considered to be a suspect; and

(c) proceedings in relation to the offence referred to in paragraph (a) or another offence arising out of the same course of conduct for which the photograph was taken or picture made are brought against the suspect before a jury; and

(d) the photograph or picture is admitted into evidence;

the jury must be informed that the photograph was taken or the picture made after the suspect was arrested or was considered as a suspect.

Again, given that relates to judicial warnings under the proposed section 34AB, has the government considered the inclusion of any similar warning in this bill? They are matters that, amongst others, are of concern. However, on the basis that the government is pressing ahead with this and, notwithstanding that we are not prepared to support the bill, I ask whether they are matters that they would consider.

I do not propose to address the house any further during the second reading of this matter. The Attorney has given us a little extra time to consider this during the adjourned period and the matter will ultimately go to another place, which will provide some extra time again, so we will be able to receive some answers on those matters raised and maybe reconsider the position. However, on the information provided to us to date, the answer is no. I will not hold the house up any further and indicate that I will not be asking to go into committee.

Mr VAN HOLST PELLEKAAN (Stuart) (16:31): As always, the member for Bragg has outlined the opposition's position very thoroughly and there is no need for me to go over that. I will add one more perspective from a member representing country and remote areas. The idea of removing the preference for a line-up, essentially, as the member for Bragg mentioned, allows for quite a few other methods—and typically much cheaper methods—to be used.

I certainly have no objection whatsoever to trying to save costs, but I do fear that, when it will be much cheaper to use alternative methods in more distant places, the temptation will be greater and greater to do so. I think about Port Augusta. We have an enormous number of people from all over the north, the north-east and the west of the state who come to court in Port Augusta. It is an exceptionally well set-up facility, physically.

As people here may know, there are special sound systems that allow people—particularly Indigenous people—to be a bit more comfortable and find it less confrontational, and to speak very quietly and still be heard by the rest of the people so that they do not need to change the way they operate. It is good that that helps with better collection of evidence. However, with improved technology—and we all use it all the time; the ability to transfer images digitally—if the preference for a line-up disappears, it is quite logical that these other methods will be used more and more and, for times when a line-up would be more appropriate, it may not happen.

I point out that there is a lot missing with photos. I think it would be fair to say that people who have been involved with sport, who work outdoors or who live outdoors, pick up a lot more from the physical presence of a person than they can in a photo. Having the ability to have somebody turn around or take a few steps—that sort of thing—is a significant identification opportunity for people that you cannot get from a photo.

I think, again, particularly for Indigenous people—and obviously I cannot speak on behalf of Indigenous people, but my experience with Indigenous people living in remote areas of the state is that they are far more capable than non-Indigenous people when it comes to visual identification and picking up all sorts of finer details.

I think that is because of living, working, having a much more outdoor life than perhaps the average person sitting in Adelaide, who is used to sitting and looking at images on screens. It might well be that that person in Adelaide can pick up a lot more on a screen or a photo or some other means of identification than a person from outback South Australia would. I am very concerned that the very best way of trying to identify people, suspects, or potential criminals could be watered down if the preference for using a line-up does not remain, because I think if the preference for using a line-up does not remain, quite naturally we would move to other means, and I think people could miss out on what for many South Australians would be a much better way to actually make a positive identification.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (16:35): Can I start off by thanking all those who made contributions in the debate. There are a couple of issues here that I would like to briefly respond to, because I think I probably have to. The first one is the question of notice, which is a matter that was raised in particular by the honourable member for Bragg. All I can say about that is that this, as I indicated before, was a matter that was the subject of a policy statement before the last election and as such was not hidden in any way. If her criticism of me is that she had not seen the precise wording of the bill—although she could not have been surprised by it—then that is something I will take on the chin and I will endeavour to do my utmost not to be as remiss again in the future.

However, the concept itself was nothing new. The point that was made about the idea that we can jettison things that are the subject of promises at an election; well, that is a track that was explored by the Hon. John Olsen after the election in 1997, and I do not think that was well received by the people of South Australia.

The Hon. M.J. Atkinson: It was also explored by the Treasurer, who said he had the courage to jettison things that were election promises.

The Hon. J.R. RAU: Yes. The former treasurer, yes. I think one should be very, very reluctant indeed not to bring forward to the parliament something that has been the subject of a promise made at an election, and I believe that unless there are extraordinary supervening circumstances, or reprehensible circumstances, or whatever Malcolm Fraser's—

The Hon. M.J. Atkinson: You are showing your age now.

The Hon. J.R. RAU: Yes. Whatever his particular formulation was. Unless that occurs one should not be going around discarding promises. That deals with those two preliminary matters.

I must say, the honourable member's contribution today was far more pithy—pithy, I think is the word that springs to mind—than in her contribution last week, which was wide-ranging and discursive and circumlocutory. In any event, today I had a far better sense of what the honourable member's points were and I thank her for that.

She made a remark today that I think has contained within it the seeds of the problem that we have here. She said that in effect what we have done is reversed the previous position. Actually, that is not the intent nor the wording of the bill. If I could just take honourable members to the bill itself, which is 34AB, subsection 1. That says, and I quote:

> In a criminal trial, evidence of the identity of the defendant—

and here are the important words—

> is not inadmissible merely because—

I will say that again, because I think they are important words—

> is not inadmissible merely because it was obtained other than by an identification parade.

So that does not mean that identification parades are second-rate methods. It does not mean that photographs are to be preferred to identification parades. It says simply that the identity evidence is not inadmissible because it was obtained by another method. After that, the provision is actually silent and certainly does not say that there is a presumption against identity parade evidence in favour of photographic evidence, so that is not the case. If that is troubling members of the opposition, then I think they can sleep comfortably tonight.

There were other matters raised by the honourable member and I would like to address them. Given the fact that the provision does not seek to reverse anything but to simply remove any presumption against validity of an alternative method, we are then confronted with the work of Professor Brewer who says that the identity evidence provided by virtue of a photograph is no worse than, and possibly better than, an identity parade. On the face of it—unless his research is flawed or lacking in voracity in some way, and I have not heard that argued—basically it says we are on safe academic ground in at least levelling the playing field between photographic and line-ups, and let the circumstances play out as they will in each particular case.

I am thinking of a couple of examples which relate to contributions that the honourable member for Bragg made. When we were here a week or two ago—and she did speak at length about many things—she speculated on a number of scenarios. One of them, I think, was a person with tattoos being photographed or being in a line-up, and it reminded me of the vexing problem that walked through the front door of the member for West Torrens one day. A constituent of his had been very unfortunate because he was a person who liked to call himself a skinhead and he was proud of that and he wanted to have the word 'skins' tattooed on his forehead, as one often does. Unfortunately, he made a mistake and tattooed on there 'sniks', which was okay when he was looking in the rear vision mirror but not very good otherwise, and he obviously had a complaint that he wanted to take up—as you would—with your local member of parliament.

It occurred to me that this gentleman, should he ever come to the attention of the law—and I am sure he would not—would present a problem, whether he was in a photographic line-up or otherwise because, to follow up on the honourable member's questions, do we airbrush out the 'sniks' or do we leave the 'sniks' there? Or, more importantly, do we add 'sniks' to everybody else, and then how authentic does that become? These are deep and vexing questions.

Whether you are using a line-up with people with heavy pancake make-up on, or with textacolour 'sniks' written on them like that chap who pretends to be Chopper Reed, whatever you are doing, it is going to be a problem. In the case of the 'sniks' gentleman, I think it would be harder to cover up the 'sniks' in a live show, given all the make-up requirements—I do not know what the SAPOL make-up situation is like in the average local services area, but anyway, it could be difficult. So, that is a very difficult problem and I have to confess I do not know the answer to that, and I believe that the honourable member for West Torrens did not know the answer to that gentleman's problem either, although he did try his best to do something—

The Hon. M.J. Atkinson: Another MP who has done nothing for their constituents.

The Hon. J.R. RAU: No, he tried. The honourable member knows that the honourable member does his best but, on this occasion, he could not help him, which was a considerable problem. I have been doing some research since last week—

Ms Chapman: You needed the chance.

The Hon. J.R. RAU: I needed the chance and I have done a bit of research, and I wanted to draw the honourable member's attention to some of the dangers associated with live line-ups. The honourable member today talked about the fact that most people live on a diet of television-inspired views about how the justice system works, and it is regrettable, even though it is probably Perry Mason's fault that I went on to study law.

Mr Venning: So it's his fault?

The Hon. J.R. RAU: He has more in common with reality than some of the more contemporary ones where you go up and lean against the bench and chat to the judge and you go off into their rooms and have an argument with them, and things like that. It might happen in the United States but it does not happen here, as the member for Bragg knows full well. We are far more—

Mr Venning: Civilised.

The Hon. J.R. RAU: —civilised.

An honourable member interjecting:

The Hon. J.R. RAU: 'Formal' is probably a better word. Anyway, the point I was going to make is that, after listening to all that, I was reminded of that marvellous film *The Usual Suspects*. I am sure members here must have seen the film but, for those who have not, a brief overview might be sufficient because I think if I read the dialogue directly it might not be parliamentary. The overview is basically this.

A group of characters is swept up, so to speak, off the street and called into a police station and they are stuck in a room together. These fellows had never met each other before and they are put into a room together and the police then put them through this line-up process. In the line-up each of them has to come out, stand in front of a two-way mirror and recite some words. I will not give the exact words but it is something to the effect of, 'Can you please give me the keys?', although it is a bit more flowery than that. One of these fellows comes out and says in a matter of fact way, 'Can you please give me the keys?' Another bloke comes out and is more dramatic, 'Give me the keys!'

The important point is that, after all this goes on, the most important figure in the show, who is Kevin Spacey (his real name), whose character in the film goes by the name of Verbal, sums it up very well when he says at some point, 'It was rubbish,' and I am quoting now from the actual film text. He said, 'The whole rap was a set-up. Everything is the cops' fault.' Here are the important words, and this should be etched in everyone's minds: 'You don't put guys like that in a room together. Who knows what can happen?' Of course, we all know what happened. These fellows got sucked in by a bloke called Kobayashi, who was working for Keyser Söze; and, in the end, there was a terrible conflagration on the wharf. I have seen the film many times and I still do not know whether or not Kevin Spacey was Keyser Söze. I still do not know. Anyway, the point is: there are dangers in line-ups. That was the long way to get there.

The DEPUTY SPEAKER: I am slightly confused. There are dangers in line-ups?

The Hon. J.R. RAU: There are dangers in line-ups, which would have been avoided had these gentlemen simply been photographed and shown. Perhaps they never would have come together in that terrible, catastrophic fashion.

There is another point about identification evidence that I picked out which I thought the honourable member might know. When Captain Willard was given the dossier about Colonel Kurtz in *Apocalypse Now* and he had to go through it, he thought it was the wrong dossier because all he heard was the man's voice. He said, 'I heard his voice on the tape and it really put a hook in me but I couldn't connect up that voice with this man,' because he was looking at the photograph, but he had the tape—the tape was confusing him. We are not talking about that. We are talking about photographs and live people.

I thought I would cover a lot of those points because I thought they were left a bit open after the honourable member had made her contribution.

Members interjecting:

The Hon. J.R. RAU: Actually, it was the great relief of having come to the end of what had been a very thorough contribution from the member for Bragg that has motivated this. The other thing was that the honourable member raised questions about the Crimes Act, and I think they are fair enough questions, because, as she points out, under the commonwealth Crimes Act there are particular requirements in relation to identification evidence, and that is true.

However, members might be comforted to know that, first, commonwealth Crimes Act matters are generally prosecuted by the AFP not by SAPOL; secondly, the AFP is obviously geared up to do what it has to do under the commonwealth Crimes Act; and, thirdly, in relation to matters which are commonwealth crimes, then obviously the commonwealth Crimes Act would apply even if it is being dealt with in the state court. But, of course, the officers who would have been investigating that matter would most likely have been customs officers or AFP people, or someone else who would have applied those particular rules.

I am advised that there is no direct conflict between the commonwealth Crimes Act requiring those provisions to commonwealth crimes to be dealt with in that way and the state having a different regime; and, indeed, that is already the case because the state regime is not articulated in this form now, nor is it articulated in the same form as the commonwealth Crimes Act.

I think that the honourable member can be, as her former federal leader urged us all to be, relaxed and comfortable about that. That then brings me to another point, and that is one that seems to be overlooked a bit in all of this debate, that is, that in most instances criminals are not convicted on the basis simply of identification evidence at a line-up, or at all. What would normally happen, I would suggest, is that, okay, you might have the usual suspects lined up or the photographs shown. The witness would say, 'I think it's photograph No. 2', or 'I think it's person No. 2.' The police would then arrest that person and make investigations. For example, they might take a DNA sample or go to their home and seek to recover objects, materials or samples of other stuff that might connect that person with the crime, speak to witnesses and see whether there are other people who could identify them, etc.

It would be an extremely rare case where the only compelling evidence upon which a person could be convicted would be the identification evidence at that initial identification point. Now, I realise that is not always the case, because, as all of us know, the jewellery robbery at the beginning of *A Fish Called Wanda* was witnessed by a lady with three dogs. Do you remember that?

An honourable member interjecting:

The Hon. J.R. RAU: It was a great film.

Ms Chapman interjecting:

The Hon. J.R. RAU: No, I am not going to try to cover it, but poor old K-k-ken had to go out and find a way of dealing with that. So, Michael Palin, who was Ken, his title in the film was 'Ken'; Michael Palin, though, was the gentleman. He often travels in balloons and stuff as well. Anyway, he had to get rid of this lady, and every time he tried to get rid of the lady he actually killed one of her dogs.

The poor woman was actually an animal lover, and, in the end, when he got the last dog, she died of a heart attack, not because of anything he had done to her but because she was broken-hearted because she had lost her dogs. That was an unusual case and we should not expect that sort of case to be common in the criminal courts.

I am not going to ask for an official response from SAPOL about this, but I believe this is uncommon. Normally we get DNA, or we get someone else coming forward, or we find the goods in the person's property, or there is some other way of identifying—

Ms Chapman interjecting:

The Hon. J.R. RAU: Or they confess. Indeed, they confess. Look, there are just so many other ways that it can happen. The concern in any particular case that the difference between a photograph and a line-up is going to be in any way prejudicial to a particular defendant (even assuming that line-ups were superior to photographs) is so small that it could almost be discounted, although, as I said, in that particular film it was relevant.

Ms Chapman interjecting:

The Hon. J.R. RAU: Yes, indeed. I am very pleased that the opposition has given a lot of thought to this. As I have tried to explain, I think that, based on the authorities to which I have referred (namely, *A Fish Called Wanda* and *The Usual Suspects*) these give some indication as to why, and perhaps during the gap between the chambers the opposition could be a little more relaxed about this.

In how many cases is the identification evidence, however it is done, ever going to be determinative of guilt or innocence? The answer is probably hardly ever. In those particular cases where it is the determining evidence in the matter, it is important to know that the value of line-up evidence has not been reversed with any other sort of evidence, it has simply been made so that there is no adverse inference to be drawn because it is not a line-up. That does not mean that you do not have line-ups; it does not mean that photographs are worth more than a line-up. All of these situations—as I mentioned before, with the constituent who went to the member for West Torrens—throw up problems anyway, which, whether it is a line-up or a photograph, are difficult to work your way through. I do not believe that the commonwealth provisions in the Crimes Act are going to be of any great concern to us, for reasons that I have given.

Underpinning all of this is the academic work by Professor Brewer, who has made it pretty clear that in his view this evidence is of no lesser quality than the evidence of a line-up. All this is seeking to do is to put into legislative form the professional opinion of Professor Brewer—that is all.

Ms Chapman: It's his fault.

The Hon. J.R. RAU: It is to his credit that he has brought this important matter to our attention. I pay tribute to the honourable member for Croydon, who, obviously, spent time before the last election studying, amongst many other things, the works of Professor Brewer. He had consultation with SAPOL and, in the end, this matter came out of it and it is based on sound academic material.

If what happens is that members opposite are able to discredit Professor Brewer's professional opinion by demonstrating that for some reason he has not done proper research or that he is regarded as being an unreliable expert person, then that is a different matter, but I do not understand that any of the words that we have heard about this are to that effect. Everybody seems to think the world of Professor Brewer, and so they should. I would urge members opposite to consider my remarks.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (16:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STAMP DUTIES (INSURANCE) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT DEBATE

SOUTH AUSTRALIAN EXPORTS

Mr MARSHALL (Norwood) (16:59): Yesterday, the Premier came into question time and had a government backbencher ask him a Dorothy Dixer about the state's export performance. The good news Premier—who, let me tell you, has not had a lot of good news lately, not much at all—seized upon some narrow data to in some way infer to the parliament—

The Hon. M.J. Atkinson: Imply! Imply!

Mr MARSHALL: —that our export performance here in South Australia was doing well.

The Hon. M.J. Atkinson: Not infer.

Mr MARSHALL: He presented South Australia's February export figures and of course these are naturally up. As per usual, you do not need to scratch too far below the surface with this Premier, though—

The Hon. M.J. Atkinson: That's another thing that Hansard will have to change of yours.

Mr MARSHALL: —to understand that the detail makes a mockery of the Premier's—

The DEPUTY SPEAKER: Order! Member for Hammond, did you wish to make a point of order?

Mr PEDERICK: Yes, Madam Deputy Speaker, I do make a point of order. I think the member deserves to be heard in silence.

The Hon. M.J. Atkinson: It is not a courtesy that he extends to anyone else.

The DEPUTY SPEAKER: That is an interesting point that the member for Croydon makes there. It is known that the member for Norwood is 'articulate'. However, I am sure that the member for Croydon will now listen in deep and committed silence to the member for Norwood.

Mr MARSHALL: Thank you, Madam Deputy Speaker. The February export data was almost entirely due, of course, to the bumper grain harvest in South Australia. It had nothing to do with this Premier and nothing to do with this government. In fact, the government has an appalling track record of supporting our farmers—removing the diesel rebate, attacking country hospitals, cutting funding for small regional schools, removing crucial funding for PIRSA and, of course, ripping the heart out of Rural Solutions SA.

Exports under this government have been woeful. When it came to power in 2002, exports out of this state were $9.1 billion. In the almost 10 years since this time, they have risen to $9.6 billion. It is hardly a massive increase, and when you take into account CPI increases, of course, this is a relative massive decrease under the stewardship of this government.

Of course, the Premier always talks to us about this quantum, but when we actually look at it in terms of our percentage of exports from this country, the situation is even more appalling. In 2002, South Australia held 7.52 per cent of the national exports. That is an important figure to remember: 7.52 per cent of the national exports.

The Hon. M.J. Atkinson: 7.52.

Mr MARSHALL: Correct. Today, what is it?

The Hon. M.J. Atkinson: I don't know.

Mr MARSHALL: You wouldn't have a clue. That's right: you don't even understand the basics. It is 4.2 per cent. South Australia now has only 4.2 per cent of the national exports. This is an absolutely disgraceful situation, with only 3 per cent of our firms here in South Australia exporting. This is substantially lower than the national average of 14 per cent. In fact, we are absolutely bottom of the class, with the second to bottom being Tasmania which has more than double our percentage of firms that export out of the country.

The government has set a target for South Australia's export income to increase to $25 billion by 2014 but, as we all know, it will never, ever achieve this target. The Premier and his government should hang their heads in shame with regard to the export performance over their stewardship of the state. When confronted with these statistics, we hear the same old lame excuses from this government with no solutions.

The government wants us to believe that SA is the only state in Australia with an appreciating currency, but I tell you that we have exactly the same currency here in South Australia as they have in New South Wales, Western Australia and even Victoria. That is really not an excuse for South Australia's relative performance at the bottom of the class. The simple fact is that this government, far from assisting exporters, has been a massive barrier to growth since coming to office, and let me tell you why: we are the highest taxed state in Australia; it has closed the business centre; it has removed all funding to the business enterprise centres; it has removed funding for the Council for International Trade and Commerce; it has removed payroll tax incentives for exporting firms; it has closed many overseas offices; and it has scaled back the Department of Trade and Economic Development to a shadow of its former self.

Yesterday, the Premier in this house proudly boasted about this state's performance in terms of attracting international students to this state. I put it to you, that with the quantum of spin, the quantum of press releases coming out of the Premier's office on the issue of international students coming to South Australia, one would think that maybe we had 10 per cent of all international students coming to South Australia, or maybe 15 or 20 per cent.

This state has 5.4 per cent of the international students coming to Australia. So, far from this being a great saviour for South Australia, far from this Premier having a win in this area, we are at the bottom of the class; we do not even perform at our rightful level in terms of our pro rata output for this state. Far from punching above our weight, we are the dunce of the class. This Premier is too concerned with spin, media releases and misleading the people of South Australia. It's time for him to go.

INTERNATIONAL WOMEN'S DAY

Ms THOMPSON (Reynell) (17:06): Earlier today I spoke about the Pacific conference of the Commonwealth Women Parliamentarians, and as part of my consideration of the events there, I have been looking with different eyes at some of the work that my staff and I have been doing in preparation for our International Women's Day event. At our dinner we are celebrating, as mentioned earlier, 100 years of the achievements of women since the first International Women's Day. Sometimes we forget what some of those achievements are, so I want to remind the house. I will also be providing this to some of our Pacific friends so that they can see the struggle that we have had to achieve as much as we have and recognise that we, like them, still have a long way to go.

One of the first things that I found interesting was to read, for the first time, about Millicent Fanny Preston Stanley. Millicent Fanny Preston Stanley, who lived from 1883 to 1955, was the first

woman elected to the New South Wales parliament. The fact that I had never heard of her was, I thought, a little distressing. However, the context in which I learnt of her was through an article entitled, 'Love wins with feminist leader but politics may claim her again; Miss Preston Stanley's future'. It states:

> Speculation is rife concerning the plans for the future being made by our leading feminist, Miss Preston Stanley, whose marriage to Mr Crawford Vaughan, a former Labor Premier of South Australia, was celebrated in Melbourne this week.
>
> Will marriage mean the end of her political career? Her friends refuse to believe it will. She made political history in Australia, and they believe she will write a still more sensational chapter to the story.

What do we say all the time, we women fighting for continued rights for women? We say that women's stories are ignored. The fact that I only recently learnt about Millicent Preston Stanley I do not think is just my fault. I think it has something to do with the way our history is written.

Millicent Fanny Preston Stanley was involved in a wide range of issues, most of them about ways in which women were able to be more economically independent. When I looked her up in Wikipedia, rather than when I was reading *The Australian Women's Weekly* for her achievements, one of the things mentioned is that she castigated J.T. Lang for restricting the widow's pension to mothers with dependent children. She approved of child endowment and, though embarrassed by her party's opposition to the bill, redeemed the situation by publicly decrying Labor's offer to pass her bills if she deserted the Nationalists, so she did move about a bit in her political allegiances.

Ms Bedford interjecting:

Ms THOMPSON: Thank you, member for Florey. From *The Australian Women's Weekly* of 10 June 1933, I read an article entitled, 'Equal Social Rights For Sexes, Mrs Littlejohn outlines big issues to be fought for', and I am afraid that they are awfully familiar. It states;

> When Mrs Linda P. Littlejohn returned from Adelaide last week, after attending the conference of the Women Voters' Federation, she revealed a greater determination than ever to fight for the establishment of women's social rights.
>
> A full report of the conference will not be available in Sydney for some time, but Mrs Littlejohn has written for *The Australian Women's Weekly* the following summary of the proceedings.

And the article says:

> Leading women from all states were present at the conference, and the resolutions discussed were varied and interesting. The conference affirmed—
>
> (1) all positions and all posts in the Commonwealth and State civil services should be open to women as to men.
>
> (2) that equal pace of the sexes should be established.
>
> (3) that all laws, measures or regulations feeling of public morals should be framed so as not to differentiate between the sexes.
>
> The evergreen subject of the equal guardianship of children was again on the agenda paper, and it is earnestly hoped that before the next conference, this longed-looked-for reform will be an accomplished fact.
>
> At present Western Australia and Queensland are the only two states which consider a mother a suitable guardian for her own child.

How could we think, in 1933, that a woman was not considered, in all states, to be a suitable guardian for a child? I hear echoes of this generation when we see the repercussions of the Howard amendments to the family law bill, where they were advocating strongly for the rights of men in relation to their children, whether that man was a proper father or not. Fortunately, the Gillard government is revisiting that.

As we go through the decades: still in the thirties, we find that one of the most important things to women was keeping their undies like new with Lux.

Ms Bedford: Lux Flakes.

Ms THOMPSON: Lux Flakes.

Mr Venning: This is getting rather risqué!

Ms THOMPSON: Then in the 1940s, we find a lovely picture of a beaming girl with plaits and, we presume, rosy cheeks—but, seeing the *Women's Weekly* magazine was then in black and white, we cannot really be sure:

Future Australian mother, before you can turn around, these plaits will be up. She will be thinking of a home of her own, taking her place in the peaceful, prosperous Australia of tomorrow—

Ms Bedford: What year is this?

Ms THOMPSON: This is 1 November 1941.

Ms Bedford: During the war.

Ms THOMPSON: During the war, yes. It continues:

...but today, now is the time for you to make sure that she shall grow graceful and strong and well-formed. She needs food to build straight limbs, food to give her natural beauty of colouring, food to nourish her for the time when she passes from child to girl. Give her Ovaltine. Give her delicious Ovaltine in milk every single day, and she will have the food she needs to grow up the pride of your eye, A true Australian girl. Build muscle, bone and nerves. Hot or Cold Ovaltine is Food and Drink to you.

Through the 1940s, we did, of course, see a lot about the role of women in the armed forces, and the general defence and running of Australia.

When we get to 1956, we get an ad for: 'Enquire at any branch of the Bank of New South Wales'. We have to very smart women with their hats, sitting at what is probably a tea table, and it is titled 'Smart Girl'. One girl is saying:

'It was Daddy's idea. He says that a Bank is a much safer place to keep your money than a handbag. Money in your handbag has an uncanny habit of trickling away. With a cheque account, you can keep a watch on your finances.'

You don't need to be wealthy to have your own cheque account. It's a 'must' for the modern women in business. And remember, you can bank on the 'Wales'.

It's easy to open a Bank of New South Wales Cheque Account.

As we move on, we find, during the 1960s, more pictures of mum and happy children:

My wash needs good rich suds—and Rinso has them!

Rinso has the richest suds of all!

However, in the 1970s, there are some really solid articles, as well as some very telling cartoons. From *The Australian Women's Weekly*, 'Teenagers' Weekly', I have one of the cartoons, which is of two girls lazing about saying that neither of them has enough energy to do anything, can't get up—'oughta be helping with dinner, but I couldn't bear it; me neither...oh, that hot stove!' They come indoors to the mothers:

Tsk, Tsk! Isn't it awful what this weather does to those girls? Oh, I don't know...I find it kind of a relief in a way...days like this at least we don't have to listen to them wishing they were married.

However, during the 1970s there are some very strong articles about the anti-ageing pill, introducing the benefits of oestrogen and how it can slow the ageing process, in many ways foretelling much of the criticism and scaremongering that has been used about hormone therapy.

BAROSSA VALLEY

Mr VENNING (Schubert) (17:15): A few weeks ago, the Premier announced that he would investigate implementing legislation to allow for a statutory line to be drawn around the Barossa Valley to protect it for future generations. Again today, the Deputy Premier mentioned it during question time, and also a few minutes ago in this house. The Premier tweeted on 9 February:

I've asked John Rau to look at ways that we can protect the unique identity and integrity of the Barossa Valley and McLaren Vale...we will look at special legislation. We must never allow the Barossa or McLaren Vale to become suburbs of Adelaide.

Last Friday, the Deputy Premier spoke about this proposal to draw a statutory line around the Barossa to protect it from urban sprawl at a forum organised by the RDA Barossa, in the Barossa, and it was entitled 'Can we have it all?' He explained that such a line could not be altered by the minister once implemented, and if changes were required, they must be debated and passed through the parliament.

The minister challenged the audience to think about whether the community would like to see such boundaries drawn, and any decision would need to be consistent with the lifestyle of the people of the Barossa Valley. I agree with the concept—and the reason I mention it now is that there is likely to be a fair bit of public comment about it—of a statutory line being implemented

across the Barossa Valley region to protect it from urban sprawl and to maintain the integrity of the region. However, I would like to see more detail of the plan before pledging my full support for it.

I know that this is a big move and obviously it will not be supported by everyone. The minister's comments at last week's forum have received widespread coverage in the local media this week, and I wait with interest to see what the community's thoughts are also. I am also very cognisant of what The Barossa Council's stance is, and no doubt it would also affect the Gawler council—and I note the previous mayor is sitting here today—because it does affect everybody. We must ensure that any statutory protection measure serves to protect the valley but does not impede upon the existing lifestyle and activities of residents. I will be very interested to learn more about the proposal, and I have indicated to the minister that I would like to receive a briefing on the matter as soon as possible. Also, when we see the words 'world heritage listing', I do raise my eyebrows and say again that that is a totally different category and a totally different issue. I do not know how you can world heritage an area but, if it does what the community wants, we can certainly look at that. That is certainly another issue that needs further scrutiny.

On another matter, I take this opportunity to congratulate The Barossa Council on the opening next week of 'The Rex', the new recreation centre in Tanunda—the Barossa's new recreation centre. I have toured this centre a couple of times and it is very, very impressive. It has an indoor lap pool, a hydrotherapy pool, a spa, a large gym with new equipment, a new basketball court, a cafe, allied health consulting rooms, and the list goes on and on. Such a centre is well overdue and I commend the council on making the tough decisions needed to bring this project to fruition.

What has been happening is that the people in the Barossa have been going to Gawler to the STARplex centre, and it has meant a lot of business going out of the Barossa and a lot of travelling. For those people—particularly our older folk—who cannot and would not travel, now they can have it right at home in the Barossa. It is a very impressive facility. I acknowledge it has not been popular with everyone in the community because, for those who live down near Gawler but are actually in the Barossa Council area, it feels much easier to use the Gawler facility for nothing and don't have extra rates to pay for it. Of course, the ratepayers are supporting this venture, but I do think it will be a great asset to the region.

Now all we need is a commitment from the government to build a new hospital—their business case says that the Barossa needs one—co-located next to the Rex on the land gifted by the council, and the community will have a complete centre of health and wellbeing. I commend that to the community. I commend the council, and I look forward to the opening next week. It has been a long time coming and a person like me should be the first person through the door.

The DEPUTY SPEAKER: I am sure you will be.

At 17:21 the house adjourned until Tuesday 3 May 2011 at 11:00.