HOUSE OF ASSEMBLY

Tuesday 17 May 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:01 and read prayers.

The SPEAKER: Honourable members, I respectfully acknowledge the traditional owners of this land upon which this parliament is assembled and the custodians of the sacred lands of our state.

STATUTES AMENDMENT (LAND HOLDING ENTITIES AND TAX AVOIDANCE SCHEMES) BILL

Adjourned debate on second reading.

(Continued from 4 May 2011.)

The Hon. I.F. EVANS (Davenport) (11:03): I rise to speak as the opposition's lead speaker on the Statutes Amendment (Land Holding Entities and Tax Avoidance Schemes) Bill 2011. This was a budget measure announced in September last year, and the government has taken until May to bring in this particular measure. The measure is not a tax reform; it is a tax grab.

It is regrettable that the government has taken the opportunity to increase the tax take without really seeking to address the issues raised by various industry groups about the cumbersome application of some provisions in the act and, indeed, in the bill. In the industry association's view we are still left with a bill that is going to have very high compliance and structural costs, and as a result inhibit or restrict investment in South Australia.

It is regrettable that the government has brought the bill on this week. The government, of course, has had six or seven months in preparing the bill. It tabled it in the last week of sitting. The opposition has had a bare week to consult on the bill. It is a highly technical bill, as the house will soon find out when I get to some of the more detailed elements of the bill. It is just regrettable that the government chose to bring it on this week and not give the opposition more time to consult, but that is the government's right. The opposition is in a position where we are speaking to the bill, having received only one response to our consultation process prior to going to the party room, and we have received two responses since going to the party room. My second reading speech will be quite detailed, based on those three submissions we have received.

The Treasurer asserts in the second reading speech that the provisions in this bill, the landholder model, which will replace what is known as the land rich model, are intended to protect the duty revenue base from leakage caused by taxpayers purchasing land indirectly through companies and unit trusts rather than directly. It targets contrived schemes entered into to avoid paying tax. The provisions are based on anti-avoidance provisions in the New South Wales duty legislation.

These landholder provisions are intended to ensure that conveyance duty is paid on the transfer of significant South Australian land assets, although I think some of the industry associations would contest the word 'significant'. They seek to ensure that the conveyance duties are paid on the transfer of significant South Australian land assets when control of a company or unit trust changes. The introduction of a landholder model does not change the conveyance duty arrangements for individuals buying land assets directly.

This bill replaces land rich provisions primarily in part 4 of the current Stamp Duties Act 1923 with what is known as landholder provisions. These amendments will operate from 1 July this year and transitional provisions provide that agreements entered into prior to 1 July 2011, but completed on or after that date, will be dealt with under the existing land rich provisions.

During the government briefing, it was indicated to the opposition that these changes are to tidy up legislation as court cases were fought in other states over interpretation of land rich legislation that is similar to our current legislation. We understand there has been no court case in South Australia as such on this issue, but the government insists this is to clear up the argument about what is a chattel or what is a good to be included in the price of the land for dutiable purposes.

However, this is not a revenue neutral bill. The government seeks to put its hand in the pocket of business and claw another $20 million a year out of the stamp duty regime proposed

under this particular measure and, like all good Treasury estimates, my guess is that it is an underestimate and the Treasurer can write down that, for future estimate committees, we will be asking how much extra we have been collecting, because my guess is that it will be more than the $20 million that Treasury has estimated.

All jurisdictions in Australia have either a land rich or landholder provision. It is fair to say that virtually all of them are now going to the landholder provision. They currently operate in New South Wales, Western Australia, Northern Territory and the Australian Capital Territory. Queensland and Victoria in their most recent budgets have announced that they are also going to a landholder model. The South Australian bill before us today is based heavily on the New South Wales' model.

Under the current land rich provisions outlined in the current act, part 4, a personal group of associates are liable for stamp duty if they acquire 50 per cent or more of the shares or units in a private company or unit trust, and the private company or unit trust owns South Australian land valued at $1 million or more, and 60 per cent or more of the value of the total assets of the entity are land. That is deemed land rich.

There is an assets test currently at 80 per cent or more for primary production entities, and the minister will be pleased to know that some of my colleagues who represent rural constituencies wish to go into committee to ask questions about the impact of the bill on interfamilial transfers and other primary production matters, so I am sure we all look forward to the committee stage, Treasurer.

The 60 per cent figure of the land assets is what court cases in other jurisdictions was about, that is, the issue of avoiding paying stamp duty. Some businesses or individuals would argue that their land, or what was deemed to be land, was not worth 60 per cent of the value of the assets, while the tax department would argue that it is.

The amendments proposed by the government remove the 60 per cent and 80 per cent tests so that the provision that will apply will be when a person or group of associates acquires 50 per cent or more of the shares or units in a private company or unit trust and the private company or unit trust owns land valued at $1 million or more in South Australia and there is no CPI indexation of the $1 million land asset.

I think that is a missed opportunity in this bill for two reasons. One reason is that most other jurisdictions have a $2 million valuation where the duty kicks in, and South Australia is keeping it at $1 million. That, clearly, is going to have a broader impact in South Australia than in other states. So, exactly the same corporation reconstructed in South Australia will suffer duty, whereas in other states it would not if the land value was $2 million, as distinct from $1 million in South Australia.

Secondly, the $1 million value has been in place since the 1990s (I think 1990 itself). We are now in 2011 so, obviously, the number of transactions being caught is far broader now than ever really originally intended back in the 1990s. The government has missed an opportunity to increase that valuation, and this is the point of the industry groups, that this is not a tax reform, this is a tax grab by the government. It was announced in last year's budget as a method of propping up last year's revenue streams.

In relation to listed companies, if 90 per cent or more of the shares or units of a listed landholder company or trust are acquired, landholder duty will be charged at a concessional rate of 10 per cent of the amount of duty otherwise payable, and that is where a listed entity means one listed on the Australian Stock Exchange.

Another vehicle, known as widely held unit trusts, would also receive the same concessions. Unit trusts which have 300 or more unit holders, where none of the unit holders individually or together with an associated person is entitled to 20 per cent of the units in the trust, will be treated under the new part 4 as a listed trust in recognition of the large number of unit holders. For example, that would mean that one must acquire 90 per cent or more of the units to be liable for duty at 10 per cent of the amount of duty otherwise payable. Standard transfers of land by 'mums and dads', as we might call it, will not be affected, as this does not involve purchasing shares in companies or unit trusts.

My understanding from our briefing is that there are also exemptions for the family farming related transfers which remain under section 71CC of the Stamp Duties Act. In relation to the interfamilial transfer of farming property, my understanding is that clause remains unchanged, but some of my colleagues will ask questions regarding that. If the land is mainly used for the business

of primary production and is being transferred to a relative or a trustee of the relative, the transaction is exempt from stamp duty, as I understand the provision.

In relation to life insurance companies, a concession is also being introduced in relation to the statutory funds of life insurance companies to provide that the funds are not considered to be associated persons for the purposes of the new part 4. Given the unique regulatory circumstances of statutory funds which must be accounted for separately from the business and assets of the life insurance company, the government is treating such funds as separate and independent for the purposes of landholder provisions.

In relation to duties on goods, under the proposed landholder provisions in this particular bill, stamp duty will apply to the underlying local land asset acquired by an entity as well as particular goods of the landholder entity which are used solely or predominantly in South Australia. The application of duty to goods is subject to a number of exemptions, including stock-in-trade, livestock and material used for manufacturing. This approach will provide, the government argues, consistency with the general conveyance base where chattels that are transferred with the land are subject to duty. The approach is broadly consistent with the landholder provisions in other jurisdictions, so the government tells us.

The definition of land has been extended to include interests that have a close connection to the land, and it is considered that they should be dutiable because, the government argues, they are in substance closely comparable to ownership interests considered to be land in the Real Property Act 1886. The government argues that it is trying to simplify the bill by abolishing the 60-80 asset test and redefining land assets to include anything:

> (b) fixed to the land but notionally severed or considered to be legally separate to the land by operation of another Act or law (so that a separation by another Act for the purposes of that Act will not affect the operation of this paragraph for the purposes of the imposition and calculation of duty under this Part).

I am sure that is clear to the house. These provisions, if you believe the government, are meant to promote the equitable treatment of all property considered to be fixtures to the land under the landholder arrangements.

There is a special treatment for leases for mining, aquaculture and forestry property agreements. These interests are covered by the bill and they include mining and petroleum-related leases and licences, aquaculture leases and forestry property agreements reflecting the interests intended to remain in the stamp duty base when duty is removed on nonreal, nonresidential conveyances on 1 July 2012 as part of the federal government's intergovernmental agreement. I think there is some dispute about whether the state government has met the terms of the intergovernmental agreement in relation to keeping stamp duty or requesting that stamp duty be charged on those particular leases or at least some of the leases and licences.

There are new powers to the tax commissioner. The bill also makes amendments relating to the Commissioner of State Taxation's ability to recover stamp duty under the proposed new part 4 of the act to have the same powers with landholder entities as it does with land tax, the emergency services levy and the first homeowners' grant. The bill provides the commissioner with the power to register a charge against any land of an entity, and that charge will rank as a first charge over the relevant land.

The government undertook a consultation process in relation to this bill. We understand that the government submitted a bill to AMP, Business SA, The Tax Institute, the Law Society, the Law Council of Australia, the Property Council of Australia, the South Australian Farmers Federation, the National Institute of Accountants, the Australian Institute of Conveyancers, the Real Estate Institute, CPA Australia and the Institute of Chartered Accountants.

The government advises us that it only received responses from the Law Council of Australia, the Property Council of Australia and the South Australian Farmers Federation, and it had a discussion, I understand, with AMP. It did not consult the forestry industry about the impact of stamp duty on its forestry leases. It did not consult the mining industry about the impact on its mining leases and licences. It has not consulted the aquaculture or fishing industry about the impact of charging stamp duty on things like aquaculture leases. None of that consultation was done in the six months from the announcement until the introduction of the bill.

As I mentioned earlier in my contribution, this bill was introduced a week ago. The opposition sent out the bill to the Australian Lawyers Alliance, the Law Society, The Tax Institute, the Real Estate Institute, Property Council, Farmers Federation and Business SA as a first step

and, as at the time we had to go to our party room, we had only received a response from the South Australian Farmers Federation.

This is the point I make to the minister: I think it is a poor procedure to bring in a bill when it is so technical in its nature with only a week's notice. I know that that is a relatively standard procedure that generally the government has the right to bring it on in a week, but it is pretty clear from the consultation process that the government hardly got a response in its process. The opposition has had only a week to try to understand the bill and get a response from the various industry groups. We asked the Treasurer's staff to delay it by one week to give us more time to consult, but that was declined; so, here we are, having the debate.

The government argues that the landholder model has broader application than the land rich provisions. It argues that it treats all South Australian land transfers over a million dollars equitably and purports to protect the tax base from being eroded through the manipulation of the land rich test. Ultimately, it is a tax grab not a tax reform, and my understanding is that it came out of the Sustainable Budget Commission—one of the commission's recommendations picked up by the government.

As I said earlier, this policy change is expected to have an annual increase in revenue of at least $20 million per annum. It is interesting that the Sustainable Budget Commission report notes that, while there is some uncertainty around the costings of the proposal, it suspects that the revenue measure is closer to $25 million. That is why the cynics on the opposition suggest there might be more than the $20 million collected. Every time there have been amendments to anti-avoidance legislation, the government has tended to underestimate the amount of revenue collected, so the opposition thinks there might be more than a $20 million per annum hit to South Australian businesses in relation to this bill.

I now want to go through some of the submissions that we received because this is a pretty technical matter. As we received two of these submissions after going to the party room, the opposition has not really had a chance to consider some of these questions in the party room sense. I intend to put these submissions on the record and the minister, in his response, can address the issues raised by the various submissions, and that will give us some information as to how the government sees the operation of this particular bill. One submission received prior to going to the party room was from the South Australian Farmers Federation, and our submission is dated 18 March. It is a copy of a submission it sent to Mr Jackson of the government, and that is the submission referred to.

Essentially, the South Australian Farmers Federation argued that this particular bill will have the effect of broadening the tax base in relation to primary production entities so that if control of an entity changes and the entity holds South Australian land assets—being farming land above the value of $1 million—conveyance rates or duty will apply to land assets being transferred, and SAFF objects to the broadening of the tax base in this way. That is the point: it is a tax grab not a tax reform.

The South Australian Farmers Federation argues that there will be many farming operations in which more than 20 per cent of the value of the entity's assets consist of assets other than land. It argues that often a change in the underlying ownership of farming land held by a private company or a trust entity will take place between generations. By removing the 80 per cent threshold to farming entities, many more transactions in which there is a change in the underlying ownership between generations will be subject to duty. I want the Treasurer to confirm or deny that claim, because I understood that if it was being transferred between generations there was an exemption for interfamilial transfers or intergenerational transfers.

The Farmers Federation also raised the issue that new section 100 of the bill provides for a general liability to duty. A transaction would be liable to duty if it acquires a prescribed interest or increases its prescribed interest in a landholding entity. In this case, the person or group notionally acquires an interest in the underlying local land assets and is liable to duty in respect of the notional acquisition. Under section 100(2), the following transactions are dutiable:

(a) a transaction as a result of which a person or group acquires or has a prescribed interest in a landholding entity; or

(b) a transaction as a result of which a person or group that has a prescribed interest in a landholding entity increases its prescribed interest in the entity.

Section 100(3) provides that a transaction will be dutiable even though the person or group that has a prescribed interest, or increases a prescribed interest, is not a party to the transaction. 'A

group' means a group of associates, and under new section 91(8) various people will be associated with each other if certain conditions are met, for example, one is the trustee of a trust and the other is a beneficiary of a trust.

There are other situations in which people will be associated with each other. The circumstances in which a person might be associated with another and therefore be part of a group is very wide indeed. For example, typically, in the context of a family trust, the potential beneficiaries of the trust will be a large group of individuals. For the purpose of the definition of 'associated' a person may be part of a group by merely being the beneficiary of a trust, and even though that person is not a party to a dutiable transaction they may now be liable for duty simply because they are part of a group of associates.

Subsection (8), in the Farmers Federation's view, should be reformed so as to provide more clarity as to how the associations are formed. The Farmers Federation want to know: is that intended, or is that, indeed, a drafting error?

Section 102 of the bill provides that where a group has, as a result of a dutiable transaction, a prescribed interest—being, in relation to a private company, a proportion interest in the entity of 50 per cent or more—in a landholding entity, the value of the interest acquired in the entity's underlying local land assets is, the total unencumbered value of the entity's underlying local land assets multiplied by the fraction representing the proportionate interest of the person or group in the entity.

This means that if a person or group acquires an interest of, say, 60 per cent in an entity the person or group will pay duty as if it acquired 60 per cent interest in the entity's underlying local land assets. However, if a person or group already has a minority interest in the entity, say 49 per cent, with stamp duty having been paid when the entity acquired that interest, and then the group increases its 40 per cent interest to, say, 100 per cent, then the group or person will be assessed as if it had acquired the 100 per cent interest. There is no credit being given for the stamp duty paid when the initial 49 per cent interest was acquired.

The Farmers Federation argues that the bill should be amended so that stamp duty paid in relation to the earlier acquisition is counted in determining duty in respect of a transaction in which a majority interest is acquired. The Farmers Federation would be likely to get the answer from the minister: is that the intention, that they not be credited for the stamp duty paid in acquiring the previous interest?

Section 102A provides that duty payable by a person or a group which acquires a prescribed interest in a landholding entity in which the entity's underlying land asset is a million or more is, in the case of an entity that is a private company, duty payable on a conveyance of land with an unencumbered value equivalent to the value of the acquirer's notional interest in the entity's underlying local land assets, plus the value of the entity's South Australian goods.

The Farmers Federation notes that section 91(12) provides that a reference to goods does not include the following: goods that are stock-in-trade, materials held for use in manufacture, goods under manufacture, goods held or used in connection with primary production, or livestock. They are exempted, in essence.

Given that the new provisions seek to assess for duty a transaction in which a person or group acquires a majority interest in a landholding entity on the same basis that would have been the case had the person or group acquired the land directly, then the Farmers Federation argue that there is no basis for including the value of the entity's South Australian goods. By including the value of the entity's South Australian goods, the amount of duty payable on what was, essentially, a land acquisition may be greater than had the person or group acquired the land directly and not acquired the majority interest in the underlying entity. In any event, the value of goods to be taken into account, the Farmers Federation argues, should be limited to a proportion of the goods which corresponds to the proportion of the land the subject of the transaction.

Section 92(3) provides that a relevant entity's interest in land will be taken to include an interest in anything fixed to the land, including anything separately owned from the land or physically fixed to the land but notionally severed or considered to be legally separate to the land by operation of another act or law.

With a significant rollout of wind farms taking place on farming land, a circumstance may arise in which wind turbines are fixed to the land but are not owned by the farmer. This will usually

be the case, in fact. Generally speaking, a wind farm operator will take a long-term lease of the farming land.

The value of the wind farm infrastructure may well be several millions of dollars, depending on the size of the wind farm. In theory the relevant entity's interest in the land would be taken to include any interest in the wind farm infrastructure, even though this is not owned by the farmer. I would like the Treasurer to confirm or rebut that particular point raised by the farming federation about the treatment of wind farms owned by others that are on farmers' property: when they are being sold under this provision, will they be included in the value for duty purposes or not?

In addition, there may be a plantation of trees on the land or growing crops yet to be felled or harvested. The trees or growing of crops may have been sold under a forward sale contract—that is common these days—so that although they are physically fixed to the land, that is, they are still growing on the land, they have actually been sold, in essence.

They may be considered legally separate from the land by the operation of the law. Where there is a change in the underlying interests in the private entity which owns the land upon which the trees or crops are growing, the transaction will exclude the value of the trees or crops on the basis the entity has already disposed of them by way of the forward sale contract. However, for the purpose of determining what is to be included in assessing the relevant entity's interest in the land, the trees and crops may well be included.

Again, I ask the Treasurer to clarify to the house, in relation to the forward sale of trees or crops, what is the treatment of them as far as being included in or excluded from the value for the purposes of a duty. The Farmers Federation also comments on the Taxation Administration Act, and section 13A(1) provides that, if the commissioner is satisfied that a person has used a tax avoidance scheme as defined, the commissioner may determine the tax which the person, and indeed other people, would have been liable for apart from the use of the scheme, and take action that the commissioner considers necessary to allow assessments so determined.

The drafting of section 13A(1) is very vague, according to the Farmers Federation. It is not clear how the commissioner will determine what other people would have been liable for duty apart from the use of the scheme. Section 13A(2) goes on to say that the commissioner makes a determination under subsection (1) and each person who has gained a benefit from the scheme is liable for a duty. Again, it may be difficult to say who is going to benefit from a scheme, and the drafting of this provision is indeed very vague.

Section 13A(3) provides that the section applies in relation to a scheme whenever and wherever entered into. This effectively means the commissioner can assess people who he thinks should have been liable for duty had the scheme not occurred when the scheme took place, some time ago, because it uses the words 'whenever the scheme was entered into'. This means this section has a retrospective effect. What this means is the government seeks to give the Commissioner of Taxation the power to go back years and look at transactions and try to unwind them if he thinks now they were somehow designed to avoid tax. SAFF objects to any anti-avoidance provisions with a retrospective effect, and I think in principle SAFF is correct.

The opposition received a briefing note from the Property Council dated 17 May, after we had gone to the party room, and the Property Council of Australia, South Australian Division sees this particular bill as an absolute missed opportunity to try and harmonise the stamp duty legislation with some provisions that exist in other states. It argues that a harmonisation of the stamp duty legislation would help property investment in Australia—and, indeed, in South Australia—and it has developed what it believes to be a best practice model in relation to stamp duties, which it argues would be revenue neutral while also improving efficiency. There would be no major changes to the current practice, and it would therefore make it easier and more attractive for local and international investors to do business in South Australia.

When we were being briefed by the government, we raised the issue of the $1 million threshold. After the briefing, my office sent through some questions to the minister's office to the effect of: if we increased the threshold to $2 million as in other states, what would be the hit to the budget estimated by Treasury under the existing provisions as well as under the new provisions? The advice received back was that the government had not calculated that. If that is true, it means that the government had no intention of even looking at harmonising the legislation between states because, if it were looking at harmonising the legislation and making the threshold the same as other states, someone in Treasury would have modelled what would be the impact of lifting the threshold from $1 million to $2 million.

We asked: what is the calculation to lift the threshold from $1 million to $2 million? The answer from the Treasurer's office was, 'No-one has done the calculation; we can't tell you.' So I ask the Treasurer, on the record, if he cannot give us an answer to that question as part of this debate, will he give a commitment, between the houses, to ask Treasury to calculate those figures so that we can make a judgement about the $1 million or $2 million threshold question and what hit that might be to the budget?

The Property Council of Australia (South Australian Division) argues that under the current provisions stamp duty is, of course, collected in all states but that the definitions and applications of stamp duty are quite different in each jurisdiction. It argues that these differences mean that the same business transaction can result in stamp duty being levied at different amounts, and sometimes at multiple times, across Australia. It believes that South Australian stamp duty laws currently penalise investment entities that want to restructure to become more efficient and that this reduces the number of business transactions that could be made in South Australia. It argues that the proposed laws significantly increase the land tax base without adopting some proposals for efficiency that other states have implemented in their regimes.

The Property Council sees this as a missed opportunity. It believes that the current provisions unnecessarily hold back transactions, and impose high compliance and restructuring costs that substantially reduce the money that could be invested directly in South Australia, and therefore inhibit investment, as investors will not proceed where compliance costs are high or, indeed, where there is double duty to be paid.

In fairness to the Property Council of Australia, it has put forward a solution that I understand was sent to the government some time ago as part of its consultation on the bill. The Property Council argues that adopting its particular model would attract investment to South Australia by providing a simple, practical platform for common business transactions. It argues that these recommendations would not cost the government; indeed, they have been designed to be revenue neutral.

There are two aspects to the proposed model put forward by the Property Council: to ensure that landholder stamp duty operates fairly and optimally and to ensure that entities can restructure to operate efficiently without additional stamp duty. The Property Council says that by adopting its particular amendments it will help South Australia's landholder stamp duty provisions operate as effectively as possible. It argues that, currently, the regime discourages investment in trusts, which are the main vehicle for investing in property. It argues for the following changes:

> Increase of the threshold to $2 million—this will align South Australia with other states and exclude "nuisance transactions";

Its point here is this: the $1 million level was established in 1990, we are now in 2011. If you CPI'd up the $1 million, it would be obviously closer to $2 million than $1 million. The reason the $1 million figure was picked in 1990 was to try and not deal with the smaller transactions—the 'nuisance' transactions, as the Property Council put it—and it is arguing that, by leaving the $1 million threshold there, the government is going to capture a whole range of transactions that it was never intended to under the original act. Of course, the reason the government is doing that is that this is a tax grab and not a tax reform.

New South Wales and Western Australia have a land value threshold of $2 million, and New South Wales generally calculates the threshold using the unimproved value of the land from land tax purposes. This provides as an even higher threshold and removes uncertainty and valuation complexity around determining the threshold. We will ask the Treasurer what the hit to the budget would be if South Australia adopted the unimproved value of land measure, as per New South Wales.

The second point it raises is maintaining the 60 per cent or more threshold. It argues that to avoid unfairly targeting hospitals etc., that owned land incidentally as a capital item, the 60 per cent threshold focuses the duty liability on investments predominantly only. This reflects the intention of the duty: to tax entity transactions that are substitute for a transfer of land. Unfortunately, removing the threshold means that investments in entities where land is a minor asset will not be taxed. If the intention is to tax investments in a return from land, then a 60 per cent threshold is needed.

For example, investors in hospitals want a return based on hospital services and the growth in the health sector. Land merely facilitates the provision of services. The investment return is not based on land, it is the return on services. There should be no stamp duty difference for

investments in health care, depending on whether the business leases or owns the land (hospital buildings).

Further, it says, 'remove taxation on listed entities'. It argues that to comply with the intergovernmental agreement (the national agreement) that that particular agreement provided there would be no state taxes on dealings in securities traded on a recognised stock exchange. The imposition of landholder duty arguably contravenes this. I would ask the Treasurer to confirm whether the intergovernmental agreement actually prevents the charging of stamp duty on the transactions (the listed entities) as proposed under the bill. Landholder duty is also a disincentive to efficient capital markets as it makes merges or takeovers of particular classes of corporations/entities (such as mining and property companies) more expensive than those corporations/entities which do not hold land.

It argues for a streamlining of the associated persons test so that the companies and trusts are treated on a similar basis. The current treatment discourages an investment in trusts which is the main vehicle for investing in property. The test discriminates against trusts. A (company) shareholder in a company will not be an associate of the company unless the companies are related bodies corporate; however, if a company is a beneficiary of a trust—for example, an infrastructure trust—regardless of the interest in the trust, it will be an associate of the trustee.

The Treasurer might want to clarify that for the house in his response. It argues for excluding interest acquired before becoming a landholder. It argues that this is unfair because it is a double duty that discriminates against property investment: shareholder A holds 10 per cent of X company; shareholder B holds 90 per cent. The company buys land and pays full duty. If shareholder A then buys 40 per cent of B's interest in the trust, shareholder A will pay duty on this 40 per cent interest. However, a third party investor acquiring 40 per cent in X company would pay no duty. Ignoring the pre-land interest puts an existing investor in the same position as a new investor. I ask the Treasurer to explain why the government has decided to put an existing investor in a different position from a new investor.

The Property Council argues for removal of the double duty on the sale of land and selldown of units by unit holders. This, it believes, is inequitable as duty has already been paid and a property investment trust has been established. Land is bought and full duty paid using debt. Units in the fund are then sold to investors. Duty is paid again if the investors buy the units under an associated transaction, which is a very broad test, or the associates. This results, ultimately, in a double duty.

It also argues to provide a general rule that excludes custodians from the provisions. Only the underlying owners, rather than the bare trustees, should be taxed. There are very few professional custodians. It is common for the same custodian to hold investments on behalf of a number of separate and independent unrelated investment funds. Unless the custodians and bare trustees are ignored, the interests of those separate and independent unrelated funds can be aggregated and duty imposed, whereas if a custodian was not used no duty would be payable at all. I will ask the Treasurer to explain why he has designed the bill in this fashion.

The argument from the Property Council is that this was an opportunity for the government to encourage corporate restructures and to increase business efficiency in South Australia. South Australia has a corporate restructure exemption that does not operate as effectively as it could. Adopting the amendments as proposed by the Property Council could help ensure that the current exemption becomes best practice.

The major changes that it argues for are as follows: to provide 100 per cent relief for restructures in the law and to provide certainty and give true relief for restructures in circumstances where the government already accepts relief should be given. Currently, I understand that Treasurer approval is required, rather than an automatic right, under the legislation.

The example the Property Council gives is that company A has assets in Victoria, South Australia and Western Australia. It wants to transfer the assets to its parent, company B. The legislation in Victoria and Western Australia enables company A to confirm it will be eligible for relief and to undertake the transaction. That is in the law; no Treasurer decision required. However, company A in South Australia must apply for the relief in South Australia and may wait six or more months before relief can be confirmed or denied. So, it is a hindrance to corporate restructure, and one wonders why the government did not take the opportunity to work through that particular inefficiency.

The second point the Property Council makes is to remove the requirement to transfer all assets in a business, because this prevents the efficient restructuring where only certain assets of a company need to be moved, for example, one business division. The example given is a corporate group that has subsidiaries in Australia and the United States. One of the United States subsidiaries takes over a rival group, X, that also has subsidiaries in Australia, including a company registered in South Australia. There is no relief to the transfer for the South Australian company to be with the other Australian subsidiaries unless all of the US subsidiaries of X are also transferred. One has to wonder why they have to transfer all their subsidiaries and not do it just for one of them—again, a missed opportunity by the government.

The third element that is argued is to ensure that subsidiaries that have 50 per cent or more control can access the exemption to be consistent with the land rich provisions, that is, to take charge of control and ensure that subsidiaries are treated as part of the group. The example given is that company A owns 51 per cent of the shares in each of B and C; B owns 100 per cent of X, which owns land in South Australia; B can transfer 49 per cent of the shares in X to C without any duty under the land rich provisions. However, under the current South Australian provisions, X cannot transfer 49 per cent of the land to C without a duty because the legislation says that X and C are not members of a corporate group. Again, a missed opportunity.

The fourth element it argues for is to remove the pre-association requirements. It argues that pre-association unnecessarily prevents group restructuring, particularly where a new entity is acquired, whose assets would be more efficient somewhere else in the group. So, the example is that group A merge with group B; the groups cannot restructure their South Australian assets with a duty exemption unless at least three years after the merger occurs.

It also argues for making relief available for all dutiable transactions. There is no policy justification, it argues, for limiting relief to only particular kinds of dutiable transactions. So, the example is: the transfer of 50 per cent of the shares in the land rich company L from subsidiary S to its parent company P can be exempt. The issue of 50 per cent of the shares in L to P cannot be exempted. Also, the transfer of land and goods from S to P can be exempted, but the change in registration of a motor vehicle from S to P cannot be exempted.

The last one is to limit the post-association requirements. Post association unnecessarily hinders efficient group restructure as groups simply avoid those transactions during the post-association period. Trust A transfers land to B and obtains an exemption as both are wholly owned by trust C. A purchaser of trust B will pay the duty and then, if the purchase occurs within three years after the transfer from trust A, there will be another further imposition of stamp duty under the clawback outlined in circular 227, which I know is one of the Treasurer's personal favourites.

These reforms, the Property Council argues, would deliver substantial cost savings to the industry without unfairly eroding the government's revenues. It believes it would attract business investment to South Australia. The Property Council sees this particular bill as an opportunity to reform the stamp duty provisions not only to protect the government's revenue, which is obviously in the government's interest, but also to make business a lot more efficient and easy to operate within South Australia, and the government has missed the opportunity to undertake those reforms.

I have dealt with the two simple submissions. I will now get to the more technical submission for the house, and this is a submission we received overnight from the Law Council of Australia's National Taxation Committee. The committee advises that the Law Council of Australia was consulted. They met with the commissioner and several of his officers. They have provided them with an amended draft to make comments on it; I assume the amended draft is what is before us.

Some of the council's concerns were met by amendments but many were not, either as a result of their being outside the scope of the consultation with the commissioner because they were matters of policy or because the commissioner or parliamentary counsel were not willing, for one reason or other, to alter the bill to accommodate them. I am not sure that it was parliamentary counsel's role; it may be an misinterpretation on behalf of the group making the submission, but I think the point is that the commissioner had his instructions from the Treasurer and anything outside of those policy instructions was not going to be entertained. As a result, the council has several continuing concerns about the content of the bill, and it enclosed a submission.

The point I make is that I think the house can tell by the nature of the submissions that this is a highly complex and technical bill, and for members of parliament to have to get their head

around it when they have had the submission for less than 12 hours or even 48 hours is, I think, a poor process.

For the enjoyment of the Treasurer and his officers, I will now deal with the issues raised by the Law Council of Australia Business Law Section in relation to this bill. It argues that this bill has a double standard:

> On the one hand the government proposes the adoption of a broad general anti-avoidance provision for taxpayers whilst at the same time, in an apparent contravention of the Intergovernmental Agreement on Federal Relations, Schedule B, Item B2(g) (IGA) expands its tax base in relation to landholding companies to not only include items that have not generally been regarded as interests in land but also to include items that are not fixtures and to include most goods (with a few exceptions) of the entity.

Again, I would ask the Treasurer to confirm: did it consult the federal government to ensure that this bill was not in breach of the intergovernmental agreement, or did it seek crown law advice that this bill was not in contravention of the intergovernmental agreement? The Law Council of Australia Business Law Section is an expert in this field, and it argues that it is a contravention of the intergovernmental agreement.

The Real Institute of New South Wales has also observed the trend in some states of departing from these intergovernmental obligations. It has recorded it in the following terms:

> Since the original IGA, some states and territories have broadened their existing stamp duties on real property such as by imposing transfer duty on certain leases and by expanding the base for land rich or landholder duty and in NSW, mortgage duty.
>
> NSW has also gone even further, with the introduction of new ad valorem taxes since the IGA, in the form of vendor duty, from 1 June 2004, subsequently abolished on 2 August 2005, and more recently, a 'Torrens Assurance Levy' for land purchases over $500K.

I guess the point this group makes is that the government is breaching its intergovernmental agreement by broadening its stamp duty base by including things such as leases and licences, mining, forestry, agriculture—those issues I have raised previously in my address.

The opposition's understanding is that the state government has given a commitment to abide by the intergovernmental agreement and abolish stamp duties in certain elements come 1 July next year. The Law Council of Australia argues that this bill, in part at least, is a way to claw back some of that lost revenue contrary to the intergovernmental agreement. It argues:

> ...the treatment of certain interests that are not legally interests in land as land in the landholder provisions with a number of consequential flow-on tax consequences is artificial—

so, you are artificially defining what is going to be land—

> and will impose a significant cost on dealing with entities with significant holdings of such rights. This is a direct and unique strike by this state against the spirit of the IGA.

They are strong words. They are not mine; they are from the Law Council of Australia. It continues:

> This is a direct and unique strike by this state against the spirit of the IGA. These rights are unusual creatures of statute; they are most likely simply statute licences, it is very hard to perceive them to be interest in land. They are not interests in land at common law. The imposition of landholder duty in such circumstances is unwarranted and conceptually unsupportable. It imposes potentially significant additional costs on activities that are to be encouraged not burdened with additional taxes.

Again, it raises the wind farm concern.

> An example is the wind farm industry. For a State that claims to be leading the way in this alternative energy source and an international leader in aspects of it, according to its own publicity, providing innovative policy initiatives such as payroll tax rebates to [then] apparently not understand the impact of the proposed landholder provisions on those responding to those initiatives is disappointing.
>
> The current land rich model has been taken as a base and only a few changes have been made to its broader impact and some significant inconsistencies with other provisions of the Act are not to be addressed.
>
> Some comments and examples in respect of the Landholder Provisions and the General Anti Avoidance Provision follow. The Schedule contains a number of further comments, usually of a more technical nature.

We will work through those now.

On the interests in land, we have already gone through the issue about whether they are part of the intergovernmental agreement, but, in this particular bill, the interests in land specifically include leases and licences granted under the Mining Act 1971, the Offshore Minerals Act 2000 and the Petroleum Act 2000, together with leases granted under the Aquaculture Act

2001 and the Forest Property Act 2000. As already highlighted, most of these interests are indeed not interests in land, according to law, and their inclusion appears to be contrary to the IGA.

The expansion to include the Aquaculture Act and the Forestry Act are unannounced; that is, something that was not announced as part of the budget announcement.

> Both involve primary production activities where the value is rarely in the land. In the case of the aquaculture leases, in many situations there will be little value in the lease itself (it is of the seabed), the value will be in the items about the lease commonly neither affixed nor a fixture. In the case of some leases for raising molluscs, the situation may be different, depending on the culture method.

In the case of the tuna farms it is possible, depending on how they are affixed to the seabed, that they therefore may well be defined as part of the land. I would ask the Treasurer to confirm that this does not capture tuna farms.

> This may result in the value of the aquaculture lease being significant. It could mean that the value exceeds the $1 million threshold for the landholder provisions to apply. If such items were not attached to the land they would be regarded as goods used in the business of primary production and completely outside the landholder provisions. The policy application between the two situations...[appears] markedly inconsistent. Also for an industry already struggling with significant reduced quotas and high exchange rates to find further taxes being imposed by the guise of turning personalty into an interest in land is to place yet further pressure on this important primary production industry.

Here is the point: the government never consulted the aquaculture industry or, indeed, the tuna industry. So, that was the advice to us in the briefing. How do they know the impact on those businesses? The answer is they don't because they never asked. In relation to goods, as already described in this submission:

> ...the inclusion of goods in the taxing base was not mentioned at the time and their inclusion appears to be contrary to the IGA.

This submission deals with partnership interests under section 91(4) to 91(7).

> The extension of these provisions to partnership holdings is likely to create...[considerably more] difficulties in practice that are not warranted. In practice they are unlikely to be understood. The following example highlights the difficulties. A Pty Ltd and B Pty Ltd start a land agents business and engage in some development activities. Each contributes $10,000 to the capital of the firm. The individuals behind the companies work hard and take minimal drawings through the companies and build up loan accounts from undrawn profits of around $150,000...[over] say, five years.

Sometime later, it is decided to admit a new partner—C Pty Ltd—who is required to contribute $210,000 by way of capital contribution and $50,000 by way of loan to the partnership. C pays the money into the partnership bank account. A bank overdraft facility to $150,000 is also established for the partnership. The original partners withdraw $100,000 each from the bank account in reduction of their loan accounts.

Shortly after the admission of C, they purchase premises for more than $1.5 million with wholly borrowed funds. After that, any dealings with the shares and the partners have the potential to attract the landholder provisions, depending on how you apply section 91(5). In reality, A Pty Ltd, B Pty Ltd and C Pty Ltd are entitled to 33.3 per cent each. Yet, under paragraph (b) of these provisions, their relative capital contributions will be 4.35 per cent, 4.35 per cent and 91.3 per cent respectively; so, C Pty Ltd will be land rich. Is that really what the government intended when drafting this legislation? The Law Council suggests this is simply unrealistic.

The submission also deals with land assets (section 92), fixture and fixed. Section 92(3) and 92(4) create considerable difficulties in both their meaning and application in providing whether items fixed to the land can constitute fixtures at law or not. The concept of a fixture is one that causes difficulties at law. These provisions do not assist by adding to its complexity.

The model used appears to be derived from similar provisions in Western Australia but not carried through to the landholder provisions. It was suggested in Western Australia, but, indeed, it was not carried through to the landholder provisions in the Western Australian Duties Act. The Duties Act now defines land as including fixtures.

Another simple example highlights the problem. A farm has a company that owns a portion of the farming land used by the farmer. The company leases land to a wind farmer. The wind farmer is also a company. The farmer derives rent, but it is not overly significant in terms of the overall income of the farmer and his controlled entities from farming in a good year. The value of the wind farm equipment erected on the land is many millions of dollars. At the end of the lease,

the wind farmer has the right to remove the wind farm improvements. Section 36A of the Electricity Act provides:

> Subject to any agreement in writing to the contrary, the ownership of electricity infrastructure constructed or installed for operation by an electricity entity is not affected by its affixation or annexation to the land.

The wind farmer, indeed, is an electricity entity. In this situation, under this provision, the value of wind farm improvements could be included in the land assets of the fee simple company as a fixture or fixed, in addition to their being an asset of the wind farmer company.

In both situations, the item is used in connection with the land, though in substance it is used by the wind farmer in connection with the farm business of generating electricity. The parties should know with certainty what their position is. They should not have to ask the commissioner to exercise a discretion and possibly resort to the courts if he is for some reason not satisfied sufficiently to exercise the discretion.

Here is the point: this bill has introduced more complexities and more confusions into the market. So, in that case, the wind farmer, and the crop farmer in the example, would not know their legal position in relation to stamp duty on transfer of assets. They would have to toddle off to the tax commissioner in South Australia and get some ruling. Why would you introduce a system that introduces that complexity? Surely, the law can be written in such a way that gives them some certainty.

The Law Council of Australia's submission also raises the issue of the $1 million threshold. Section 98 defines a landholding entity as one of an unencumbered underlying land value of not less than $1 million. In New South Wales and Western Australia, on the adoption of landholder provisions, the threshold was increased to $2 million. This is apparently not to occur in South Australia, notwithstanding that the landholder model proposed includes not only land but South Australian goods. So, we are getting a double whack, effectively, in South Australia and that is the point from the submissions. This is not a tax reform; this is nothing more than a tax grab, ultimately.

It also raises the market value. Section 99(8) also introduces a further degree of artificiality. It directs that when determining the value of an asset or interest no account is to be taken of any amount that a hypothetical purchaser would have to expend to reproduce or otherwise acquire a permanent right of access to and use of existing information relating to the asset or interest. This overturns long-established principles, and the principles are set out in a court case of Pancontinental Mining v CSD in Queensland in 1988—something I am sure the Treasurer is familiar with. It is likely, therefore, to impact on fledging mining and oil exploration entities. In effect, it appears intended to treat the money spent in undertaking exploration work leading to the knowledge about a tenement as a valuable attributed to the tenement.

I think that is saying in plain English that money spent on undertaking exploration work by the mining company will be added to the value that will be dutiable if the tenement is transferred. Is that really what the government is proposing in a state that is trying to grow the mining industry? It will now charge stamp duty on the value of the exploration work done on transfer of the lease? Is that really what the government is proposing? I again ask the Treasurer to respond to that when he comes either to the second reading contribution response or the committee stage.

The Law Council of Australia also raises the issue of partnership interests, and it gives some other examples. It argues that how section 100(4)(d) will work in practice is unclear. For example, a partnership of three accountants is the owner of units in a unit trust holding the lease of the premises from which the business is conducted. The partnership subscribes $1 for the unit in the unit trust. The fit-out of the leased premises costs $1.5 million. The lessee is entitled to remove the fit-out at the end of the lease. A borrowing of $1.2 million financed the fit-out.

One partner retires after two years and the other partner acquires interest in the partnership. In this situation the landholding provisions would now apparently apply; the remaining partners each acquire a majority interest. Duty will apparently be assessed on the gross value of the assets of the unit trust. If the partners had the lease in their names it is unlikely that, under the Commissioner's Circular 191 (another favourite of the department), the interest in the lease would be regarded as real property. Again, the policy application is markedly inconsistent. The new provisions do not work consistently with the underlying purpose and intent of the landholder provisions.

Another example is this: a wife retires from a partnership and transfers her interest in the partnership. The partnership assets include shares in a landowning company. Her interest in the partnership is transferred to her husband and son, who are the other partners. The unencumbered value of the land owned is in excess of $1 million (say $1.1 million) but the net value really is only $150,000. In this situation, both father and son acquire a significant interest in the company through the partnership as each acquires 50 per cent of the partnership.

The net value of the partnership business and assets, including the shares, is around $250,000. The duty consequence on a deemed acquisition of a 50 per cent interest by each father and son could be in the order of $55,000. That is in excess of 20 per cent of the net value of the partnership. Clearly, the Law Council argues that this is disproportionately high. Is that really what the government intended in drafting this bill?

It also criticises the scope of landowner provisions. It argues that the scope and purpose of landowner provisions is to ensure that control of the companies and unit trusts, which own significant land, cannot pass without the payment of the appropriate ad valorem duty, as if the underlying land passed. The intent is not to tax other transactions in which company shareholders or unit holders are involved.

Section 102A(4) appears to suggest the contrary in the guise of affording relief in one simple situation whilst failing to provide relief for many other situations. It is highlighted by the following example. A company X with two longstanding shareholders A and B (each has 50 per cent each) owns land currently worth $900,000 and it acquires a company Y, whose assets include land currently worth $1.2 million. Company X proposes to pay the stamp duty on the acquisition of company Y, including the landowner duty.

The problem for the shareholders is that section 102A(4) implies that any transaction by which company X acquires an interest in land which exceeds $1 million triggers the operation of the landholder provisions. Section 102A(4) would suggest that A and B have now each acquired a significant interest in a landholding entity, company X (it owns land of the value of $2 million), and are required to pay duty on $2 million. This will be the case notwithstanding company X owned the land for 20 years and A and B their shares for the same period. Section 102A(4) does not provide relief in this situation because there is not a direct acquisition of land. Section 102G may mean two amounts of duty are not payable but because the commissioner is to collect the highest that is ad valorem duty on $2 million.

The Law Council then talks about recovery from an entity under section 102C, and argues that there should be an express restriction on the enforcement of any charge whilst any objection or appeal is pending. There should also be mechanisms to deal with the practical day-to-day difficulties that arise where such a charge is lodged.

It argues that section 102C(4) includes a provision providing that the charge is to be first ranking. This is a departure from the existing provision. Over the last 30 years or so the Crown has given up its rights of priority to be paid in most situations and for various statutory charges. This is a reversal of that trend. There appears to be little proper justification for doing so. It is inconsistent with the Western Australian and New South Wales and approach. There appears to be no justification for it.

I would be interested to know from the Treasurer what consultation they had with the banking industry about how this provision will now operate if banks have a first right of mortgage over a particular property. I assume from the way this legislation is drafted they become second in line, not first in line, and I wonder whether that creates any issues between the bank and the lender if they go from a first claim to a second claim status.

I turn to the anti-avoidance provisions—everyone's favourite, I am sure. The adoption of a general anti-avoidance provision has never been announced by the government, so this is a new element to the bill. The Law Council argues that the fundamental problem with general anti-avoidance provisions and, in particular, the type of provision proposed in the draft legislation, is that they seek to introduce a very vague and subjective view of what constitutes tax avoidance. This provision assumes a one-size-fits-all approach to most transactions and structures, usually to be measured by regarding as the norm common practices currently adopted as perceived, initially by the commissioner. A departure from any such norm is then to be regarded as tax avoidance.

Certainty in taxation is a fundamental tenet of good tax policy. By their very nature, general anti-avoidance provisions undermine that certainty because they mean that, whilst the person has conformed with the text of the relevant taxing legislation, it is then objectively determined that the

consequences prescribed by the specific provisions of the law are to be overturned against a measure of some vague general objective standard of limited articulation within the legislation.

The Law Council also raises the retrospective elements of some provisions and argues that the proposed section 10 provides for the GAAP to have effect if a scheme carried out prior to it coming into force continues to have effect. The subsequent provisions prevent the commissioner from recovering duty and penalties insofar as the taxes involved arise prior to the commencement of the provision.

The effect is that the legislation will have a retrospective effect in relation to some transactions. It is most likely to have this effect in the land tax and payroll tax areas, and I want the Treasurer to explain the retrospective elements for both land tax and payroll tax. In the land tax area, there has long been a general anti-avoidance provision that has been before the courts on at least one occasion. In the case of payroll tax, there is intended to be a uniform arrangement across a number of states, so there is no justification for any retrospective effect, no matter how limited it is.

In regard to the landholder provisions themselves, there is an issue with the definition of 'executive officer' within the bill. The definition of executive officer previously relied upon the Corporations Act 2001 definition of executive officer. However, no such definition currently exists in the Corporations Act 2001. This amendment merely reproduces the previous Corporations Act 2001 definition into this act. It should be noted that the CLERP commentary, in removing the definition of executive officer in the Corporations Act, stated that:

> ...the concept of being 'concerned in management...' as described by the definition of 'executive officer' is not easily definable, and subsequent reliance on judicial interpretation is unwelcome.

So, whilst in one area of the law it has been recognised that the concept is not easily definable, the state persists in one of its taxing statutes with a concept recognised as not easily definable without any clarification or, indeed, redefinition.

It also appears that, in practice, the concept is blatantly too broad and unrealistic. It, in effect, regards every executive and anybody else in any aspect of the management of the relevant entity as an associate, no matter who they are. It makes no difference whether the executive is the chief executive officer, the chief financial officer, the chief information officer, the human resource manager, the finance executive or indeed the secretary, depending on the level of responsibility afforded to them.

The Law Council submission also raises concerns about the definitions of interest in land:

> Previously, section 91A provided that an interest in land included a right to explore for minerals, petroleum or other substances on land or to recover minerals, petroleum or any other substance from land.
>
> This new definition clearly broadens this base beyond the existing base, and specifically includes leases/licences granted under the Mining Act 1971, the Offshore Minerals Act 2000 and the Petroleum Act 2000, together with leases granted under the Aquaculture Act and the Forestry Property Act 2000. As already highlighted, most of these interests are not interests in land. Their inclusion appears to be totally contrary to the IGA.
>
> The definition of an interest in land is also inclusive and not exhaustive, and additionally not only does it cover a lease/licence or specific items, but also an interest in such lease/licences etc. The same comments apply to the further leases/licences embraced by the extended definition.

So, not only does it apply to the licence, but it applies to those who have an interest in the licence. The submission continues:

> This expanded class of interests did not appear to be part of the original announcement by the Treasurer. It appears to be broader than...New South Wales—

although it is understood to be similar to Western Australia. In regard to the definition of South Australian goods, the submission states:

> ...it is assumed that South Australian goods are goods that are used solely or predominantly in South Australia at the time of the dutiable transaction, despite the section not stating this.

At what point they are South Australian goods is not defined within the legislation. The submission further states:

> There is no definition of livestock for the exclusion. It is also likely that livestock does not extend to fish, molluscs and crustaceans held as part of aquaculture facilities and possibly some other animals.

The problem has been avoided in the Livestock Act, of course, because there is a definition of livestock in the Livestock Act which includes poultry, fish kept or usually kept in an aquarium or fish

farm and bees for which a hive is kept. So, in the Livestock Act we define livestock: in this particular bill, it is not defined, according to the Law Council. The submission states that the definition of the business of primary production in section 2(1) recognises such activities as primary production and may imply the contrary intention leading to a narrow interpretation of livestock. The matter is further confused by the fact that paragraph (d) of the definition of goods excludes goods used in connection with the business of primary production. It implies that livestock are to be treated differently and a narrower conventional definition applied. Accordingly a similar definition to the Livestock Act 1997 appears to be necessary in this situation to ensure all forms of stock are covered and [those involved in aquaculture] aquaculturists do not suffer further under these provisions.

It would have been good if the government had consulted the aquaculture industry about these provisions. The council also raise some concerns about partnership interests. Section 91(4) seems to overturn the doctrine of conversion in its application to partnership interests involved in landholder situations. It argues that the justification for doing so can only be questioned. The submission states:

> Section 91(5) provides that the proportionate interest of a partner is represented as the greater of the relative capital contributed and the entitlement to share on a surplus on a winding up. The need to do the computation in each situation will unduly complicate matters. Whether the provision even works, let alone fairly, is open to question.

These are some of the difficulties that we have already highlighted. Section 91(5) uses the expression 'loan capital'. There is no definition of what loan capital is so, again, there is an element of confusion and lack of clarity in relation to this bill. The expression 'loan capital' appears to have been used in the Finance Act in the United Kingdom and is defined in section 8 in connection with certain funding of companies for stamp duty purposes. It received consideration in a court case in that context. The issue here is: what does it mean in the South Australian context? It is not a term used in practice in this state. There is no definition as to what loan capital is. There are concerns about the definition of land assets which are fixtures and fixed. The submission states:

> Whether the property is a fixture or not of a landholding entity, it may not be relevant if the item constitutes South Australian goods because they are now to be brought to account, on the current proposal, in determining the duty, unless primary production goods. So if the item is not a fixture then it is personal property and query goods, though this may depend on the statue deeming it to exist separately from the property. It may be relevant in determining whether the $1 million threshold is crossed.

The submission continues:

> The meaning of this in the context of the tenant's fixtures and the railway improvements discussed in [a court case] *Asciano Services Pty Ltd v Chief Commissioner of State Revenue*...is unclear. Whilst in both situations the items may be separately owned and used primarily in connection with a business rather than the land, it is not clear whether that is the view that will be adopted. The business cannot subsist without the land so it is unclear in a lease situation whether the improvements are counted both in the fee simple interest, leasehold interests or both.

Again, the Treasurer may want to clarify that for us in his contribution.

Under the heading 'One Series of Transactions', the submission raises circular 287 of the commissioner, which describes some past concerns about the operation of the current equivalent provisions. It states:

> In the past concerns have also been expressed about the width of the expression one series of transactions when there is limited if any further criteria to link the series of transactions. It is desirable if these aspects are expressly addressed in the legislation by requiring that they are a series of transactions that must have a substantive link.

The council has raised concerns about the calculation of duty. It states:

> The inclusion of South Australian goods was never highlighted at the time of the announcement of the adoption of the landholder model and as described appears contrary to the IGA. Further, it appears that under section 102A(1) that the duty is to be computed by reference to the value of the acquirer's notional interest in the entity's underlying local land assets plus the value of the entity's South Australian goods.

With respect to the listed companies and public unit trust schemes, the duty is 10 per cent of what it would otherwise be. Whilst this is consistent with what was announced in September 2010, there is absolutely no explanation as to why 10 per cent is adopted and not any other figure.

I have already commented on concerns that the general anti-avoidance provisions were never announced at the original announcement of this provision. They raise a retrospective effect of section 10 of the transitional provisions. The council argues that in taxation law a retrospective effect is particularly bad, but suggest that a general anti-avoidance could have such an effect, no

matter how limited. It is indeed odious. So, again, they raise the same point as the Farmers Federation and other groups, that the anti-avoidance measures in here have a retrospective element which is certainly not supported by any of the groups.

I apologise for holding the house for longer than normal. The reality is that the consultation process of this bill was poor. It is clear that it is a highly technical bill and there are a lot of issues of concern to industry groups that the government has chosen not to address. Even though the opposition is proposing no amendments in this house, we do intend to go into committee and at that time work through each of the issues raised in the submissions so that we can get onto the record exactly what the government's intention is. That is the reason I have read them into *Hansard*, so that if the Treasurer does choose to adjourn this at the end of the second reading, or the first clause of the committee, to give his officers time to go through those various examples to compare the answers, that would assist the debate in committee.

With those few words, the opposition looks forward to the committee debate. I know that some of my colleagues have contributions that they wish to make at the second reading.

Mr PEDERICK (Hammond) (12:32): In rising to speak to the Statutes Amendment (Land Holding Entities and Tax Avoidance Schemes) Bill 2011, I declare that I am involved in the Pederick Family Trust, which is a discretionary trust, not a unit trust. I will seek clarification from the Treasurer as to whether this legislation is all encompassing to cover trusts that are not unit trusts and I hope that can be clarified during the debate.

It is certainly interesting to note that we on this side of the house had very limited time to conduct our consultation. I am more concerned that the forestry industry, the mining industry and the fisheries (especially the aquaculture sector) have not been consulted. This is far-ranging legislation. It is technical legislation. I would challenge this place to see how many people are accountants, because I think you would need to be an accountant to know the full effect of this bill coming through. I think there will be quite a few questions asked during the committee stage.

I am very concerned about the lack of consultation, especially regarding sectors such as the forestry industry. We see the South-East under threat from the forward sale of forests. The dilemma for that region is incredible. It is disgraceful what this government inflicts on the regions in this state: the fact that the burgeoning mining industry has not been consulted, especially in relation to the interface that we are seeing, and will continue to see, between mining and agriculture. I would have thought it would be vital that mining was included in the discussion.

There are far more times now where we see proposals all around the state, on the Eyre Peninsula, the Yorke Peninsula, throughout my electorate in the Mallee and into the Riverland, with different exploration going on, whether it be for metals, zircon sands, or other mining minerals, that mining should have been involved, especially in the interaction with farmers and the potential for whether there are any payments that may come under this bill relating to access to land, whether it is under a lease arrangement or other arrangement, and whether there is any tax to be levied in that situation.

Fisheries, and especially the agriculture sector, that have had their fees roughly doubled in the last few years are already paying a significant cost just operating their businesses, so I think it is disgraceful that they have not been consulted either in as far as what effect this legislation may have on their businesses.

I know that the member for Davenport has given a very good contribution to the house on this matter. I am going to read in the submission that came in from the South Australian Farmers Federation, because I am concerned from my side of the house, representing agriculture, about the impacts that may happen to people who are involved—people, companies, whatever entities are involved in land—and what effect it may have on transactions. I want to make sure that inter-family transactions are protected. We are told they are, but I want the Treasurer to fully outline the proposals there in the bill, because poor old regional South Australia at the moment does not get too much from this government. In fact, they usually get a belting.

In regard to the letter from the South Australian Farmers Federation, addressed to Graeme Jackson, the Deputy Commissioner of State Taxation:

Thank you for the opportunity to comment on the Statutes Amendment (Land Holding Entities and Tax Avoidance Schemes) Bill 2001. The South Australian Farmers Federation submits the following.

Part 4 of the Stamp Duties Act 1923 as amended (the Act) (Land Rich Entities) provides that a land rich entity is an entity in which the unencumbered value of the underlying local land assets of the entity and associate entities is $1 million or more and the value of the entity's underlying land assets comprises:

- in the case of a primary production entity—80 per cent or more; and
- in any other case, 60 per cent or more;

of the unencumbered value of the entity's total underlying assets.

By adopting a landholder model, the 80 per cent and 60 per cent tests are removed. This will have the effect of broadening the tax base in relation to primary production entities, so that if control of an entity changes and the entity holds South Australian land assets, being farming land above a value of $1 million, conveyance rates of duty will apply to the land assets being transferred. SAFF objects to the broadening of the tax base in this way.

There will be many farming operations in which more than 20 per cent of the value of the entity's assets consist of assets other than land. Often a change in the underlying ownership of farming land held by a private company or trust entity will take place between generations. By removing the 80 per cent threshold in relation to farming entities, many more transactions in which there is a change in the underlying ownership between generations will be subject to duty.

Section 100 of the bill provides a general liability for duty. A transaction will be liable for duty if it acquires a prescribed interest or increases its prescribed interest in a land holding entity. In this case, the person or group notionally acquires an interest in the underlying local land assets and is liable for duty in respect of the notional acquisition.

Under section 100(2) the following transactions are dutiable:

- A transaction as a result of which a person or group acquires or has a prescribed interest in a landholding entity; or
- A transaction as a result of which a person or group has a prescribed interest in a landholding entity and increases its prescribed interest in the entity.

Section 100(3) provides that a transaction will be dutiable even though the person or group that has a prescribed interest or increases its prescribed interest is not a party to the transaction. A group means a group of associates. Under Section 91(8) various people will be associated with each other if certain conditions are met, for example one is the trustee of a trust and the other is a beneficiary of a trust. There are other situations in which people will be associated with each other.

The circumstances in which a person might be associated with another person and therefore be part of a group is very wide. For example, typically in the context of a family trust, the potential beneficiaries of the trust will be a large group of individuals. For the purpose of the definition of 'associated', a person may be part of a group by merely being the beneficiary of a trust and, even though that party is not a party to a dutiable transaction, they may be liable for duty simply because they are part of a group of associates. Subsection (8) should be reformed to provide more clarity as to how associations are formed.

Section 102 of the Bill provides where a group has, as a result of a dutiable transaction, a prescribed interest being in relation to a private company a proportionate interest in the entity of 50% or more in a landholding entity the value of the interest acquired in the entity's underlying local land assets, the total unencumbered value of the entity's underlying local land assets multiplied by the fraction representing the proportionate interest of the person or the group in the entity.

This means that if a person or group acquires an interest of, say, 60% in an entity, the person or group will pay duty as if it acquired a 60% interest in the entity's underlying local land assets.

However, if a person or group already has a minority interest in the entity (say 49%) with stamp duty having been paid when the entity acquired that interest and the group increases its 40% interest to say a 100% interest, then the group or person will be assessed as if it had acquired 100% interest, no credit being given for the stamp duty paid when the initial 49% interest was acquired. The Bill should be amended so the stamp duty paid in relation to the earlier acquisition is counted in determining duty in respect of a transaction in which a majority interest is acquired.

Section 102A provides that duty payable by a person or group which acquires a prescribed interest in a land holding entity in which the entity's underlying land asset is $1 million or more is, in the case of an entity that is a private company, duty payable on a conveyance of land with an unencumbered value equivalent to the value of the acquirer's notional interest in the entity's underlying local land assets plus the value of the entity's South Australian goods. I note that Section 91(12) provides that a reference to 'goods' does not include the following:

- Goods that are stock-in-trade;
- Materials held for use in manufacture;
- Goods under manufacture;
- Goods held or used in connection with primary production;
- Livestock.

Given that the new provisions seek to assess for duty a transaction in which a person or group acquires a majority interest in a land holding entity on the same basis that would have been the case had the person or group acquired the land directly, there is no basis for including the value of the entity's South Australian goods. By including the value of the entity's South Australian goods, the amount of duty payable on what is essentially a land acquisition may be greater than had the person or group acquired the land directly and not acquired a majority interest in the underlying entity.

In any event the value of 'goods' to be taken in account should be limited to a proportion of goods which corresponds to the proportion of land, the subject of the transaction. Section 92(3) provides that a relevant entity's interest in land will be taken to include an interest in anything fixed to the land, including anything:

- separately owned from the land; or
- physically fixed to the land but notionally severed or considered to be legally separate to the land by operation of another Act or Law.

With a significant roll out of wind farms taking place on farming land, a circumstance may arise in which wind turbines are fixed to the land, but are not owned by the farmer—

which certainly happens—

This will usually be the case. Generally speaking, a wind farm operator will take a long-term lease of farming land. The value of the wind farm infrastructure may be several million dollars, depending on the size of the wind farm. In theory, the relevant entity's interest in the land would be taken to include an interest in the wind farm infrastructure, even though it is not owned by the farmer.

In addition, there may be a plantation of trees on the land or growing crops yet to be felled or harvested. The trees or growing crops may have been sold under a forward sale contract, so that, although they are physically fixed to the land (i.e. still growing on the land), they may be considered legally separate from the land by operation of law. Where there is a change in the underlying interest in the private entity which owns the land upon which the trees or crops are growing, the transaction will exclude the value of the trees and crops on the basis that the entity has already disposed of them by way of the forward sale contract. However, for the purposes of determining what is to be included in assessing the relevant entity's interest in the land, the trees and growing crops may be included.

We have some comments in relation to SAFF's comments on the Taxation Administration Act, but I was unable to find the exact section numbers. It quotes them as:

Section 13A(1) provides that if the Commissioner is satisfied that a person has used a tax avoidance scheme (as defined) the Commissioner may determine the tax which the person (and other people) would have been liable apart from the use of the scheme and take action that the Commissioner considers necessary to allow assessments of tax so determined.

The drafting of Section 13A(1) is very vague. It is not clear how the Commissioner will determine what 'other people' would have been liable for duty apart from the use of the scheme.

Section 13A(2) goes on to say that if the Commissioner makes a determination under subsection (1), then each person who has 'gained a benefit from the scheme is liable for duty. Again, it may be difficult to say who is going to benefit from a scheme and the drafting of this provision is very vague.

Section 13A(3) provides that the section applies in relation to a scheme 'whenever and wherever entered into'. This effectively means that the Commissioner can assess people who he thinks should have been liable for duty had the scheme not occurred, where the scheme took place some time ago. This means that the section has retrospective effect.

SAFF objects to any anti-avoidance provisions with retrospective effect.

It was signed off, 'Yours sincerely, Carol Vincent', from the South Australian Farmers Federation.

I believe there are many, many questions that will be raised at the committee stage. I know the member for Davenport raised many questions in his speech, and I am sure I have colleagues on my side of the house who wish to add their contribution as well. I did note this morning, having a look at members' interests in this place, that quite a few people—

Mr Venning interjecting:

Mr PEDERICK: It is on the public record; it is there to find.

Mr Venning: It is, too.

Mr PEDERICK: Many members in this place operate trusts, and it will be interesting to see how debate on this bill carries forward. I am certainly concerned in relation to any tax burdens that may be put onto farming families in this state who, through a probably once in a decade opportunity, have had the opportunity to have a decent income year this year (noting the issues with classification of grain and harvest).

I also note that sheep prices are extremely good. It is a bit tough if you want to buy them, but South Australian farmers have been able to purchase sheep that were in drought conditions in

Western Australia and bring them over here; and so they have been able to make some money and make good use of an asset, instead of having these sheep potentially just put down in Western Australia. I know plenty of these sheep are heading over to the Eastern States as well. Certainly, people in the cattle industry are seeing increased returns as well.

Be that as it may, farmers have gone through many poor years, not all because of drought; some have been income-poor years. I think 2005 was a big year for grain growing—a good, wet year—but grain prices were shocking, somewhere around the $100 a tonne mark. It is unviable to grow crops for that money for any period of time, really, with the price of inputs and the associated costs of farming.

I am concerned, as I know other members on this side of the house are concerned, as to what effects this bill may have. I note that people have entered into family trust schemes and unit trust schemes because they are perfectly legal entities to operate in, but it will be interesting to see what happens with this bill and what effect it will have. I hope it has a very minimal effect on the farming community in this state. With those few words, I note that we will be going into committee and asking quite a few questions in relation to the bill.

Debate adjourned on motion of Hon. P. Caica.

EASLING JUDGEMENT COSTS

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (12:51): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.M. RANKINE: I was advised last Friday evening that a default judgement had been awarded against me in a defamation action being taken by Mr Tom Easling. The judgement follows the failure to lodge a defence in the proceedings. This was an oversight for which I take full responsibility.

I have instructed my lawyer to make an application to have the judgement set aside. My lawyer has since advised me that she has contacted Mr Easling's lawyers to inform them of this application. Subject to the court granting the application and setting aside the judgement, I intend to defend the matter vigorously. As part of my defence, I intend to provide all relevant documents.

While I have been granted an indemnity with respect to this matter, I will personally meet any costs associated with my application to have the judgement set aside. The taxpayer will not pay any costs caused by my oversight.

STATUTES AMENDMENT (LAND HOLDING ENTITIES AND TAX AVOIDANCE SCHEMES) BILL

Adjourned debate on second reading (resumed on motion).

Ms CHAPMAN (Bragg) (12:53): I rise to speak on the Statutes Amendment (Land Holding Entities and Tax Avoidance Schemes) Bill 2011. The member for Davenport has comprehensively and competently outlined a number of aspects of concern about the bill (in its implementation), and has confirmed to the house that, as it is in support of the budget measures announced for the 2010 state budget last year, it will not be opposed by members on this side of the house.

Firstly, I would like to address the delay in the introduction of this bill and the short time that the opposition was given to consider and properly consult on these matters, as is evident from the member for Davenport's contribution, in particular, that one of the stakeholders, who should have been listened to in the first place, did not have the opportunity to progress that information to the opposition.

Whether it got to the government or not, and it did not disclose it, I do not know. However, we have material from the Law Council business committee which, quite frankly, indicates that it should have been given an opportunity to address this matter and to present that to the opposition, and all members of this parliament, before we are asked to progress it.

If there is some excuse—we had an election in March 2010, a budget later that year, and six months later this bill has been introduced—then the government should come clean as to why there has been such a delay. If it were not to deliberately exploit the opportunity to avoid

consultation on the basis that this needed to be implemented prior to 1 July 2011—which, as members know, is only weeks away—then the government needs to explain that.

This bill essentially broadens the tax base and will catch a greater number of transactions when a document is being produced for an entity (in this case, to transfer an interest), and that relates to both definition and formula, some of which I want to refer to.

May I also say that it is a bill that purports to avoid any retrospectivity, yet, as has been outlined by other speakers, even though it is be effective on agreements that were entered into after 1 July 2007, even those which were entered into before that date but have settlements post that date have been given some treatment by transitional provisions. But the essence of what the government has presented is that this will be effective in its expanded form post July 2011 and it is not retrospective.

As has been identified by the speakers and, in particular, by the last speaker, our esteemed shadow minister for primary industries and other important duties, including our whip, an effective liability will be imposed on people when a minority interest is transferred under this formula and the whole of the value of the entity is brought into account for the purposes of assessment of the duty. That is a what I call a multiple rate by taxation; that is, you have to pay assessable duty at one level, and, when there is a minority interest to transfer, the whole of the amount then comes up for assessment, based on the value of the whole of that 100 per cent interest. If that is right and it was not the intention of the government to introduce that—

The SPEAKER: Can I remind members of the press in the gallery that they are to film only people on their feet.

Ms CHAPMAN: I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 12:58 to 14.00]

RAIL SAFETY (SAFETY COORDINATION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—PENALTIES) BILL

His Excellency the Governor assented to the bill.

SUPPLY BILL

His Excellency the Governor assented to the bill.

VISITORS

The SPEAKER: Honourable members, I draw your attention to the presence in the gallery of a group of students from Cedar College, who are guests of the member for Torrens. With great pleasure can I also welcome from Whyalla some students from Samaritan College; it is lovely to see you here. I also welcome from Quorn some students from the Quorn Area School, which is also part of my electorate. Welcome to all of you.

REGIONAL LIBRARIES FUNDING

Mr WHETSTONE (Chaffey): Presented a petition signed by 483 residents of the District Council of Loxton Waikerie requesting the house to urge the government to reject the proposed funding reductions to our community libraries.

GORGE ROAD

Mr GARDNER (Morialta): Presented a petition signed by 1,022 residents of South Australia requesting the house to urge the government to undertake significant improvements to Gorge Road.

MOUNT GAMBIER MENTAL HEALTH SERVICES

Mr PEGLER (Mount Gambier): Presented a petition signed by 1,969 residents of Mount Gambier and greater South Australia requesting the house to urge the government to take

immediate action to provide acute mental health care as promised and provide new and increased mental health services for children and adolescents in Mount Gambier.

FORESTRYSA

Mr PEGLER (Mount Gambier): Presented a petition signed by 339 residents of Mount Gambier and greater South Australia requesting the house to urge the government to take immediate action and stop the forward sale of harvesting rights of Forestry SA plantations.

SOCIAL DEVELOPMENT COMMITTEE

Ms BEDFORD (Florey) (14:04): I bring up the 32nd report of the committee, entitled Same-sex Parenting.

Report received.

OLYMPIC DAM

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) (14:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: The Olympic Dam expansion project has taken another crucial step with the publication last Friday of the supplementary EIS. The supplementary EIS is BHP Billiton's response to the almost 4,200 government and public submissions made following publication of the draft EIS in May 2009. It proposes answers to key questions raised during the lengthy consultation process, as well as dealing with the range of environmental issues that accompany a multibillion-dollar project of such scale and complexity.

The federal, South Australian and Northern Territory governments will take account of expert advice, as well as public submissions, before reaching our respective development decisions which are expected before the end of this year. We remain strongly committed to ensuring that every aspect of this expansion project is subject to the most stringent environmental legislation and standards.

I am encouraged that BHP Billiton has committed to a number of sustainability measures, such as using renewable energy to power the desalination plant and water pipeline, and solar hot water systems at Hiltaba Village. BHP Billiton will also sign up to South Australia's ambitious greenhouse gas reduction strategy and is proposing to use solar energy to supplement electricity required for the operation of the proposed airport and a cogeneration plant to capture waste heat to produce electricity.

I am also pleased that BHP Billiton has, in response to numerous submissions, selected an alternative installation method for the outfall pipe of the desal plant on the Spencer Gulf—a tunnelling rather than a trenching method. This decision considerably decreases ecological impact and significantly further ensures the protection of cuttlefish breeding and habitat.

In my view, this is vital. We cannot allow the Spencer Gulf environment to be spoiled. I know that Madam Speaker, who is also the local member, has been leading the charge in terms of minimising impacts on the Spencer Gulf. It is critical that we get this right. This is the final stage of a comprehensive and rigorous assessment of the project: it is not a rubber stamp.

Conditional upon receiving the necessary approvals, BHP Billiton could begin work on what will become the world's biggest mine. The mine site itself is equivalent to the distance between Gepps Cross and Flagstaff Hill, with the hole in the ground about the size of the Adelaide CBD area. The expansion would see an unprecedented fleet of giant earthmovers and trucks take five years of daily digging to actually reach the ore body, which will allow the real mining to begin.

Olympic Dam is the world's largest uranium deposit and the fourth-largest gold resource on the planet. As I understand it, it is the fourth-largest copper deposit, currently producing around 180,000 tonnes of copper each year. Under the proposed expansion, this will increase more than fourfold to around 750,000 tonnes per annum. The project will create thousands of jobs from a resource that could last 100 years.

The benefit of the Olympic Dam development to the South Australian economy and communities will be both immense and long term. The expansion would result in a huge increase in employment opportunities throughout the state. BHP Billiton estimates that the Olympic Dam

expansion will generate up to 6,000 new jobs during construction, a further 4,000 full-time positions at the expanded open pit mine and an estimated 15,000 new indirect jobs. This includes thousands of opportunities for local contractors, businesses and service providers in Adelaide, as well as, of course, in regional centres, such as Whyalla and Port Augusta, and regional towns.

The South Australian government is ramping up its work as the expansion moves closer to crucial decision points. We have allocated $9.8 million to our Olympic Dam Task Force, which has been established to facilitate the project and to coordinate the approvals process. The government's team, including me as Premier, ministers Kevin Foley and Tom Koutsantonis, as well as the task force chair, Bruce Carter, and chief executive Paul Heithersay, is also negotiating with BHP Billiton about key issues for our state. These include royalties, infrastructure, water, energy, indenture legislation and maximising the amount of minerals processing undertaken in our state, rather than offshore.

We are especially keen to ensure there are job opportunities for regional South Australians, a positive impact on our regional cities and towns, and opportunities for disadvantaged communities, families and individuals who are traditionally left out, or left behind, particularly Aboriginal people. This is a project which will benefit our state for decades to come. Our job is to ensure that we get the maximum benefits for South Australia and South Australians from the development of this vast resource.

GOVERNMENT APPOINTMENTS

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) (14:11): I seek leave to make a second ministerial statement.

Leave granted.

The Hon. M.D. RANN: I wish to inform the house of senior government appointments. This morning, ALP caucus unanimously elected minister Gail Gago as the Leader of the Government in the Legislative Council and the No. 3 minister in our cabinet. This is the first time a woman has held this leadership position in this state's history, for any party. Since her election in 2002, Gail has proven herself—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

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

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The member for Unley's slur on his leader, then, by saying that he only turns to women when they are desperate, is extraordinary.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Since her election in 2002, Gail has proven herself as a minister and legislator—

Mr Marshall interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —who is especially known for her hard work, her ability to listen and her compassion. She has held nine different portfolios and has a demonstrated ability to understand complex issues—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —in a range of fields.

Mr Marshall interjecting:

The SPEAKER: Order, the Premier will sit down! There's too much background noise today. It's very audible, and I would remind you that now we are all film stars and that Sky regularly streams out and often your comments are picked up, so be very careful, and keep your noise down.

The Hon. A. KOUTSANTONIS: Point of order, Madam Speaker. The member for Norwood interjected that there is no evidence that Ms Gago is a woman. I would ask him to withdraw that immediately.

Members interjecting:

The SPEAKER: Order! I did not hear the comment, and I hope the member did not say that—

Mr Marshall interjecting:

The SPEAKER: He denies it. No point of order at this stage.

Members interjecting:

The SPEAKER: Order! There will be no quarrels across the floor!

Members interjecting:

The SPEAKER: Order! The Premier.

The Hon. M.D. RANN: Let me make it quite clear that members opposite are in a different century, but we do point out that they have had 16 leaders and deputy leaders during the time I have been leader of the Labor Party.

Gail Gago has had nine different portfolios and has a demonstrated ability to understand complex issues in a range of fields. Gail has been a staunch advocate for the interests of women from all walks of life. Her years in nursing, then with the Australian Nursing Federation (which she headed), have given Gail a solid grounding in health policy, industrial relations and, importantly in her role in the other place, in negotiation. I congratulate her on her historic appointment, and I would ask members opposite to encourage their colleagues in another place to work with the new leader on our legislative agenda for the benefit of all South Australians.

I would also like to inform the house of some other recent appointments. As members would be aware, Chris Eccles resigned as my chief executive earlier this year to take up the equivalent position in New South Wales.

Members interjecting:

The Hon. M.D. RANN: It is interesting that they attacked his administration of the South Australian Public Service, but, apparently, have reversed their position now that he has gone to work for the Liberal government in New South Wales.

Mr Pisoni: He couldn't get out of here quick enough.

The SPEAKER: Order!

The Hon. M.D. RANN: I am pleased to inform the house that Jim Hallion has been appointed as the new Chief Executive of the Department of the Premier and Cabinet. Jim is currently the Chief Executive of the Department for Transport, Energy and Infrastructure, a position he has held since 2006. Jim brings to the job a wealth of experience which starts way back in 1976 when he began work in our old Highways Department after finishing a Bachelor of Civil Engineering.

In his current role, Jim has been in charge of the biggest infrastructure rollout the state has ever seen, including the Northern Expressway, the South Road-Anzac Highway grade separation, the South Road superway project, the new Port River bridges and the Port River Expressway; and our major rail and tram upgrades, including the electrification of our network and the Seaford rail extension. Jim also brings a broad knowledge of government to the role, having previously held the positions of chief executive of Primary Industries and Resources and chief executive of the Department of Industry and Trade during the time of the previous government.

I am delighted that Jim will be taking on the role as chief executive of my department. He will bring his demonstrated energy, expertise and enthusiasm to his new broader role as we continue our massive infrastructure rollout and capital investment program, including the new Royal

Adelaide Hospital, the $2 billion public transport investment, Adelaide Oval and Riverbank redevelopment, as well as many more programs to reinvest in our state.

Mr Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: He doesn't realise that the $2 billion is ours.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Jim also brings a national perspective to his role through his membership of various national organisations, including Infrastructure Australia, which advises the federal and state governments on investing and modernising the nation's economic infrastructure.

Mr Marshall interjecting:

The SPEAKER: Order, the member for Norwood!

The Hon. M.D. RANN: He also chaired the Murray-Darling Basin Commission water trading board and oversaw the introduction of interstate water trade. Jim is a proven leader and will help us meet our Strategic Plan targets. He will ensure we harness our opportunities while meeting the challenges of our social inclusion objectives as well as our environmental responsibilities.

His move leaves a vacancy in the Department for Transport, Energy and Infrastructure, and I am pleased to inform the house that Rod Hook will be the new chief executive of that department. Rod is currently deputy chief executive of the agency and has held senior executive roles in major projects and infrastructure, environment, housing, urban development and public transport projects in the state.

Rod is well known for his ability to deliver quality projects and has managed many of the biggest infrastructure projects in South Australia in recent years, including our major transport revitalisation, including the tram extension, major road projects, the convention centre redevelopment and the magnificent new state aquatic centre at Marion, to name just a few. I know there are members here—

Mr Goldsworthy interjecting:

The SPEAKER: Order! Member for Kavel, you are very vocal today and I can hear every word you are saying. Can you keep your voice down. The Premier.

The Hon. M.D. RANN: I am very pleased that the Minister for Recreation, Sport and Racing participated in one of the first water slides. Rod Hook was also coordinator-general of the federal stimulus package in South Australia, including the Building the Education Revolution, the biggest capital works program our education system has ever seen. The South Australian rollout was seen as the exemplar nationally of the program.

Rod was also responsible for the $45 million project to deepen the Outer Harbor shipping channel which has breathed new life into our port and seen a huge increase in goods being transported through our docks. I am confident that, under Rod, our major infrastructure build is in good hands. Both Jim and Rod will take up their new roles on Monday on five-year contracts. I am sure they will enjoy bipartisan support.

PAPERS

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Remuneration Tribunal Determinations—

No.1 of 2011 Ministers of the Crown and Members of Parliament
No.2 of 2011 Travelling and Accommodation Allowances
No.3 of 2011 Conveyance Allowance
No.4 of 2011 Members of the Judiciary, Members of the Industrial Relations Commission, the State Coroner, Commissioners of the Environment, Resources and Development Court

By the Minister for The Arts (Hon. M.D. Rann)—

Regulations made under the following Acts—
Adelaide Festival Centre Trust—Authorised Officer
Art Gallery—General
Carrick Hill Trust—General
History Trust of South Australia—Authorised Officer
Libraries—General
South Australian Museum—General
State Opera of South Australia—Revocation
State Theatre Company of South Australia—Revocation

By the Attorney-General (Hon. J.R. Rau)—

Summary Offences Act—Road Block Authorisations Report for Period 1 January to 31 March 2011
Rules made under the following Acts—
Legal Practitioners—Legal Practitioners Education and Admission Council—Amendment 6
Magistrates—Civil Rules—Amendment 36

By the Minister for Environment and Conservation (Hon. P. Caica)—

Regulations made under the following Act—
Environment Protection—Authorisation Fees

By the Treasurer (Hon. J.J. Snelling)—

Regulations made under the following Act—
Public Corporations—
Adelaide Film Festival
Australian Children's Performing Arts Company

EVIDENCE ACT REVIEW

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (14:21): I seek leave to make a ministerial statement.

The Hon. J.R. RAU: On Tuesday 3 May in this place the Premier announced that he had asked me to arrange an independent review of section 71A of the Evidence Act. Section 71A sets out restrictions on the reporting of the identity of persons charged, or about to be charged, with a sexual offence as defined in the act. I am pleased to announce that the honourable Justice Brian Martin has been appointed to conduct a review of the operation of section 71A(1) and (2) of the Evidence Act.

As most of you will know, Justice Martin is a former judge of the Supreme Court of South Australia and is a retired chief justice of the Supreme Court of the Northern Territory. He was also crown prosecutor and commonwealth director of public prosecutions. The review will undertake public consultation, consider and report on how the restrictions under section 71A operate, whether the restrictions are necessary or desirable and, if so, whether any amendments to the legislation might usefully be made.

Justice Martin has been provided with a terms of reference, which in particular focuses on how the restrictions operate, the relevant law in comparable jurisdictions, whether the restrictions are necessary or desirable and, if so, whether any amendments to the legislation might usefully be made. If changes to the restrictions are recommended as a result of this review, what other measures, if any, need to be taken into consideration to ensure that the accused receives a fair trial, that the prosecution case is not prejudiced, and also to consider what could be done in such cases to protect or restore the reputation of people who are accused of, but not found guilty of, a sexual offence.

In undertaking the review, also to be taken into account is that the government will maintain the effect of the law currently protecting the identity of victims of sexual offences from being identified. Publication of suppressed material on the internet by private individuals is an overlying consideration, but as work is being done on a national level to address this issue, it will not be investigated in this review of section 71A.

Media and mass communication have changed rapidly in recent years with the rise of blogging, social networking and people increasingly using the internet to obtain news and information. I raised this during the December 2010 SCAG meeting and ministers agreed that South Australia would prepare a paper on the application of model suppression laws to social networking sites.

Officers in the Attorney-General's Department are in the process of preparing a draft discussion paper. We anticipate this paper will be considered by the national working group and will be ready for presentation at the SCAG meeting in July 2011. It is imperative that nationally all attorneys-general work together in conjunction with each other to ensure justice is administered fairly. This requires looking at the changes in technology and media, which are never static. They are fluid and constantly progressing and as such the courts and legislation must adapt and keep up to date to reflect this. I look forward to receiving Justice Martin's report at the end of September this year.

VISITORS

The SPEAKER: Just before I call the Minister for Transport, I think I somewhat prematurely welcomed a group of young students from the Quorn Area School, but I think they have just arrived. They are from my electorate, so welcome. It is very nice to see you here today.

POLICE MINISTER, ASSAULT

The Hon. K.O. FOLEY (Port Adelaide—Minister for Defence Industries, Minister for Police, Minister for Emergency Services, Minister for Motor Sport, Minister Assisting the Premier with the Olympic Dam Expansion Project) (14:25): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: I have read reports of what was said in the Magistrates Court today, and I have sought legal advice from my solicitors. Whilst I cannot comment on the detail of what has been said, I completely reject the account given to the court on behalf of the accused, Mr Grgich. It is totally untrue, and I look forward to my day in court when I can tell the real story, the truth, about what happened. On legal advice, it is not appropriate for me to make any further comment.

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg!

Members interjecting:

The SPEAKER: Order! Somebody has just wandered into the chamber and I am not sure what they are doing in here.

Members interjecting:

The Hon. K.O. FOLEY: Madam Speaker, I take objection to an interjection from the member for Bragg. She referred to the gentleman walking into the chamber as someone from Port Adelaide. Anyone who knows the manners of people from Port Adelaide knows that we would knock first.

The SPEAKER: I don't think there is a point of order in that, but I can understand your concern, member for Port Adelaide. Member for Bragg?

Ms CHAPMAN: Point of order, Madam Speaker. I seek some clarification of your statement. If you are suggesting that there is some merit in the assertion made by the minister, I do wish to seek to reply. That is not what I said; I clearly didn't say that. I said, 'This gentleman is probably looking for preselection in Port Adelaide.'

Members interjecting:

The SPEAKER: Thank you; no point of order. You have made your point.

Mr Pengilly interjecting:

The SPEAKER: Order! Member for Finniss, be quiet. You do not shout across the floor.

QUESTION TIME

POLICE MINISTER, ASSAULT

Mrs REDMOND (Heysen—Leader of the Opposition) (14:28): My question is to the Minister for Police. What role did the Premier's personal security team or ministerial protection unit have following the second alleged assault on the police minister in the Royale bar or its subsequent investigation?

The Hon. K.O. FOLEY (Port Adelaide—Minister for Defence Industries, Minister for Police, Minister for Emergency Services, Minister for Motor Sport, Minister Assisting the Premier with the Olympic Dam Expansion Project) (14:28): To be honest, Madam Speaker, I don't understand the question. What is the question?

Mrs REDMOND: I will repeat the question: what role did the Premier's personal security team or ministerial protection unit have following the second alleged assault on the police minister in the Royale bar or its subsequent investigation? If you caught up with Adelaidenow, there are reports about the involvement—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Have you read Adelaidenow?

The SPEAKER: Order! I don't think the Minister for Defence is responsible for comments on Adelaidenow. He can choose to answer if he wants to, but I don't think he needs to.

The Hon. K.O. FOLEY: I do choose to answer that. I would have thought, from my ministerial statement just given to the house, that one would be very circumspect—particularly one who would be an alternate premier—about the quality of the statements made to the court today by the person representing the person who hit me in the city. Madam Speaker, all I will say is this—

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: That is the exact point: that you read it on Adelaidenow. I will say this—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am police minister and I will say this and only this: that South Australia's police officers have the best integrity and the best record and the highest standing of any police officer in this nation. One only has to look at what occurs in other police forces around this country. If there is any assertion or accusation implied within what the member has just said, that somehow police have not acted appropriately, then that matter should be taken up with the police commissioner.

INNER METROPOLITAN AREA CHARACTER SUBURBS

The Hon. M.J. ATKINSON (Croydon) (14:31): I ask the Minister for Urban Development, Planning and the City of Adelaide: can he inform the house about the work he is doing to protect character areas within the inner metropolitan area, such as Croydon—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: —as identified in the 30-Year Plan for Greater Adelaide—which will include the reopening of Barton Road?

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (14:31): I thank the member for Croydon very much for his question and I know that he is fortunate enough to represent many parts of the city of Adelaide in

the western part of the city, which are actually character suburbs with magnificent examples of development.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: The 30-year plan is a document that is designed to deal with the problem that we have over the next 30 years of accommodating some 560,000 additional people living in the city of Adelaide. There are a number of possible ways that could have been dealt with. One way would have been, of course, to allow Adelaide to stretch from Port Wakefield to Victor Harbor and that would have been a magnificent outcome if you liked driving a great deal and were very keen on paying for enormous amounts of infrastructure and weren't much interested in public transport.

Obviously that is not the view that the government has taken, and I have to say I understand that the opposition has also supported the 30-year plan, and that is to their credit. In any event, the 30-year plan requires a large amount of infill in what is now the current footprint of the city of Adelaide. I know that a number of people have been concerned about what this might mean for character suburbs, including areas within the electorate of Croydon.

At a recent meeting (11 May) that I had with the mayors and other councillors from what we call the 'rim councils', that is, the ones which immediately surround the City of Adelaide, we had a discussion about what this might mean in terms of development for the city. One of the issues of concern, particularly for people much like the member for Croydon, but also the local government people who represent areas like Unley and such like, was that the character parts—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: —of their city might wind up being the subject of urban infill. What we have at the moment is, in some respects, the worst of all worlds, that is—

Mrs Redmond: A Labor government.

The Hon. J.R. RAU: Very good, very funny.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: We have got urban infill occurring on the basis of an old large property being knocked over and two Tuscan something or others replacing it. That is occurring at random throughout the suburbs—

The Hon. M.D. Rann: An insult to Tuscany.

The Hon. J.R. RAU: Quite right, they shouldn't be called that, they don't have much of a Tuscan flavour. The point is, that is representing a great threat to these character areas. People need to understand, and I think the rim councils now do understand, that the 30-year plan envisages the focus of the growth in population being on key transport routes, and the Minister for Transport, and others, have been working very well with the planning people to make sure that these are all worked through very carefully—trams, buses, rail, and so forth.

There is effectively going to be a trade-off where within the next few years we are going to see higher density in main development areas; for example, the periphery of the city, some of the major roads, the Port Road area and, of course, the Clipsal site. The trade-off for that is that those people living in areas where there are character houses are going to find there is less development pressure in those areas. In fact, the upside will be that those people are going to have a greater chance of protecting the heritage, quality and amenity of those established suburbs than is presently the case.

Having discussed that with the mayors the other night, I think all of them were very keen to see the matter progress. I look forward to being able to get back to the house from time to time with news as to how this planning process is developing. It is a very exciting opportunity for the city of Adelaide. We are going to see the city transformed in the next few years in a way that all of us will be very proud of. The cooperation that the government is receiving from those councils has been commendable, and we look forward to continuing that relationship. The Minister for Transport has

been having a fantastic relationship with the City of Adelaide, as have I, and we look forward to it continuing.

MINISTERIAL CODE OF CONDUCT

Mrs REDMOND (Heysen—Leader of the Opposition) (14:36): My question is again to the Minister for Police. Has the minister notified the Premier of a conflict of interest relating to his police portfolio, as required by the Ministerial Code of Conduct, given the two alleged cases of assault against him?

The Hon. P.F. CONLON: Point of order. From memory, it is standing order 97. Alleging a conflict of interest is clearly comment and is out of order in a question. She may ask a question; she may not make a comment.

Ms Chapman: She asked whether he told the Premier.

The SPEAKER: Order!

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) (14:36): I am very happy to answer this question. There is no conflict of interest. I also would remind the Leader of the Opposition—who should know better as a conveyancing solicitor—that, in fact, the police commissioner in South Australia and the police force act independently.

MINISTERIAL CODE OF CONDUCT

Mrs REDMOND (Heysen—Leader of the Opposition) (14:37): Supplementary: the thrust of the question had nothing to do with the police commissioner. It was particularly on the Ministerial Code of Conduct, which specifically states that there is an obligation to notify the Premier of a conflict of interest. It says that an alleged or perceived or potential conflict of interest may constitute a conflict of interest.

The Hon. K.O. Foley: What is it?

The SPEAKER: Order!

Mrs REDMOND: The conflict is between the minister's role as minister and the minister's role as victim in the various assaults.

Members interjecting:

The SPEAKER: Order! Premier.

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) (14:38): Madam Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —it is not a conflict of interest to be bashed—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —whether or not by some coward. Anywhere in our city, every single citizen in this state—whether they are a member of parliament, whether they are a member of the opposition, whether they are a member of the government, whether they are citizens in country or city—are entitled to live peacefully without being bashed. That is not a conflict of interest; that is a crime.

Members interjecting:

The SPEAKER: Order!

OBESITY PREVENTION AND LIFESTYLE

Mr SIBBONS (Mitchell) (14:38): Can the Minister for Health update the house on recent comments about the Obesity Prevention and Lifestyle program?

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order!

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) (14:38): I thank the member for his question—

Members interjecting:

The SPEAKER: Order! Point of order, member for MacKillop.

Mr WILLIAMS: I am struggling to understand on what basis the minister might be responsible to the house for recent comments.

The SPEAKER: I think that question is perfectly in order. Minister for Health.

The Hon. J.D. HILL: Obesity is one of the most important health issues facing our society. Some would argue that it is now the most important issue facing our society. Unless obesity rates are reversed, this generation of children could be the first to die at a younger age than its parents. That is a tragic reality; it is something that all of us need to contemplate.

I am advised that 18.6 per cent of children in our state are either overweight or obese. However, 40 or 50 years ago, when some of us were growing up, the rate was 1 per cent—a huge increase in obesity over that period of time. Our Obesity Prevention and Lifestyle program, known by the acronym OPAL, is an innovative and world-leading response to what is a global problem. OPAL aims to improve the eating and physical activity patterns of children and increase the proportion of zero to 18 year olds who are in the healthy weight range.

This program is based on EPODE, the successful French approach to reducing childhood obesity. That program is now operating not only in France but in Belgium, Spain, Greece, Mexico, the Netherlands, and of course here in South Australia, and I am told that there is interest from parts of America, Ireland and England.

The shadow education minister has been a constant critic of this program, and he is entitled to do that. He has been a constant critic of its inventor, Dr Jean-Michel Borys. The shadow spokesperson has put in 38 different FOI requests to the Department of Health, so he is a bit obsessed by this program. Yesterday, the shadow minister for education made what would be considered libellous comments about Dr Borys, calling him on radio 'a hired gun for the junk food industry'. Just to remind the house, Dr Borys—

Mr Pisoni: The French sugar industry; they are all his clients.

The Hon. J.D. HILL: The buffoon is shouting again.

Mr Pisoni: All his clients.

The SPEAKER: Order!

The Hon. J.D. HILL: It's the cry of the native buffoon again. Just to remind the house that Dr Borys is a—

The Hon. P.F. Conlon: Because a spittoon is a type of camel.

The SPEAKER: Order!

The Hon. J.D. HILL: Dr Borys is a highly—

Mr Pisoni interjecting:

The SPEAKER: Order! Point of order. Member for Finniss.

Members interjecting:

The SPEAKER: Order!

Mr PENGILLY: Standing order 125 in relation to the comments that the Minister for Health made about the member for Unley.

The SPEAKER: If I recall, the member for Unley made the same comments last week about a member on the other side, so I think it is perhaps even there. I presume that is the comment you are talking about, not the one that came from the floor. No point of order. Minister.

The Hon. J.D. HILL: Madam Speaker, I would not say things if they did not interject; that is all I say to the house.

Members interjecting:

The SPEAKER: Order! That's right, and you won't respond to their interjections.

The Hon. J.D. HILL: Just to remind the house that Dr Borys is a highly reputable, internationally renowned medical doctor, endocrinologist and nutritionist, and has been the director of EPODE since 2004. The shadow minister may wish to compare his views on EPODE and its founder with those of his leader, who visited with Dr Borys in Paris in April 2009. In her travel report—a very, very good travel report—the leader said, 'Approximately two years ago—'

Members interjecting:

The Hon. J.D. HILL: Now, listen to this:

> Approximately two years ago, Health Minister John Hill invited all MPs to a briefing session with Dr Jean-Michel Borys, a French doctor with expertise in tackling issues of obesity in the community. I attended that Briefing and was impressed with the approach of Dr Borys to obesity and how it is best treated via a broad-based community approach. Ultimately, the whole community needs to be educated, to understand and to participate if there is to be any real improvement. When I met Dr Borys he also mentioned that he has a program, based on the same model as the general EPODE program, but targeting specifically the older population. I was interested in finding out more about how such a program is initiated on the ground.

The leader then goes on to conclude:

> Given the ageing of our population in Australia generally and in South Australia in particular, it also seems obvious that we should be looking to introduce a similar program here.

So, the opposition leader not only lauded EPODE and its director but also wanted the program extended so it applied to aged people in South Australia as well. I commend the Leader of the Opposition for being bipartisan in relation to this important community issue. Obesity in children should be beyond politics. Sadly, the member for Unley politicises everything. He has only one point of view; that is to be oppositionist.

The seriousness of obesity cannot be overrated. The global increase in overweight and obese people has been labelled by the World Health Organisation as a global epidemic representing a serious public health challenge to the 21st century. We will be evaluating the effectiveness of OPAL over the eight years that this program is running in South Australia.

Members interjecting:

The Hon. J.D. HILL: Look, I would invite the anti-intellectual rump—

The SPEAKER: Order!

The Hon. J.D. HILL: —of the Liberal Party—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —to ask questions about why we should evaluate a program, why we should spend money on having scientists evaluate a program. Of course, they would make the decisions all for themselves without having any advice from experts.

Mr Marshall interjecting:

The Hon. J.D. HILL: The member for Norwood would lead a little clinical team. He would put on a white coat and he would go out and do it all by himself. Well, we are going to get people who understand science, who understand nutrition and understand children, who can work this through. I am pleased to say that 10 councils are now involved, and that will expand to 20 over the next couple of years. The evaluation is being—

Members interjecting:

The Hon. J.D. HILL: I am happy to go through the councils, including the Mount Gambier council, the mayor of which is a former Liberal candidate for parliament. He is happily supporting this program, as are a whole range of mayors from a variety of political backgrounds. This is bipartisan everywhere, except in this chamber.

The evaluation is being overseen by OPAL's scientific advisory panel, which is chaired by Professor Boyd Swinburn who is a world leading expert.

Members interjecting:

The Hon. J.D. HILL: You wouldn't know about those kinds of things.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: It includes some of Australia's pre-eminent advisers on anti-obesity measures. There will be growth checks of 9 to 11 year olds and for 14 to 16 year olds, which will measure, in private—unlike the Channel 10 story last night which showed children being measured in public; it won't be in public, it will be in private—their height, weight and waist circumference by trained health professionals.

Participation will be voluntary and with parental permission. Those taking part will be de-identified and all data collected will be confidential. We would hope that this evaluation will show the kinds of results that have been witnessed in France where childhood obesity rates have turned around in communities that have been involved.

This is why we are doing it: because it is working in France. It is reducing the rate of childhood obesity in the communities that have signed up to it. We want to do something about this problem in our community before it gets out of hand. What does the opposition want to do? Who knows?

This government is committed to combating obesity. I suggest to the member for Unley, instead of just being an oppositionist, come up with some positive ideas of your own. Tell us what you would do. Tell us what the opposition would do.

Members interjecting:

The SPEAKER: Order!

POLICE MINISTER, ASSAULT

Mrs REDMOND (Heysen—Leader of the Opposition) (14:47): My question is to the Premier. Does the Premier stand by his comments made on radio on 8 April regarding the second alleged attack on the Minister for Police, and I quote:

> One of them came out and thumped Kevin Foley. Well, I want to see the guy locked up; coward, absolute coward.

Does he stand by that statement, given that the case has now been dropped?

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) (14:47): Absolutely stand by it.

Members interjecting:

The SPEAKER: Order! The member for Little Para.

SKILLS FOR ALL

Mr ODENWALDER (Little Para) (14:48): My question is to the Minister for Employment, Training and Further Education. Can the minister update the house about the recently released Skills Australia blueprint for reform of the vocational education and training system and tell the house how the state government Skills for All policy compares?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education) (14:48): I would like to thank the member for Little Para for the question and yes, I can. Skills Australia is an independent statutory body providing advice to the federal government on Australia's current, emerging and future workforce skill needs and workforce development needs.

The federal government recently announced Skills Australia's report into the vocational education sector titled Skills for Prosperity—A Roadmap for Vocational Education and Training. This report, receiving support and praise from both the education and business sectors, has many notable points of comparison to the South Australian government's reforms under Skills for All that I announced earlier in the year.

The Skills for Prosperity report has outlined the need for changes to the way the VET system is funded and accessed by students. The recommendations include:

- an entitlement system;

- greater competition within the sector between public and private providers;
- a focus on literacy and numeracy skills;
- full public subsidy for those lower-level qualifications;
- HECS-style loans for higher-level qualifications;
- funding attached to the student rather than to institutions; and
- a student and industry demand-driven system.

Those in the house who think this all sounds rather familiar would be absolutely right. This highly anticipated report from Skills Australia has made recommendations that mirror the reforms we are already undertaking and have already announced in South Australia.

As many of you would be aware, the recently announced Skills for All reforms outline the strategic direction for vocational education and training in South Australia. Skills for All aims to modernise and revitalise the VET system so it is more responsive to the needs of students and businesses, as well as being a better link to our schools and universities. Underpinning these reforms is the state government's pledge of $194 million in extra funding for training over six years to support the creation of an extra 100,000 training places. The reforms improve training accessibility and simplify the arrangements through which all South Australians can increase their skills and employment prospects. Training will be available to those without qualifications who are seeking new skills and job opportunities and for existing workers to increase their skill levels, work with new technologies and improve their productivity.

Like Skills for All, Skills Australia recognises the need for participation and productivity improvements and calls for a move towards a demand-led funding model with caps and incentives, regulatory arrangements to ensure quality, a focus on supporting disadvantaged learners, and a focus on strengthening the system with better information for individuals to make informed choices.

The state government endorses Skills Australia's call for closer connections and collaboration between employment services and VET providers. The relationship is one that South Australia is committed to improving. Notably, the federal government budget commitment includes $100 million to support new approaches to training, allowing skilled apprentices to gain their qualifications sooner. It was interesting to hear the member for Unley has difficulties with that.

It also includes an additional investment of $1.75 billion over five years from 2012-13 under a new national partnership with the states and territories. This funding is conditional on more ambitious reforms to make the VET system more transparent and more productive. South Australia welcomes this commitment from the commonwealth, which will result in an increase in funding and place us in a good position to achieve our objectives of modernising and revitalising the VET system, particularly when added to the growth investment of $194 million that has already been pledged by the state government.

Skills Australia proposes the redesign of existing commonwealth funding for training to include a national entitlement; increased scholarships for VET students on youth allowance, Austudy and Abstudy; and the redesign of financial incentives and services for employers, apprentices and trainees. These proposals are strongly supported by the South Australian government and once again may sound very familiar to the house. Skills Australia also calls for the introduction of public funding for skill sets within defined parameters in line with the measures being introduced by Skills for All. Skills Australia proposes an entitlement which provides the greatest level of public subsidy to lower-level qualifications, mirroring South Australia's model. It is built on the premise that as a student gains higher-level qualifications their income potential rises, and so it follows that their financial contribution to their study should increase.

The state government's Skills for All subsidy includes fully subsidised literacy and numeracy skills under our realigned adult community education network; a full subsidy for certificates I and II; on average a subsidy of 80 per cent for certificate III and 70 per cent for certificate IV and diploma level qualifications. A reform package also calls for income contingent loans, similar to HECS, for higher-level qualifications, placing high school diplomas and advanced diplomas within the financial grasp of many more South Australians.

As the house can see, not only is South Australia leading the country in vocational education and training reform but our major reform principles have been picked up under the Skills Australia model as the way forward for the entire country's VET system. Given the federal

government's additional $1.75 billion investment of conditional funding to make the VET system more transparent and productive, South Australia is positioned to do very well.

I look forward to further discussions with my interstate colleagues and the federal minister on how South Australia's experience and foresight can assist in the creation of a national entitlement for the benefit of the national economy.

POLICE MINISTER, ASSAULT

Mrs REDMOND (Heysen—Leader of the Opposition) (14:54): My question is to the Attorney-General. Is the Attorney-General concerned that the dropping of one of the assault cases involving the police minister will discourage future victims from pursuing justice because of the impression that an error in identification will be fatal to their case, even when the alleged assailant has self-identified by handing himself into police?

Members interjecting:

The SPEAKER: Order! That is an unusual question. Attorney-General.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (14:55): I am not sure it was a question so much as an opportunity to make a statement. As I understand it, the normal procedures were gone through and a result come to. That should not be a concern for other citizens, and I think that probably is as far as I can go in answering that question.

PRISON ACCOMMODATION

Mrs GERAGHTY (Torrens) (14:55): My question is to the Minister for Correctional Services. Can the minister outline tentative plans for new prison accommodation and the benefits of using modulars?

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (14:55): As a matter of fact, I can, and I thank the honourable member for her important question. On Friday 6 May the government announced that the Department for Correctional Services is trialling a prisoner accommodation initiative. The initiative is to house prisoners in purpose-built and designed shipping containers. It is logical, common sense and planning for the future. When this government—

Mr Pengilly interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: When this government cancelled the new prison project, it did so in order to maintain the state's AAA credit rating. This was, of course, achieved. During the last state election campaign, the opposition shadow spokesperson for corrections put out a policy statement saying that a future Liberal government would build a new prison. The then deputy leader came out and said—

Members interjecting:

The SPEAKER: Order!

Mr Pengilly interjecting:

The SPEAKER: Order, I warn the member for Finniss!

The Hon. A. KOUTSANTONIS: The then deputy leader came out and said, of course, that would not be happening and after the election the former shadow spokesperson was sacked on Facebook. But this government did not—

Mr Williams interjecting:

The SPEAKER: Order, I warn the member for MacKillop!

The Hon. A. KOUTSANTONIS: —stop considering alternative prison accommodation. In mid-2010 I travelled to New Zealand to inspect the use of modulars by the conservative

government of New Zealand. The accommodation was so impressive that I progressed a trial here in South Australia. We went to market and undertook a detailed research on secure, flexible, cost-effective temporary and long-term prisoner accommodation and, as a result, these modulars represent the best fit for corrections.

What we also discovered is that shipping containers are used in a whole range of accommodation around the globe. They are used as hotels for tourists, they are used to accommodate students in Canberra, and, of course, they are used to accommodate miners and our defence force personnel. I strongly believe that, if shipping containers are good enough for our miners and good enough for our soldiers and our students, they are good enough for our—

Mr PENGILLY: I have a point of order, Madam Speaker.

The SPEAKER: Order! There is a point of order. Member for Finniss.

Mr PENGILLY: Standing order 98, ma'am. The minister is clearly debating the issue and, at the end of the day, they have had them at the women's prison for a number of years. Who does he think—

The SPEAKER: Order! There is no point of order. The minister can answer the question any way he chooses. If you listen, you would find it quite relevant.

The Hon. A. KOUTSANTONIS: Madam Speaker, I believe, as I said earlier, that, if it is good enough for miners, it is good enough for prisoners. To put it in perspective, one prison cell in the new prisons project would have cost half a million dollars; under this example, compare it to $80,000 to $100,000 for one cell. Yes, I know it is controversial; and, yes, it is different, and I know there will be people who complain about it and I understand it is Spartan accommodation, but we make no apologies for that. The insulated, steel-lined containers featuring high security windows and doors are just like those used at Mobilong and Yatala.

Members interjecting:

The SPEAKER: Order, the member for Finniss!

The Hon. A. KOUTSANTONIS: Construction time is only a fraction of what it would be for a traditional build that can take over a year. Cell blocks can be connected to existing building structures if need be, and they can be transported to remote locations in quick time with minimal costs to optimise establishment time and costs. We can increase prison capacity very quickly, very cheaply and very safely. They are cheaper than a traditional build, but most—

Mr Marshall interjecting:

The SPEAKER: Order! Member for Norwood, you are warned.

The Hon. A. KOUTSANTONIS: These are cheaper than a traditional build, but most importantly they are highly secure, comfortable and humane, and there is no reason whatsoever why any government would not at the very least trial such an initiative—other than, of course, the Liberal opposition, who immediately, before they even saw the trial, opposed it; before they even saw the concept, before they even visited the construction, opposed immediately—

Members interjecting:

The SPEAKER: Order! Point of order.

Mr WILLIAMS: The minister is clearly debating.

The SPEAKER: No, I don't uphold that point of order because I am listening very carefully to what the minister says in view of the standing orders, and so far he has not strayed. He is answering it as he chooses. He is not debating. He is commenting on something that's happened.

The Hon. A. KOUTSANTONIS: It is in the Liberal Party's DNA to oppose everything. All they do is say no.

Members interjecting:

The SPEAKER: Order! One point of order at a time.

Mr WILLIAMS: That is clearly debate.

The SPEAKER: Order! Sit down. Minister, I think you need to get back to the point. That was very close then.

The Hon. A. KOUTSANTONIS: I apologise for being insensitive to who they are. I know people expect and deserve strong policy and I am proud to be part of a government that is prepared to do what it takes to make sure that South Australians are kept safe and are accommodated humanely and safely in our prison system.

Members interjecting:

The SPEAKER: Order! I don't know what it is about the Minister for Correctional Services that creates such activity on my left; you certainly get them on their toes, Minister for Correctional Services.

Members interjecting:

The SPEAKER: Order! There are about four people on warnings. Member for Finniss, you are on a warning. You will go out if you are not careful. Leader of the Opposition.

POLICE MINISTER, ASSAULT

Mrs REDMOND (Heysen—Leader of the Opposition) (15:01): My question is again to the Attorney-General. Was the Minister for Police correct to claim that a case is unlikely to be won because there are three defence witnesses against one prosecution witness? The police minister told radio on 13 May:

> The police made it very clear to me that given there were three individuals in the toilet, of which one assaulted me and the other two had to restrain the person involved, the likelihood of a prosecution was slim because it was three people's version of events against one.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (15:02): I think this is again a bit like the last question; it's a bit like how long is a piece of string? I think it is—

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: The honourable Leader of the Opposition is, when not here, a lawyer, and knows—

Members interjecting:

The Hon. J.R. RAU: Okay, she is always the Leader of the Opposition, but she also has a law degree—

Mrs Redmond: No.

The Hon. J.R. RAU: You don't even have a law degree?

Mrs Redmond: No.

The Hon. J.R. RAU: Never had a law degree?

Mrs Redmond: No.

Members interjecting:

The Hon. J.R. RAU: Okay, fair enough. Very technical; you see, she is a lawyer. A lawyer in name, if not in qualifications. I think I have answered the question.

Members interjecting:

The SPEAKER: Order!

MEDICAL DEVICES PARTNERING PROGRAM

The Hon. S.W. KEY (Ashford) (15:03): My question is directed to the Minister for Ageing. Can the Minister for Ageing advise the house—

Members interjecting:

The SPEAKER: Order!

The Hon. S.W. KEY: I am not sure if the Minister for Ageing can hear any of this, but it is directed to you, minister. Could you advise the house of developments in technology to assist older South Australians?

Members interjecting:

The SPEAKER: Order! Minister for Ageing.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (15:04): Thank you, Madam Speaker, and I thank the member for Ashford for her—

Members interjecting:

The SPEAKER: Order! Point of order.

Mrs REDMOND: The Minister for Police just alleged across the chamber to me that I am a fraud, and I resent it. I take exception to it and I ask him to withdraw and apologise.

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

The Hon. K.O. FOLEY: I tell you what, for a guy who is getting a whacking from the opposition today, I have to apologise to them! I humbly apologise if the leader is offended.

Members interjecting:

The SPEAKER: Thank you. That will do. Sit down. Minister for Ageing.

The Hon. J.M. RANKINE: I thank the member for Ashford for her question.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: The Medical Devices Partnering Program, a partnership with Flinders University which receives around $1 million in funding from the state government, designs and develops—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —new medical devices—

Mr Marshall interjecting:

The SPEAKER: Member for Norwood, you are shouting again. Can you please keep your voice down.

The Hon. J.M. RANKINE: The Medical Devices Partnering Program, which is a partnership with Flinders University and which receives around $1 million in funding from the state government, designs and develops new medical devices and assistive products. One recent innovation was the development of the MANA Calendar, a Memory, Appointment and Navigation Agent.

MANA is a computer-generated 'person' which talks to people with dementia or Alzheimer's to remind them of appointments, medication, visitors, eating meals or watching their favourite television shows. It can recognise movement in the room and understand vocal acknowledgements of its reminders. The MANA Calendar has also had input from Alzheimer's Australia and was the first application of the Flinders University's Thinking Head artificial intelligence research program.

Last week, I had the pleasure of attending the launch of another innovation developed through the program: a shopping simulator which tests cognitive brain function of stroke survivors or people suffering from a brain injury to ensure they receive the most appropriate treatment, giving them the best possible chance at recovery. Advances in virtual technology shown in the shopping simulator replicate a real-life situation, with real-life actions, making it easy to use. Feedback from the shopping simulator's first trial with patients at the Repatriation Hospital shows encouraging results. Patients are finding the assessment process less confronting and it alleviates the stress and anxiety involved in assessing people who have suffered strokes or brain injuries.

It goes without saying that nearly all of us want to be able to stay active and do things for ourselves for as long as we possibly can. The Rann government has demonstrated real commitment in helping people to achieve this.

Ms Chapman interjecting:

The Hon. J.M. RANKINE: The member for Bragg might think it is funny when people have strokes. She thinks it is funny when people have strokes, when families suffer trauma, when people have their abilities taken away from them, when their lives have changed—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: Do you think it's funny?

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. J.M. RANKINE: Do you think it's hugely funny?

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: Let me tell you, it's not funny.

Ms Chapman interjecting:

The SPEAKER: Order! The member for Bragg will be quiet.

Ms Chapman interjecting:

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

The Hon. K.O. FOLEY: Point of order, Madam Speaker. I think the member for Bragg made an incredibly insensitive remark; I ask her to withdraw. The remark was that the member should take her Alzheimer's pills.

Members interjecting:

The SPEAKER: Order! I don't think there's a point of order there. It's an offensive remark but I'm not sure what it is covered by. Minister, could you finish your answer, thank you.

The Hon. J.M. RANKINE: Yes, it is offensive, and it is offensive to all those people who are dealing with family members who have had strokes and who are struggling to recover—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: We are talking in this place about innovations developed by—

Members interjecting:

The SPEAKER: Order! The members on my left will be quiet.

The Hon. J.M. RANKINE: —experts at our university. You would think the member for Bragg would show just a little bit of sensitivity, but not likely.

The Hon. A. Koutsantonis: If we had said that you would be asking for our resignation! You're a disgrace!

The SPEAKER: Order, Minister for Correctional Services!

The Hon. J.M. RANKINE: Since coming to office, we have doubled funding to the disability sector, and, through our investment in initiatives such as the home visiting program and the personal alert system scheme for older South Australians, we are giving unprecedented support to seniors to stay as independent as possible, for as long as possible. We don't do this alone. When it comes to this sort of progress, the secret to South Australia's success lies in its strong partnerships and working together. It has been a pleasure to be a funding partner of the MDPP.

I would also like to acknowledge the Premier's Science and Research Fund, which has been a great supporter of this initiative. As a government we have worked hard to bring science to life and make it meaningful for all South Australians, and the shopping simulator is one of the best examples I have seen of how we are achieving this.

Members interjecting:

The SPEAKER: Order!

DESALINATION PLANT

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:10): My question is to the Minister for Water.

An honourable member interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Does the minister agree with the Productivity Commission's water expert, Wendy Craik, that the cost and the size of the South Australian desalination plant are excessive?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:10): I thank the deputy leader for his question. I guess I would answer in this way. Firstly, I make no comments or assertions, as you did, that the chair of the Productivity Commission is an expert. You know as well as I do that the Productivity Commission report is a draft report. We will be responding to that draft report formally because it is our view that some of the assumptions were, at the very least, naive if not somewhat flawed, and we will be taking that up in our response to the Productivity Commission. In regards to the question about whether or not we got value for money—I think that was the thrust of the question—

Mr Williams interjecting:

The Hon. P. CAICA: No, it wasn't? I always try to deconstruct—

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! You have asked your question.

The Hon. P. CAICA: Quite simply, Madam Speaker, it is a bit difficult for the opposition to have it both ways. Depending on the day, they will take credit for the fact that they have proposed to construct a desal plant. I guess the difference between—

Mr Williams interjecting:

The SPEAKER: Order, member for MacKillop!

The Hon. P. CAICA: —us and them is and, again, next time they will decry the fact that we are building a desal plant, so you can't have it both ways, but the decision to build a desal plant was sound. The only difference between us and them is a bit similar, using this analogy, that they would have only got the job half done, just as they did with the freeway down south; they would have it going one way. We believe, and it will be confirmed in the future because what we saw during the drought was a glimpse of what the future is going to be like, based on what the scientists are saying.

Mr Williams: Have you got a crystal ball?

The Hon. P. CAICA: No, I haven't. I am basing it on what the scientists say: greater frequency of droughts with greater intensity. The decision to build a desal plant, to increase its capacity, was a decision based on the fact that we would have available to us a climatically independent source of water that would secure our water supplies for this generation and future generations, and that was a sound decision to make.

SA WATER

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:13): My question is again to the Minister for Water.

An honourable member interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Does the minister think it's fair that low water using pensioners, even after receiving the government's latest concessions, will see their water bills increase by 74 per cent?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:13): The decision that was announced last week to

increase the prices was in line with the transparency that we had stated previously about there being significant increases. It is interesting that they talk about trying to hide it. It certainly wasn't hidden, so, if that was the strategy, it didn't work.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: If we'd done it the day before, you would say that we were trying to hide it in the budget. If we do it the day after, you say we are trying to hide it in the budget. You make an announcement about something else, and you're trying to hide it—with outrageous comments—earthquakes in New Zealand or Japan or bin Laden. What we are about is making sure that there is a high level of transparency with respect to the decisions that this government makes, and as soon as we can possibly put that information out there, we will do that, and that is evidenced by the fact that we have done that.

The question was, of course, about whether or not there is a level of fairness with respect to the increase in prices, and we know that all South Australians will have increased prices with respect to water users. My understanding is that—and I will stand corrected here, because I am sure that someone will correct me if I am wrong—during the time of the Liberal government, there was only one increase in concessions during that whole period of time.

The Hon. J.M. Rankine interjecting:

The Hon. P. CAICA: No increases whatsoever in any forms of concession during your tenure, save and except the emergency services levy. The reason there was a concession provided for the emergency services levy was that they were pressured into it because of the—

The Hon. I.F. Evans interjecting:

The Hon. P. CAICA: I said that I stand to be corrected. That's my understanding of it.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: And if I am wrong—but on my understanding, no concessions.

An honourable member interjecting:

The Hon. P. CAICA: Well, if I'm wrong, I will come in and correct the record, but that is what I am advised. One of the issues that has been raised here is about the impact on concession holders—those concession holders being pensioners, those with Gold Cards, those with commonwealth health cards—and the concessions they get. It is true that, in percentage terms, if you are earning less and there is an increase, it will look and be a larger percentage increase. But what we have also done is increase the level of concession that is available to the extent that, if we look at the figures that currently exist, we are going to have a 5 per cent increase—up to 25 per cent will be available for concession holders across their entire bill. So, that takes the minimum concession available for an owner occupier up from $100 to $125. Of course, they will be increasing again next year as well, taking it up to $155, and the same applies.

We acknowledge that the increases in prices are going to have an impact on South Australians and, quite frankly, what is fair is that we have significantly increased the level of concession available to those people who have the least capacity to be able to pay, and that is what is fair.

Members interjecting:

The SPEAKER: Order!

DESALINATION PLANT

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:17): My question is again to the Minister for Water. Will the minister confirm that households will pay at least $100 per year extra in their water bill simply to pay the $500 million profit to the builder of the desalination plant?

An honourable member interjecting:

The SPEAKER: Order! Minister for Water.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:17): I love the way the opposition does its research. What it does, of course, is wake up in the morning and either read Adelaidenow or *The Advertiser* or sometimes the broadsheet, but that is a little more difficult for them to flip the pages. Basically, it is generally *The Advertiser.*

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: You know what I found interesting about this morning's article in *The Advertiser*? On 12 February this year—I think it was on the front page, and I stand to be corrected if I am wrong, but on some pages within *The Advertiser*—there was an article—

Members interjecting:

The Hon. P. CAICA: —I do—an article that talked about:

Adelaide's $1.8 billion desalination plant is in jeopardy amid a major dispute between SA Water and the builder. An SA Water report seen by *The Advertiser* states construction group—

Blah, blah, blah—will lose its profit. It is now, in fact, threatening the whole project. That was on 12 February. This morning, we woke up to an article that talks about another report that has been viewed by *The Advertiser* that says—

The Hon. A. Koutsantonis: Cited.

The Hon. P. CAICA: Cited by *The Advertiser*—that says anything between $500 million plus in profit. One thing is for certain: they cannot both be right, but I will tell you what, they can both be wrong. I think that is the case.

The Hon. I.F. Evans: They can both be right.

The Hon. P. CAICA: No, they can't both be right. What I found a bit confusing with the article this morning was that it was based on some facts and figures that quite simply were not, as I said, as correct as they might be. Now, I can go through, but I will just answer the question: no, Mitch, if you are still interested. He's not interested, Madam Speaker.

Members interjecting:

The Hon. P. CAICA: No, you weren't listening.

EASLING, MR T.

The Hon. I.F. EVANS (Davenport) (15:19): My question is to the Minister for Families and Communities. Following the minister's ministerial statement today that she intends to provide all relevant documents to the court in her defence of the Easling defamation, are these different documents from those already disclosed to Mr Easling as part of his criminal court case or those provided in response to the opposition's freedom of information requests? If so, why weren't these documents released on any of the following occasions: during Mr Easling's court case proceedings, as required under subpoena; when Mr Easling's lawyers twice wrote to the minister requesting the documents in November 2008; when I as Mr Easling's representative asked for the documents in the parliament in November 2008; when I put in a freedom of information application seeking those documents regarding the minister's—

The SPEAKER: Order! This is becoming a statement.

The Hon. I.F. EVANS: Madam Speaker, I am simply outlining the occasions on which I have asked for the documents the minister says she is going to release.

The SPEAKER: Alright, continue, but finish as soon as you can.

The Hon. I.F. EVANS: When I put in an FOI application seeking the documents regarding the minister's statements; when I sought a review of the freedom of information applications by the department seeking the documents; and when I sought a review of the FOI application by the ombudsman seeking those documents.

Mr Pederick: Good question.

The SPEAKER: Order!

The Hon. I.F. EVANS: Don't tell me you forgot to file a defence.

Members interjecting:

The SPEAKER: Order! Any minister can answer a question.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order, the member for Davenport! This is a serious issue.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (15:21): It has already been made clear to the parliament by the minister that there are legal processes in train now relating to this matter and it is not appropriate—

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: It is inappropriate in those circumstances to be examining this matter at this time, and—

The Hon. I.F. Evans: She made a ministerial statement; she can answer the questions.

The SPEAKER: Order, the member for Davenport!

Members interjecting:

The SPEAKER: Order, the member for Davenport and the member for MacKillop! Attorney, have you finished answering the question?

The Hon. J.R. RAU: Yes, they didn't like the sound of it so I will stop.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. Atkinson: What is your stake in all this?

The SPEAKER: Order, member for Croydon!

Members interjecting:

The SPEAKER: Order! We have six minutes left of question time; keep some order, please.

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop! You are warned again.

SOUTH EASTERN FREEWAY

Ms FOX (Bright) (15:23): My question is to the Minister for Road Safety. Can the minister advise the house of any recent road safety initiatives for the South Eastern Freeway?

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) (15:23): Each day approximately 43,000 vehicles, including 3,500 heavy vehicles, use the South Eastern Freeway. Approximately 900 of these heavy vehicles travel with five axles or more. Over the last 10 years, there have been 135 crashes involving heavy vehicles between the Crafers interchange and Glen Osmond Road at the intersection of Conyngham Street, Glenunga. Nine of these crashes have been attributed to brake failure or vehicle fault.

To provide improved road safety for all road users, a 60 km/h limit has been established for trucks with five axles or more for the full length of the descent into Adelaide. The new speed limit starts near the summit at Crafers, where trucks are also required to use the left lane exclusively. New road signs to alert truck drivers of their responsibilities were unveiled earlier this month. Signage has also been upgraded to better highlight distances to available arrester beds.

Just last week, I rang the young driver of a heavy vehicle who had pulled into one of the arrester beds to avoid a potential accident. She was having some difficulty maintaining the new 60 km/h heavy vehicle speed limit coming down the freeway so she chose to use an arrester bed to avoid a potentially dangerous situation. Her swift action shows that arrester beds on the descent have an important role to play on the South Eastern Freeway as part of our road safety strategy.

She did exactly the right thing by using the arrester bed to avoid the possibility of a serious accident. It is somewhat surprising to me that it has taken a young driver, a young woman in fact, in the first years of her driver's licence for heavy vehicles to show the men how to drive down the freeway when things go wrong. That is why the beds are in place on the descent. They are there to prevent serious accidents and to save lives. I have heard it suggested that some people have been reluctant to use the arrester beds because this may make others think they are not good drivers. This is complete nonsense. The arrester beds are there; they should be used.

I am pleased to be able to tell the house that these safety improvements have been met with the support of the South Australian Road Transport Association, who are supportive of the common-sense approach which recognises the needs of the heavy vehicle industry without unnecessarily complicating the conditions on the freeway. These measures also have the support of the South Australian police, who will now work with the Department for Transport, Energy and Infrastructure on effective enforcement strategies and also with the South Australian Road Transport Authority on the implementation of these measures.

The overall number of serious crashes in South Australia involving heavy vehicles has decreased from 95 to 76 in the last five years. I believe that these initiatives on the South Eastern Freeway will contribute to reducing the incidence of accidents in South Australia even further.

ADELAIDE OVAL

Mr GRIFFITHS (Goyder) (15:26): My question is for the Minister for Infrastructure. Will the minister confirm that he has already done a deal with the South Australian National Football League, the South Australian Cricket Association and the Stadium Management Authority over the 80-year lease, control of the Adelaide Oval Parklands precinct and car parking?

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Industrial Relations, Minister for State/Local Government Relations) (15:27): I am more than happy to answer the question. The truth is that I have made no secret of the fact that we are seeking to have football move to Adelaide Oval and play their season there with cricket.

An honourable member interjecting:

The Hon. P.F. CONLON: I actually heard the question. I know you are a lawyer but I now understand your legal qualification—a lawyer without the intellectual content. We all now know what you are, which does explain a great deal. I understood the question. I am going to answer it.

Members interjecting:

The Hon. P.F. CONLON: The member for Norwood always arcs up, doesn't he? Can I explain to you why you are sitting there? There is no seat further back.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I would love to answer your questions when your friends all stop yelling. I have made no secret of the fact that we want football to be played at Adelaide Oval. I have made no secret of what we want. I have told the council; I have told the public.

What we want to do is give a lease of 80 years to the Stadium Management Authority—correct. We want to give licences to football and cricket to play there—correct. We want to make sure that the events will have sufficient car parking guaranteed to them—correct. I have made no secret of that at any point.

I gave notice that I will introduce a bill tomorrow and I will seek to do all of those things. You may seek to frustrate it; that is the nature of this place, but I have told those people I am going to seek to do it. Have I done a deal with them? I have given my undertaking that I will attempt to achieve that. Yes, and that is what I will do because I always keep my word.

Yes, that is what I will do, but it is up to you to frustrate it. So, I ask you: will you support football being played at Adelaide Oval? Will you do it? Because my position is clear. The one thing we don't know is what your position is. What we do know is, a little while ago, football had to have a stadium; that is what we do know. What we do know is, a couple of years ago, you thought playing—

Members interjecting:

The Hon. P.F. CONLON: Oh, stop it, we are fed up with you. We should—

Members interjecting:

The Hon. P.F. CONLON: When you are done. When the member for Davenport is done. He has got a bit annoyed today. He has a bit of personal feeling in some of these things, doesn't he? We do know that a couple of years ago, under the far more capable stewardship of the former leader of the opposition, who was, I understand it, a colonel with full qualifications—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Point of order, member for Stuart.

Mr VAN HOLST PELLEKAAN: Point of order 138: irrelevance—completely irrelevant to the question.

The SPEAKER: Sit down! I am not going to uphold the point of order because I can't hear a word of what is going on. Question time is finished. Have you finished your answer, minister?

The Hon. P.F. CONLON: I will just point out that what I was seeking to do—

Mr Marshall interjecting:

The Hon. P.F. CONLON: Sorry, what's the matter now? Oh, I wish we could get you a seat further back, but you'd be in the hallway. You really are not a very pleasant addition to this chamber. What I have said is, yes, those are the things that I have said to the codes that I will—I have never made a secret of that—seek to do.

They are the sort of things that you would be doing had you stuck with the commitment that you gave to get sport into the city. This is the big difference: I will stick with the undertakings I have given; I will seek to deliver them. I will not turn on them every time you change your leader. I just quote what you said in your document, Leader of the Opposition, 'Why can't we have a world class stadium into the city at Adelaide Oval?' Why can't we?

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Point of order. The minister is misquoting me. I never said any such thing in my document.

The SPEAKER: Is that a personal explanation you are seeking?

Mrs REDMOND: The personal explanations I would have to give after the diatribe from those two ministers this afternoon is too lengthy, Madam Speaker.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order, members will leave the chamber or sit down! No more interjections across the chamber.

GRIEVANCE DEBATE

WATER PRICING

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:45): Today I take the opportunity to talk about water pricing in South Australia. We have seen an outrageous level of water price increases under the Rann Labor government going back to when it first came into government. The price for the lowest users of water, those who use less than 120 kilolitres of water per year, has risen from a mere 38¢ per kilolitre to, today, $1.93 per kilolitre. That is a 408 per cent increase.

It is interesting that those who use the least water face the highest increases under this government, when this government keeps pleading that it is trying to encourage people to be

waterwise and use less water. But the reality is the more water you use in this state, the cheaper it gets. Those who use water at the rate of between 120 kilolitres per year and 520 kilolitres per year have seen a 193 per cent increase in the price of their water, from 94¢ per kilolitre to $2.75; and those who use over 520 kilolitres have seen the price go from 94¢ to $2.98, a 217 per cent increase. The average household water bill in South Australia has gone, under this government, from $237 a year to $661 a year, a 179 per cent increase. Inflation during that same period would be of the order of 60 to 70 per cent. So this is at least double, if not 2½ to three times the rate of inflation increase during the same period.

During the same period, the business that collects this money on behalf of South Australians, SA Water, has also contributed billions of dollars to the state's Treasury—almost $3 billion in that time—all of which has been wasted by this government, very little of which has been turned back into infrastructure to support the business.

We saw the government back in 2008 make an amazing decision to double the size of the desalination plant built in Adelaide from 50 gigalitres capacity per year to 100 gigalitres on the back of a promise of $228 million from the federal government. It was only some months later that the opposition exposed the fact that that $228 million saw an offset in the state's GST payments of $212 million. So we decided to spend another billion dollars doubling the size of the desalination plant and we got a net benefit from the federal government of a mere $16 million.

I pointed out to the house via a question on 13 November 2008 that international infrastructure analyst Global Water Intelligence had published on 10 October 2008 information that showed that desalination plants in Australia were costing more than double what they were costing elsewhere in the world. That has been exposed yet again in *The Advertiser* this morning. It said that the people building the desalination plant in Adelaide will be making almost $500 million profit.

I asked the then treasurer this question way back in 2008 and he dismissed it. The reality is that building desalination plants in Australia is costing more than double what it costs to build a desalination plant anywhere else in the world. I pointed out that a desalination plant which had been completed only a few years previously and which I had visited in Singapore was built at a fraction of the cost of the one we are building in South Australia. It is no wonder that old age pensioners who are waterwise and using up to 120 kilolitres of water per year in Adelaide will be paying 74 per cent more in the next year for their water than what they have paid this year.

This is because we have an incompetent government that cannot manage major projects and will continue to make the same mistakes as it moves forward with the next projects on the drawing board, the Adelaide Oval redevelopment and the Royal Adelaide Hospital. This state is being driven broke by an incompetent government, by the same people who were sitting in this house last time this state was driven broke, and we see them again. They were incompetent in the 1980s and they are still incompetent. They should be walking out of this place with their heads hanging and walking across the road and asking the Governor to call another election so that the people of South Australia can get what they deserve, and that is a decent government.

The SPEAKER: Order! The member's time has expired. The Leader of the Opposition.

LEADER OF THE OPPOSITION, QUALIFICATIONS

Mrs REDMOND (Heysen—Leader of the Opposition) (15:39): I seek leave to make a personal explanation.

Leave granted.

Mrs REDMOND: I just want to put quickly on the record a response to some matters that were raised by the government this afternoon in relation to my qualification as a lawyer. A number of disparaging remarks were made across the chamber about whether or not I am legitimately practising as a lawyer. I do not practise and have not held a practising certificate since 2002 when I came into this place, and that is a deliberate choice on my part, but in terms of my qualifications, I want to put on the record that, when I graduated from high school, my family was not rich enough for me to go to university—and it was before Gough Whitlam abolished university fees.

The alternative route for me to become a lawyer was to study with a group called the Barristers Admissions Board in Sydney, a course taken by many eminent lawyers—

The Hon. M.J. Atkinson: Attorney-General Rowe in the Playford government—

The SPEAKER: The member for Croydon!

Mrs REDMOND: —such as McHugh, who was on the High Court. I qualified under that path, being admitted to practise in 1977 in New South Wales and then subsequently in about 1984 in this state. I just want to make it clear on the record that there can be no suggestion that I do not hold a valid qualification, that I practised in this state and other places as a properly qualified and admitted lawyer, and that it is improper for the government and ministers thereof to accuse me in any way of not being qualified to practise the law should I choose to do so.

Members interjecting:

The SPEAKER: Order! The member for Croydon.

GRIEVANCE DEBATE

EASLING, MR T.

The Hon. M.J. ATKINSON (Croydon) (15:41): My interjections, which were being shouted down by the opposition, were in fact supporting the Leader of the Opposition because—

An honourable member: What's the point of order?

The SPEAKER: There is no point of order. He is doing his grievance.

The Hon. M.J. ATKINSON: —Attorney-General Rowe, in the Playford government, attained his legal qualification in the same way as the Leader of the Opposition. The member for Davenport called for an inquiry into the prosecution of Thomas Easling. He received one. It was a report running to 117 pages by the Crown Solicitor, Simon Stretton, entitled 'Review of the Easling Trial'. It seems to be the report that *Today Tonight* will not report and that *The Independent Weekly* and its successor will not report and that the member for Davenport never refers to. Here are its conclusions:

Neither the trial evidence nor the submissions from Mr Easling's lawyers disclose any evidence that the investigation of the allegations against Mr Easling was conducted with bias or impropriety.

Neither the trial evidence nor the submissions from Mr Easling's lawyers disclose any evidence that the evidence of any complainant was tainted by contamination or collusion. The trial judge also closely considered this issue and rejected it, describing it as 'merely conjecture'.

There was a legitimate case to answer against Mr Easling, comprising eight independent complainants out of a total of 60 spoken to who were placed with Mr Easling, each independently alleging that they were abused. Also, both the committing magistrate and the trial judge independently found a case to answer.

These complainants, being placements, were primarily street kids, some who had been in trouble, some who had had problems, some who had had contact with drugs. They alleged abuse at the hands of Mr Easling occurring some years prior to the trial in circumstances where most said that they had been trying to forget the abuse. As such, there were some inconsistencies in some of their evidence as to some matters. These were legitimate issues as to the credibility of witnesses of this type. They were for the jury to consider, but none were such as to indicate that the complainants were necessarily untruthful in relation to the charged events or that they should not have formed the basis of a legitimate prosecution.

It was appropriate to prosecute Mr Easling.

The prosecution was conducted ethically, properly and appropriately.

The acquittal of Mr Easling means that the jury had a reasonable doubt as to his guilt. It does not necessarily connote any adverse conclusions as to the conduct of the investigation or the conduct of the prosecution.

The acquittal of Mr Easling means that he remains fully entitled to the presumption of innocence—

and I certainly endorse that conclusion also. The report continues:

Neither the trial evidence or the submissions of Mr Easling's lawyers provide any basis for any further inquiry into the objectivity or propriety of the investigation, the decision to prosecute or the conduct of the prosecution.

I turn to page 108 of the report, which reads:

On close analysis none of these complainants had an established motive to lie against Mr Easling, in fact some said that apart from the inappropriate sexual activity they quite liked him and would prefer not to have had to have had to give evidence against him.

One complainant's evidence was specifically corroborated by his social worker who, on arriving at Mr Easling's house, unexpectedly early, found the complainant in Mr Easling's bed.[625]

Footnote [625]: Investigator Boydon's evidence.

This contradicted Mr Easling's evidence as to the events of the morning.

It is interesting that the member for Davenport says there is no document that sustains this allegation. Indeed, there is a richness of documents, and I refer to the Crown Solicitor's report at pages 27, 40 and 47:

> Each of the complainants was a child in need of foster care and as such many were street kids, some runaways, some with a range of problems such as alcohol and drugs and some who had been in contact with the law.

STUART ELECTORATE

Mr VAN HOLST PELLEKAAN (Stuart) (15:46): I would like to take this opportunity to highlight the importance of art throughout the country and outback areas, particularly the electorate of Stuart—the importance of art to the people who live there and the importance of the people who actively participate, in many ways, in art more broadly across the state.

It is worth saying that I have next to no artistic talent whatsoever. My mother was a fairly successful textile artist, but unfortunately I did not inherit any of her skills. However, that did allow me to grow up with a great appreciation for art and the hard work that goes into it.

In the electorate of Stuart there are regular exhibitions all over the countryside, at places like Blinman, where I was fortunate enough to be asked to open one of the exhibitions; Burra and Kapunda—there are, in fact, about six active galleries in Kapunda—Peterborough, where I was honoured, recently, to be asked to open one of their exhibitions; Port Augusta which, I think three years ago, was the regional centre for art for our state; Port Germein, Wilpena Pound and the Flinders Ranges, just to name a few. All those places, and others, have very regular art exhibitions and support art in general. There are a couple of very little-known but quite important places which I would like to mention in Stuart as well. At Albury Creek, right on the boundary of our electorates, Madam Speaker, there are some quite extraordinary sculptures made out of aeroplanes and car bodies—very large steelworks. Also, at the choke to the Cullyamurra Waterhole, just north of Innamincka, there are some absolutely fascinating Aboriginal rock carvings.

Another interesting feature of art in the electorate of Stuart is some quite remarkable town halls. I highlight the Peterborough Town Hall and the Burra Town Hall. For people who have not been there, they are worth the trip next time you are travelling through the district; just stop in—they are absolutely remarkable.

Art is quite extraordinary in that men, women, old people, young people, middle-aged, healthy, less healthy, Aboriginal and non-Aboriginal people get to participate; and you get to participate in many ways, not just as an artist. We have volunteers throughout country and outback South Australia who contribute to the arts purely by helping to set up exhibitions; purely by helping to organise ticket sales—to do all sorts of things—hang pictures and support art in many different ways. Without their volunteer contribution, the exhibitions and the galleries would not be successful.

This art, of course, takes many forms. In my electorate it is mainly paintings, drawings and visual art; but, of course, we have a lot of performance art. We have plays, we have comedy, we have music, we have sculpture, jewellery and photography. There are many, many forms in which art displays itself very successfully in the electorate of Stuart. The benefits of art—and it is really worth highlighting—are the obvious creativity and participation that people get, whether a person is a fully professional artist or whether a rank amateur doing it as a pastime for their own enjoyment or anywhere in between, the benefits are fantastic.

There are health benefits, creativity benefits, individual and regional pride—something that is quite often overlooked. When you have an enormous body of landscape art, particularly, as comes out of the electorate of Stuart, that self-image and that pride in your area, and the fact that people from all over the district, the state, the nation, and often internationally get to see that work and get to see vivid images of where you live, your home area and the area that you are very proud of, that is a great opportunity as well. Cultural development—I am sure we are all aware of the importance of Aboriginal art not only to Aboriginal people but also to the non-Aboriginal people in our country. The opportunity for training and learning, self-discipline and self-therapy is very important and, of course, there are very important commercial benefits. Art throughout the electorate of Stuart supports tourism. It supports many businesses throughout the electorate, as well as purely the art sales, which are, of course, very important.

I am very proud to have a painting that I bought at Wilpena Pound last year hanging in my office in Parliament House, and I certainly encourage people from all parties, regardless of who they represent in this parliament, to support art throughout South Australia to the very best of their

ability. I was recently fortunate to have a discussion with Stephen Saffell and Lew Owens from Country Arts SA and I encouraged them to support art throughout country and outback South Australia to the best of their ability, too.

The SPEAKER: Yes, member for Stuart, I endorse your remarks completely.

SCHOOL PRIDE ASSET PROGRAM

Mr ODENWALDER (Little Para) (15:52): Yesterday I had the great pleasure of embarking on something of a lightning tour of the primary and high schools in my electorate, delivering letters from the Minister for Education detailing funding available under the latest round of the government's School Pride Asset Program.

It was a great opportunity to not only let them know about this funding but to also touch base again with the school leaders which, like most of us, I try to do as often as I possibly can. Funding for these schools ranged from some simple compliance issues around warm water provision (which the member for Light and I were just discussing) to significant upgrades in things like air conditioning and flooring. I was particularly pleased that Fremont high school—my old school, though it has since been moved to a different site and razed to the ground—received enough funding to significantly improve the air conditioning in some of their learning areas. This is long overdue and I am really pleased that it has happened.

I was also really pleased that a significant amount was set aside to replace ageing flooring in the Surrey Downs Community Children's Centre and, as an aside, I want to commend the director of that centre, Ann Morrison, on her good work with local kids and her commitment to the continued improvement of that centre. I was most pleased, however, with the funding made available to Salisbury Park primary for a security fence around the school learning areas. I raised the issue of these security fences in my maiden speech in this place because I think they are important.

It became clear to me as I moved around the electorate and I visited local schools, including the one attended by my son, who, fortuitously and unexpectedly is in the chamber today, that these fences actually work. They do not make the schools look like prisons as some people feared. In fact, they are more aesthetically pleasing than the old waist-high fences that most of us are familiar with. They reduce graffiti and vandalism because we know that these are opportunistic offences committed largely by people passing through a school property. So, I was particularly happy that Salisbury Park primary is getting one of these fences.

Graffiti has been an issue in this specific area for a long time. In fact, when I go from place to place holding street corner meetings as most of us do, it is always in Salisbury Park that I get the largest and most vocal turn out. What they overwhelmingly tell me is that they are concerned with what we might call petty crime. Such was the message I was getting that I chose Salisbury Park Primary School to host the first of, what I hope will be, many community safety forums in my electorate. At this forum I was lucky to be joined by the Attorney-General and the meeting was well attended by local residents and parents, including members of neighbourhood watch groups from outside the area.

While the Attorney was happy to talk about larger issues—bikies and the public integrity commission—it quickly became clear that local issues like graffiti, hoon driving and particularly monkey bikes were what concerned people most.

The meeting has instigated an ongoing conversation with local police and the Salisbury council around Salisbury Park in particular. I do not believe that crime rates are any higher in Salisbury Park than in any of its neighbouring suburbs—and my belief is borne out by discussions I have had with police since then—but the perception is certainly there. It has to be said that graffiti and antisocial riding of monkey bikes in particular are a problem that all of us out there need to address. When I say 'out there', I mean in Salisbury Park in particular. So, we are talking to police and we are talking to council, and now this security fence will be an enormous boost to our efforts in Salisbury Park.

Fortuitously, this morning Nick Champion, the federal member for Wakefield, officially opened the new school library at Salisbury Park Primary School. The school community is delighted with this $2 million dollar investment. As I go around to the schools in my electorate, despite scaremongering in some quarters, every school leader and every school community that I speak to are delighted with the Building the Education Revolution investments in their schools.

Mr Piccolo interjecting:

Mr ODENWALDER: That is right, and I have had discussions again with the member for Light about this very thing. They are overwhelmingly delighted with these investments. I hope that the new fence at Salisbury Park Primary School—as minor as it may sound to others—will keep this valuable investment safe from vandals so that it can be an asset to my community for many years to come.

GORGE ROAD

Mr GARDNER (Morialta) (15:56): Prior to question time I was pleased to lodge a petition signed by over 1,000 of my constituents drawing the house's attention to:

> ...the poor condition of Gorge Road. The road is undulating, potholed and extremely unpleasant to drive on. The road is used by many commuters and carries a significant amount of traffic. Specific attention is sought for the proposed introduction of traffic lights at the intersection of Gorge Road and Silkes Road.
>
> Your petitioners therefore request that the house urge the government to undertake significant improvements to Gorge Road.

This is one of the worst sections of road in metropolitan Adelaide and needs urgent government intervention to be improved for driver safety.

At the 2010 election, the Leader of the Opposition committed the Liberal Party to a $7.5 million upgrade of Gorge Road, from Lower North East Road to Russell Road, including major resurfacing work. Unfortunately for the residents of Morialta, the Rann government did not match this commitment, although the previous Labor member was quoted by the *East Torrens Messenger* during the 2010 election campaign saying that Gorge Road 'needs to be resurfaced'.

Extensive urban infill and new development has led to significantly higher levels of residential traffic along the road, in addition to the heavy transport accessing both the quarry and industrial areas within Newton. Many of my constituents consider Gorge Road to be unsafe and prefer to take alternate routes. Consequently, roads such as Lower Athelstone Road and George Street in Paradise are taking high levels of commuter traffic which they were never designed for.

There is one particularly dangerous intersection that has seen increased levels of driver frustration over the past few years, and that is at the T-junction where Silkes Road hits Gorge Road. As well as seeking attention for Gorge Road generally, I have particularly approached the Minister for Transport about the difficulties that many residents are having with this high-volume intersection. The minister cited a number of reviews that his department has apparently conducted on the intersection in his refusals. I regret that my requests for copies of information from these reviews were refused by the minister. Instead, he informed me that over the period from 2005-10 there had been an insufficient number of 'casualty crashes' to warrant attention.

I note that a large number of accidents that have not involved a casualty have been excluded from the minister's summary. While the minister relies on selected data in statistical summaries from his department that he is unwilling to release, I speak as someone who uses the road almost every day and who is regularly in contact with many members of the community who also see the problems every day.

I commend the Leader of the Opposition for coming out in the last couple of weeks to see the problems for herself. When we are considering public safety, we should not just rely on statistical data relating to past activity, we must also be awake to new circumstances and we should act to prevent tragedies before they occur.

The fact that a children's play cafe has now been established adjacent to this T-junction at Silkes Road creates new challenges. One of the two most troubling intersections in the area now has the added complication of hundreds of tiny feet entering and exiting every day, doing battle with the madness of Gorge Road without a pedestrian crossing in sight.

In an effort to ascertain the precise basis upon which the department has advised the minister not to proceed with improvements to this corner, I have recently lodged a freedom of information request with DTEI. I eagerly await the response from the department to the request for information that the minister denied. At a public forum arranged at fairly brief notice in April, attended by the Leader of the Opposition, about 150 residents were outspoken in their condemnation of the state of Gorge Road and voted unanimously to support the request in this petition. A straw poll on the issue of the Silkes Road intersection led to a unanimous call for lights.

There is a real human face to this problem, too. Oliver Mills, who suffers from cerebral palsy, and his mother and carer Kerri were quoted in Brittany Dupree's article on the front page of

last week's *East Torrens Messenger* complaining that the road is so 'bumpy, rough and jolted' that it freezes Mr Mills' computerised communication device. Mrs Mills has to especially ensure her son's head is supported while travelling on Gorge Road every day.

Another constituent who has provided a copy of his correspondence to the minister and myself on this issue states that throughout the day he is subject to the most deafening noise of trucks and trailers as they literally bounce up the road with their loads being tossed to and fro. Other residents complain that they are required to slow down on the road so that they do not aggravate back pain, or are woken by trucks and trailers whose loads are being thrown about due to the road's surface.

Since my election to this place and in my doorknocking prior to the election, no issue has created more concern in terms of the number of people who have approached me about an issue. It is common sense to make safety for motorists and pedestrians a priority for funding in the upcoming state budget, and I call upon the Treasurer to consider seriously funding the upgrade of Gorge Road, a decision I can assure the Treasurer would have immense support from local residents, industry, motorists, cyclists and pedestrians alike.

NATIONAL VOLUNTEER WEEK

Mr PICCOLO (Light) (16:01): As members of the house would be aware, last week was National Volunteer Week. National Volunteer Week is a week of activities and events that recognises the significant contribution that volunteers make to the community. Volunteering is very important for our community, and I have been able to further appreciate the valuable work of volunteers as chair of the Volunteer Ministerial Advisory Group (VMAG).

In South Australia we can be proud that around 70 per cent of our population volunteers in varying capacities. That is more than 830,000 people who are dedicated to making a difference to the lives of their fellow South Australians. It is not easy to fit volunteering into one's busy life schedule. Work and family commitments mean there is little time to spare. However, increasing demand for all kinds of services in the community means that volunteers are needed more than ever. Helping people, learning new skills and tackling new challenges through volunteering can be rewarding. Volunteers do not just give their time, they also offer their energy, skills, knowledge and, importantly, their passion. The state government is committed to supporting volunteers through a range of programs, including the provision of grants to establish community-council based volunteer resource centres.

The theme for National Volunteer Week 2011 was 'Inspiring the volunteer in you'. I was inspired by many volunteers that I was able to meet at various events to recognise their work which I attended during the week. On Monday morning I had the pleasure to officially launch National Volunteer Week for 2011 on behalf of the Minister for Volunteers, the Hon. Grace Portolesi. At the official launch were representatives from Volunteering SA, the Office for Volunteers and VMAG, all who work very hard to support volunteers and the volunteering effort in our community. Also present were representatives from a number of volunteering organisations who make a huge contribution to the wellbeing of our community.

Later that morning I had an opportunity to acknowledge the volunteers in my own electorate. I was able to pay tribute to the volunteers at a community event held in my electorate in Gawler in recognition of their service to local people. A film event organised by the District Council of Mallala, Town of Gawler, the Barossa Council and Light Regional Council was held in the Gawler cinema as a gesture of thanks to local volunteers.

On Tuesday afternoon, as an Italo-Australian parliamentarian, I was proud to attend the CO.AS.IT Volunteer Awards presentation, representing both the Premier, the Minister for Volunteers and the Minister for Multicultural Affairs. This group is an Italian Assistance Association that promotes a collaborative approach to service providers providing quality, culturally and linguistically inclusive services that enable older Italian people to continue living as valued members of the community and to enhance their quality of life. Much of their work relies on volunteers.

Antonietta Perotta was recognised as volunteer of the year. She is one of the founders of the Unley Mensa and has volunteered since its inception 23 years ago. She is also involved with the church, home visiting and assists other older Italians to link into community services. The young volunteer award winner was Lara Di Fabio. Her contribution to the community is outstanding for someone of only 19 years of age. With not only a part-time job and full-time study commitments, she continues to volunteer for the community. Lara has volunteered with Italian radio as a

presenter of a program aimed at Italian youth and is the president of it.sa and also a youth representative with G4 events.

On Friday evening, I attended the annual SA ambulance 25-year volunteer dinner as the guest speaker on behalf of the Minister for Health. The SA Ambulance Service volunteer workforce is made up of close to 1,500 volunteers who provide a 24/7 ambulance service from more than 70 stations around the state. Last year, SA Ambulance Service volunteers carried more than 12,000 patients and travelled further than 400,000 kilometres.

At the event, Mr Geoff Mackereth of Bordertown—but formerly of Wasleys, in my electorate—was recognised for his 25 years of service to the SA Ambulance Service. Geoff joined the Bordertown branch of St John Ambulance in 1985. He was an enthusiastic team member and first aid instructor and was rapidly promoted to the rank of divisional officer. On the night of the SA Ambulance event, I also heard about Mr David Heard. Mr Heard has volunteered for the SA Ambulance Service for a magnificent 55 years, which must be an all-time record. What an achievement.

National Volunteer Week was a great opportunity to highlight the role of volunteers in our communities and to say thank you to the more than five million Australians who volunteer. Volunteers are estimated to make a $40 billion contribution to the nation every year, with $5 billion to the South Australian economy alone. However, in my view, the contribution made by volunteers to the development of community—that is, helping communities connect—is priceless. If you ever want to fully appreciate the value of volunteers in our community, imagine your community not having volunteers for one day. We all have the spirit of volunteering in us, we just need to help some to find it.

STATUTES AMENDMENT (LAND HOLDING ENTITIES AND TAX AVOIDANCE SCHEMES) BILL

Adjourned debate on second reading (resumed on motion).

Ms CHAPMAN (Bragg) (16:07): Prior to the luncheon adjournment, I think I was discussing the question of retrospectivity and where there can be circumstances where, in effect, under the proposed bill somebody may be paying duty twice. The way that the South Australian Farmers Federation propose that this issue should be dealt with is to make a requirement, by way of amendment, that any stamp duty paid in relation to an earlier acquisition is actually counted in determining the amount that is assessable at the time the majority interest is acquired.

They use the example of an entity that is a 49 per cent interest. Duty has been paid, then the owner acquires up to the 100 per cent threshold. The whole of the matter is reassessed and there is no credit given for the stamp duty that has been paid on the 49 per cent interest. I think it is very critical to the integrity of any reform in this area that proper credit be given for that, and I agree with that proposal put by the farmers federation.

One might appreciate that, in circumstances of an agricultural property, if there is more than one party in a family who has an interest and wants to acquire an increasing interest from other family members but is unable to do so at the initial time of acquisition but wants to slowly buy them out, then I can see a situation, if the asset is held in a unit trust, where that position could be compromised. In effect, we would have the multiple rate of taxation situation that I just referred to.

The other matter I wish to bring to the attention of the house is the extended definition of goods and fixtures that would be taken into account, with some restriction on goods that are somehow or other tied to South Australia. The member for Davenport has highlighted, through the business committee of the Law Council's submission, the complication with goods and, to some degree, I think, in respect of fixtures. What is common in rural South Australia is that state government-owned infrastructure, usually for the provision of services such as electricity (not just wind farms that are the new trendy look but in relation to electrical poles and infrastructure), is situated on private property to facilitate the transfer, usually, of that generated electricity, at an annual fee.

Some thousands of dollars are frequently paid for that public infrastructure to be placed on private property. A rental payment is made. The asset, namely the infrastructure, is clearly owned by the corporation or entities that are in some way government-controlled or owned, and there is a revenue stream from it. These are the sorts of things that clearly need to be sorted out before we finalise it.

It is concerning to me and, I am sure, to other members that there has been, across the nation, a transfer to this new definition, with a benefit for the state governments of the day in harvesting further funds, and that has been operational for some time. I think all jurisdictions but Victoria, which has announced it is going to do it but has not yet implemented it, have been operating it for some time.

I am at a complete loss as to why there has been a huge delay in the introduction of this, and, there having been a delay, why all these issues have still not been looked at to make sure that South Australians are not faced with an unfair circumstance or that people are not inadvertently called into tax reform in this instance, which is clearly acknowledged to be a broadening of the tax base. If it is not the government's intention to inadvertently bring in people, it should have made that clear before it came in or at least before it was announced in the 2010 budget.

The other area about which no-one appears to have made any statement, and which I find is still missing, is the question of what we are going to do with the value and income stream of water licences, particularly the value of the asset because they are becoming more and more valuable. In some areas they are treated as severable from the land. They are of independent value.

It is frequently said here in South Australia that, where there is minimal rainfall, the removal of the water licence or the right to have access to water on a piece of rural property in some instances would so deprive it of the capacity to generate any commercial revenue that the value of the land would almost diminish to nothing. Arguably, that would be, for example, on water licences in the Riverland where, clearly, people live in a desert but enjoy the benefit, thanks to the Chaffey brothers and all their successes in irrigation infrastructure in that area which created an opportunity and a lifestyle for thousands of those who live and produce in the Riverland. A classic example is the properties we now see in Loxton, where there has been a voluntary giving up of water rights for five years, during the drought period, in exchange for a compensatory payment. Those blocks have now gone into hibernation (at best how you could describe it), and now have become major plots for weed growth and other pest management issues that are attracted when this sort of thing happens.

Nevertheless, if a water licence or a water allocation is allocated to a property and it has a value, then we need to know whether it is going to be in there for assessment purposes. Several months ago—advisors to the Treasurer may not be familiar with this—we were dealing with legislation under the national securities laws, which relate to the registration of securities, which is car loans, stock mortgages, and so on, where one has security over a chattel or a good.

At that time there was an attempt in this parliament—only a few months ago—to introduce the access to water licensing or allocation permit processes as chattels. That having been identified, there were questions then about whether, in fact, there was an attempt to make it fixtures. We have had reform in this area at the national level which was to establish a national registration procedure, and there is no objection to that, but we have had debates for 100 years over the question of what is a fixture and what is a chattel, and water, historically, has been attached to the land. If a transfer which has been argued to have occurred as a result of federal legislation relating to protection of the River Murray has been used as some precedent to argue that water is in the goods category, then let us have a real debate about it, not try to deal with it in another piece of legislation.

In that piece of legislation, the Attorney-General came in and made it clear that there would be no attempt to proceed with that and we would have that debate down the track. He suggested he was doing it for some convenience to the parliament on the basis that down the track this would come in and therefore he needed to be ready for it later this year. I did not accept that, the opposition did not accept that, and we argued that it should be removed, and that was dealt with.

So I want it to be clear in this piece of legislation that there is no attempt to utilise the expansion of definitions under the Stamp Duties Act to, in effect, introduce that transfer from fixture to chattel so that, again, this can be used as some precedent in the future. That would certainly not be acceptable to me and I think we need some explanation from the government about what is happening.

I looked at section 94 of the current Stamp Duties Act, which sets out the land rich entity definition, followed by, for the purpose of this exercise, the general principle of liability to duty under section 95 of the act. In essence, that sets out the liability to pay where there is this significant interest, and it identifies that the duty is on the transaction on land rich assets and it ensures that

that transaction is dutiable even though the person is transferring a minority interest and is either not a party to the proceedings or has a passive role in the transaction. That is all currently in the present act. The examples are given, and it is also to cover private entities.

The only thing that is new that I can identify in the bill, which is under section 100 (once part 4 is replaced) which sets out the general principle of liability to duty, is, first, to add an example transaction that is capable of being a dutiable transaction. Subsection (4)(d) added and it reads, 'the addition or retirement of a partner in a partnership with assets comprising shares in a company or units in a unit trust scheme'. The other new provision that is added is subclause (6) which says that, 'If a person who acquires or holds an interest in a landholding entity is a trustee for two or more trusts, any interest in the entity acquired or held by the person for different trusts are to be treated as if they were acquired or held by separate persons.'

So the concept of making sure, I suppose, that there is opportunity for governments to assess duty on land rich property is already there. It is quite expansive. So the government's stated intention, it says, is to remedy a potential loophole. I think it is a classic broadening base of the stamp duty and I do not think it has caused any loophole at all, to be frank. I actually think that this is something that has been national. Cash-strapped governments around the country have sought the opportunity to argue that point and they are going to rake in an extra $20 million a year.

I make the point that it concerns me, even though this is a budget measure, that this is money that is not going to go to infrastructure of importance that the government has identified and expanded on during the last two budgets, particularly the last budget. We have, of course, the decision to build a new children's prison. The government is not going to use the $20 million a year for that. It is going to sell the land at Magill. We have had the decision that it is going to build a new stadium facility at North Adelaide. That is $535 million that it has committed. We know that the $20 million a year is not going to that. That is money that is all going to be borrowed, according to the Treasurer. We know that this money is not going to the research institute building on North Terrace, because the commonwealth is paying for that. We know that the $20 million a year is not going to the Royal Adelaide Hospital because somebody else is going to build that on taxpayers' land and then the taxpayers are going to pay $1 million a year to rent it back for the next 35 years. So we know it is not going to that.

We know it is not going to the desal plant. That is obviously soaking up—pardon the pun—quite a lot of taxpayers' money, but in particular those who use the water from SA Water. The water users of this state are going to be stung for that major piece of infrastructure. We know it is not available for the pipeline, because the government claims that is already in the budget; this is the $403 million that it is ripping through the eastern suburbs with. We know it is not for the buildings for the transfer of the department itself, the department of transport and other major departments, including SA Water, because it has flogged off buildings at Walkerville, etc.

So, I can only hope, in the opposition's agreement to support this, that the funds will be applied wisely in the future and that they are not going to disappear into pet projects of the government repeated, like the Film Corporation relocation at Glenside hospital, etc.

Mr VENNING (Schubert) (16:22): I rise to speak on this bill and I do oppose it quite strongly. Before I say anything else, though, I declare that on my farming property we have a family trust which we have had for many years, which began right back in the time of death duties in South Australia. Many farmers resorted to family trusts to try to insure themselves against death duties. Many farming families were driven from the land when they faced death duties. Some, of course, were up for a double hit when both the father and mother died within a few years, and that was often the end of that family farm. Luckily, the Liberal government back then, the Tonkin government, got rid of death duties, but a lot of the farming identities had already put in place family trusts, and I am no exception in our family. So I see this bill as a bill that directly targets farmers and graziers, almost exclusively. It is very high compliance, as the member for Davenport put it earlier, and there are very high structural costs, and it will inhibit investment here in South Australia, particularly in the transfer of property.

I, too, am sorry this has been debated so soon, because I would have loved to have done a lot more work on this. I am not going to go through all the technicalities because this is a very technical bill. That has been well highlighted by our shadow minister, the member for Davenport, and then again by the member for Bragg, and also by the member for Hammond. So I am not going to go through all the technicalities. I will just go through the broad prospect of how I see what this bill does.

I have not had any response, I only saw this last week, and we have only got the one response that I have read and that is from the South Australian Farmers Federation. It has been far too quick, I do not know why the hurry. It is a very complicated and technical bill, as I said. Farming land is a considerable asset nowadays. A value of $2 million to $3 million would be a common value of an average family farm, often passed down from generation to generation. The normal transactions, as we have seen in this bill, apparently—purchases and sales—will not change. I am pleased about that.

Land rich legislation: there has been no litigation on this matter in South Australia. You would wonder why you are doing it, if it was not just for a tax grab. The government wants to claw, as the member for Davenport said, another $20 million per annum from the industry. Yes, it is another tax—stamp duty. It is not a tax reform; it is a tax grab.

I am very concerned that this is coming in, and what it will do is cause transaction costs—20 per cent of the assets can be assets other than the land. I presume that these are the improvements on those lands. Of course, the fences, the water pipes and all of those things are now going to be taxable. It is pretty sad indeed, when some of these people will have to sell their properties and when the new buyer will have to come in and pay these imposts, particularly if it is not within the family, and it is going to be quite an impost that somebody is going to have to pay. I think it is a double standard; it is tax avoidance versus an expanded tax. The question needs to be asked, as was asked earlier today: is it in breach of the intergovernmental agreement? When we were having discussions about the GST and everything else, the GST was supposed to take over from taxes like this, and here we are with a blatant grab for $20 million, at least.

This will also add inefficiencies and inflexibilities to a key Australian industry. What the Brown and Olsen Liberal governments did to free up land ownership, particularly in the early nineties, was a very popular move. To get it into the hands of younger Australians, the government removed the taxes and duties on the transfer of land between members of a family, i.e. father and/or mother to son or daughter. That was extremely well received, and what happened? Instantly we saw land transfers to the younger generation. I cannot think of any exceptions; people were just sitting on their land. I saw some pretty sad cases, and I will quote one where the son committed suicide because his father was 94 and still held all the property. It was too much and the lad committed suicide, and it certainly impacted on that community.

Even though intergenerationals are still exempt from this, this will send a very strong anti message for young farmers who are sharefarming neighbours' properties. If they would like to buy them, they will be up for the increase in duty if the trust transfer is to be taxed. This is, to government, a tax on wealth. Many farmers and vignerons have assets worth several millions of dollars, but, at the moment, they are very income poor. This does not take into consideration the ability of the citizen to pay, a citizen who is looking to add more land to his or her holdings in a battle to stay viable.

I note the response from the South Australian Farmers Federation, and I thank it for that. The member for Hammond dwelt on that very extensively during his speech to the house. I would have welcomed a strong commitment one way or the other—some strong advice to us—about what its point of view and that of its membership is, because it was very well laid out, and I have it here. There is no strong recommendation as to what we, as members of parliament, should do in relation to this bill, and I would have liked a clearer message about that.

Without any further ado, I oppose this bill because I think it is unnecessary. What we have is working very well. Nobody would say anybody is rorting the system. Why legislate when what you are trying to change is not broken, when it is working very well? All this is going to do is put a further impost on farmers, and surely they are doing it tough enough without this impost. I certainly hope that, between the houses, this bill is able to be modified to the extent of saving our farmers. I oppose the bill.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education) (16:29): I thank honourable members for their contribution. I will try and respond to some of the issues that have been raised in the course of the debate. If there is anything which I am not able to respond to, I am quite happy for those issues to be taken up during the committee stage. In closing the debate I will attempt to respond to the many issues that have been raised by members. As I said, if I inadvertently miss any issues, I am happy to deal with them in committee or, indeed, consider anything between the houses.

Firstly, dealing with the consultation advice: consultation was undertaken. The bill was released for consultation on 21 January 2011, with comments due by 28 February this year. Submissions were received from the Law Council of Australia, the Property Council of Australia (SA Division), the Farmers Federation of South Australia, and AMP. The following bodies were also provided with a copy of the bill but did not provide comments: the Taxation Institute of Australia, the Law Society of South Australia, National Institute of Accountants, Australian Institute of Conveyancers SA Division Incorporated, the Real Estate Institute of SA, CPA Australia, and the Institute of Chartered Accountants.

In addition, meetings were held with the Law Council on 10 March 2011, and with the Property Council on 17 March, in order to discuss the matters that were raised in their correspondence. Meetings were held at AMP prior to their submission being lodged. AMP requested this meeting but were not provided with a copy of the draft bill.

I can confirm that no direct consultation occurred with the banking industry, mining industry or fishing industry. However, many of the persons who represent those bodies who were consulted are actively engaged in representing people from these industries and are aware of the issues that the bill raises in this context. Comments have been raised as to why this measure was not undertaken as part of a more significant tax reform. As members would be aware, this is a 2010 budget measure and there is no intention to look at other areas of the act as part of this process. The same comment can be made in relation to questions asked about the corporate reconstruction provisions. Those measures were never considered as part of this measure.

The Property Council also submitted that we should consider their alternative model, which was presented to government some time ago. I am advised that there are a number of issues with this model. The model proposes land rich provisions, as opposed to landholder provisions. All jurisdictions other than Tasmania have either implemented a landholder approach or have announced the intention to do so and, therefore, the model proposed by the Property Council is not considered appropriate.

The shadow treasurer mentioned several times that the bill involves tax grabs and is not tax reform. The government has made no secret of the fact that these measures will increase the revenue take; however, it remains the case that the provisions are essentially anti-avoidance provisions which ensure that duty is paid on the indirect transfer of land assets valued at over $1 million by the sale of shares or units in companies or trusts.

Contributions also focused on the fact that the $1 million threshold is not changed, that it is not consistent with New South Wales or Western Australia, where the threshold is $2 million. In the case of New South Wales it is based on site value of land and not capital value. It is also the case, however, that both Victoria and Queensland have a $1 million threshold. The Northern Territory and Tasmania have a $500,000 threshold, and the ACT has no threshold whatsoever.

The shadow treasurer has asked for an estimate of the revenue implications of raising the threshold to $2 million, and also in relation to moving to a site value threshold and not a capital value threshold. I do not have a figure for either of those changes, but am advised that work can be done between the houses in relation to the $2 million threshold estimate, and a rough estimate can be produced.

I am also advised that site values are generally much lower than capital values. So, moving to a site value threshold would have a significant revenue effect. I am also advised that the New South Wales Valuer-General does not have a computer system that captures capital values, hence the fact that they have resorted to site value, the only jurisdiction which has done so. Members opposite have also stressed the point that removing the asset test will catch more transactions, particularly in relation to primary production entities. I am advised in relation to the impact on primary producers that most farm transactions seen by RevenueSA are held in family discretionary trusts. An exemption is available under section 71CC of the act in relation to interfamilial transfers of farms. If landholder duty would otherwise be payable in circumstances where the transfer of the underlying assets would have been exempt under section 71CC the duty is not payable under part 4 either. I am advised that most farm transactions will therefore not be dutiable.

The Law Council submitted that the inclusion of goods in the landholder base is in contravention of the IGA. The IGA is not being contravened. This does not limit South Australia from raising taxes on rural property or on property closely related to land. The IGA simply requires

the abolition of stamp duty on non residential conveyances before 1 July 2013. The government is committed to abolish this tax from 1 July 2012.

The approach of including goods in the landholder provisions provides consistency with the general conveyance base, where chattels and goods that are transferred with land are subject to duty, and is broadly consistent with the landholder provisions in other jurisdictions. Taxing goods also eliminates what can be costly and time-consuming arguments over what are fixtures and what are goods.

A number of changes were made to the provisions dealing with goods after taking into account the comments received via consultation. I note a number of the submissions read into *Hansard* dealt with provisions that were in the initial bill, not the bill as amended, which is now before the parliament. Changes in relation to goods were: firstly, the exclusion from goods at section 91(12) was moved to new section 91(1). The meaning of 'used solely or predominately' was qualified. Exclusions from the definition of goods was extended to include ships, vessels and motor vehicles. In addition, a discretion was added to allow the commissioner to exclude other goods from the provisions where it is just and reasonable to do so. The exclusion of goods used in connection with primary production was modified to goods used in connection with the business of primary production. Specific exclusion for the provisions was introduced for walk-in, walk-out sales to align with the concession already provided with the general conveyance provisions in section 31A.

I note comments were made in relation to the definition of livestock. I am advised that RevenueSA does not consider this to be an issue due to a request that a change be made to the bill. We are of the view that the Law Council has come to that conclusion also.

Tension between fixtures dutiable and non-fixtures which are not dutiable will be removed by imposing duty on the value of the goods as well as the value of the land. This approach is consistent with the New South Wales dutiable goods and the Western Australian chattels approach. The government is of the view that we are not in breach of the IGA by including goods in the duty base. I reiterate that there are a significant number of exclusions from the definition of goods.

The question was raised in relation to what is the relevant date for determining where goods are used solely or predominately in South Australia. Section 91(12)(b) deals with this point and states that the relevant time is the time of the acquisition of the relevant interest or increase in the relevant interest.

Comments were received in relation to situations where persons can be liable for duty, even if not party to the transaction. These provisions have been changed from the current act, and RevenueSA only recovers duty from persons who own an interest in the entity and are part of a group of associates. Comments were made in relation to the potential of a person obtaining discounts for owning earlier interests in landholder entities. I am advised that the act already contains provisions providing a discount for early acquisitions where stamp duty was paid and that these provisions have been significantly extended as part of the bill.

In the case where a person owns 49 per cent of a company and then acquires the remaining 51 per cent, duties will be chargeable on 100 per cent because the owner would not have paid duty on the 49 per cent initially. The provisions only apply where a person owns 50 per cent or more of an entity but sensibly apply to the whole of any interest that is acquired of over 50 per cent. The example given was when a person owns 100 per cent of a company, they control 100 per cent of the land, and they should pay duty accordingly. Considerable comment was also made in relation to section 91A which deals with the land and fixtures. These provisions are necessary to ensure that all relevant land assets are considered for the purposes of these provisions. Concerns were particularly raised in relation to double duty implications. This concern has been addressed as far as possible in amendments to the commissioner's discretion in section 92(5). This has been amended after discussions with both the Property Council and the Law Council.

The discretion in 92(5) has been deliberately narrowed to the extent that it no longer refers to the commissioner being satisfied that the separate ownership was not part of an arrangement to avoid duty under this part. This change is necessary in order to deal with assets which are separately owned due to the operation of other statutes.

Clearly, it could never be said that, where an asset is separately owned due to a statute, separate ownership was part of an arrangement to avoid duty. This has necessitated the discretion

being amended. It is considered, however, that the discretion is wide enough to cover double duty situations. Fixtures will be charged with duty based on which party is directly using those fixtures, together with the interest in land. If, for example, a lessee constructs fixtures and uses those fixtures in the pursuance of a business—for example, a wind farm—they will be taxed in the hands of the lessee and not in the hands of the lessor. Wind farms are referred to as being affected by the provision, and the potential for double counting was raised specifically in this context.

I am advised that RevenueSA consider the commissioner's discretion in section 92(5) will prevent any double counting in the area and that wind farm infrastructure will only be considered to be dutiable property in the hands of a person who operates the wind farm in conjunction with the interest in land on which the wind farm is situated. If the land is leased and the lessee operates the wind farm, the lessee will be subject to duty and not the owner of the land. Pine trees were also raised as an example. Where pine trees have been sold via a forward contract the value of the landholder's land will be affected. This will be taken into account when the asset is valued under the valuation provisions. Again, comments were provided in relation to the anti-avoidance provisions, though I note that the South Australian Farmers Federation comments taken from the original submission referred to the first version of the bill, which has been significantly amended since. These provisions are broadly consistent with the provisions in the New South Wales Duties Act.

Importantly, the provisions will only apply where there is a blatant, artificial or contrived tax avoidance scheme, the sole or principal purpose of which was to reduce or avoid liability for tax. This is a very difficult hurdle for the commissioner to overcome and the provisions are likely to be sparingly used and will certainly not affect the vast majority of taxpayers. All other jurisdictions have similar provisions either in their stamp duty provisions or in their taxation administration acts.

Comments were also made in relation to the transitional effect of the anti-avoidance provisions. I am advised that the anti-avoidance provisions will only apply to liabilities that crystallise or would have crystallised on or after 1 July 2011 if not for the existence of a blatant, artificial or contrived tax avoidance scheme, the sole or principal purpose of which was to reduce or avoid taxation.

This approach is taken so that those persons who have entered into such schemes do not continue to get a taxation advantage going forward. These provisions apply to taxes that have ongoing liability, such as land tax and payroll tax. For example, if a person entered into a blatant, artificial or contrived tax avoidance scheme, the sole or principal purpose of which was to reduce land tax payable and that scheme has the effect of reducing land tax in perpetuity, this bill from the 2011-12 financial year potentially applies to such a scheme. This will prevent tax avoiders from obtaining an unfair benefit over those who had not entered into avoidance schemes. This means that people who did the right thing will not be disadvantaged compared to those who did not. I stress once again it will be a difficult burden for the commissioner to overcome to show such a scheme existed. Therefore, the vast majority of taxpayers will not be impacted by these provisions.

The Farmers Federation raised issues in relation to the broad definition of associates and referred to beneficiaries of a trust as an example. Beneficiaries of a trust would only associate persons if they both owned an interest in the relevant company or trust and were not acting independently. The definition of associate has not changed and has proved to work well in practice.

Comments were made in relation to the definition of executive officer, which is unchanged from the current act and is considered appropriate. The definition has never been used in practice because the associated person provisions operate sensibly to ensure only persons who have an interest in an entity are considered to be associates. Therefore, the very unlikely potential for this definition to operate unfairly never practically occurs.

Honourable members also made a number of comments in relation to a number of provisions that deal with partnership interests. These provisions have been included to ensure that the landholder provisions cannot be defeated by structures containing partnerships. These provisions are intended to operate to protect the status quo and will not be interpreted differently to the current provisions by RevenueSA. The need for these provisions has arisen due to doubts raised in the legal proceedings during the case of Commissioner of State Taxation v Cyril Henschke Pty Ltd [2010] HCA 43. These amendments are made for clarification purposes only and there will be no change in the assessing practices of the commissioner in this regard.

In light of concerns raised by industry in relation to these provisions, amendments were made to provide the commissioner with a very broad discretion as to what method to use to

calculate a partner's interest in a partnership. This provision is intended to be used to provide equitable and consistent outcomes that align with current assessing practices. RevenueSA also intends to review its revenue rulings in this area and will engage in detailed industry consultation as part of this process.

Issues were also raised regarding the market value provisions. These provisions have been included to ensure that the appropriate market value of land and assets can be ascertained by the commissioner for the purpose of part 4. It is particularly important in relation to valuing mining tenements. The intention of the government is only to ensure that the land is valued appropriately. A mining tenement is clearly valuable, or not, based on what is in the ground and this value should be brought to stamp duty as part of these provisions. Concerns were also raised with the provisions that relate to one series of transactions and transactions that are one arrangement. I am advised that these provisions and the relevant circular have been in operation since 2006. There have been no practical issues with their operation.

Concerns were also raised with the provisions that make landholder duty a first charge over an entity's land. These provisions are consistent with similar provisions of land tax, the first home owner grant and emergency services legislation. The provisions are necessary to protect the Crown's interest where assets can be transferred out of an entity in order to frustrate stamp duty recovery. As with the provisions in other legislation administered by RevenueSA, these provisions will be used responsibly. If the circumstances warrant, the first charge would be removed in order to allow for normal commercial dealings.

I hope that covers all the issues raised by honourable members, but I am more than happy to go through the bill in even greater detail and at greater length during the committee stage. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. I.F. EVANS: Treasurer, I just want to confirm whether you consulted the federal government as to whether this met the provisions of the intergovernmental agreement or whether you are relying on your own department's advice that this meets the terms of the intergovernmental agreement. The submissions made to the opposition clearly indicate that this does not meet the terms of the intergovernmental agreement. So, I am just wondering, rather than bringing in legislation that does not comply and having to change it next year, why not consult the federal government and get it clear that it does actually meet the terms of the intergovernmental agreement?

The Hon. J.J. SNELLING: I have not had any discussions with the federal government. It would be very unusual for us to do so. It seems quite clear to us (I have complete confidence in the advice of my department) that it does not in any way contravene any of the provisions of the IGA.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. I.F. EVANS: Clause 7 deals with the insertion of new part 4, entitled 'Landholding entities', and deals primarily with the insertion of new division 1, section 91, which has an extraordinary number of subsections within it. The Law Council of Australia's business tax division, in its submission, raises a number of concerns regarding section 91, which is encapsulated in clause 7. There are a series of questions in relation to this.

New subsections (4) to (7) deal with partnership interests. The Law Council says that the extension of these provisions to partnership holdings is likely to create considerable difficulties in practice that are not warranted. In practice, they are unlikely to be understood. The following example highlights the difficulties. Company A Pty Ltd and company B Pty Ltd start a land agents business and engage in some development activities. Each contributes $10,000 to the capital of the firm. The individuals behind the companies work hard and take minimal drawings through the companies and build up loan accounts from the undrawn profits of $150,000 each after, say, five years.

Some time later, it is decided to admit a new equal partner, company C Pty Ltd, who is required to contribute $210,000 by way of capital contribution and $50,000 by way of a loan to the partnership. Company C pays the money into the partnership bank account. A bank overdraft of $150,000 has also been established for the partnership. The original partners then withdraw $100,000 each from the bank account in reduction of their loan accounts. Shortly after the admission of company C, they purchase premises for more than $1.5 million with wholly borrowed funds.

After that, any dealings with the shares in the partners has the potential to attract the landholder provisions, depending on how section 91(5) is to be applied. In reality, each of A Pty Ltd, B Pty Ltd and C Pty Ltd are entitled to 33.3 per cent. Yet, under paragraph (b) of these provisions, their relative capital contributions will be 4.35 per cent, 4.35 per cent and 91.3 per cent respectively, so C Pty Ltd will be land rich. The question from the Law Council is: is that what is intended?

The Hon. J.J. SNELLING: I think the shortest answer is that in the example that the member for Davenport gives there would be the ability for the commissioner to use his discretion under subsection (6) to make sure that the way the payable duty was calculated was done fairly.

The Hon. I.F. EVANS: That gives me no comfort, Treasurer, because you cannot answer the question whether it is meant to be 33⅓, 33⅓, 33⅓ or, under your provision, it is meant to be 4.35, 4.35 and 91.3 per cent. What is the answer?

The issue for this piece of legislation (and I am going to get this answer a lot this afternoon, I suspect) is: don't worry, the commissioner has a discretion. That is exactly the point that the industry groups raise because, before you do a corporate restructure or a purchase, the lawyers and the accountants giving that advice will be saying, 'We might be able to do it and this might be the cost, but we will have to run off and speak to the commissioner,' and they will wait who knows how long—they are concerned about months, and no-one can guarantee a time frame—for the advice. So, ultimately, the whole process becomes very bureaucratic, uncertain and unattractive for investors.

The reason I ask these questions on behalf of the industry's associations is in part to make that exact point. Surely the legislation can be drafted in the circumstance where there is some certainty for those investors wishing to go through the corporate restructure. How is it, Treasurer, that I as shadow treasurer, and you as Treasurer, after this bill has been around, in your case, six months—the government's case, six months; in fairness, you have not been Treasurer for six months—the advisers have had it at least six months, the opposition has had it, the industry groups have had it, by your own admission, since January—

The Hon. J.J. Snelling interjecting:

The Hon. I.F. EVANS: Not the industry group? Not one industry group. Not your adviser, not you and not me, as the people debating this exercise, can give that clarity to the industry groups. The legislation is that unclear. So what we are doing through this process is building in a red tape inefficiency, in effect. Don't worry, industry groups; if you want a corporate restructure, you can run off to the commissioner and if you are lucky, the commissioner will tell you whether you are going to do it right or not. Surely we can get more certainty than that. I simply ask you the question; your adviser is there. Is it 4.35, 4.35 and 90 whatever, or is it 33, 33, 33? If we cannot answer the questions, we should adjourn and go away and rethink it.

The Hon. J.J. SNELLING: I am not going to play this game with the member for Davenport and give definitive rulings on whatever hypothetical obscure tax cases he can come up with. That is just entirely unreasonable and not something I propose to do, because the circumstances of each case are different and it is only by having a thorough look at the actual case that I would be able to offer advice on any sort of definitive ruling.

The fact is that for the overwhelming majority of companies there will be certainty. There will be complete certainty and complete clarity but, of course, this area can be extraordinarily complex and it is impossible for the legislation to make provision for every possible circumstance that may arise. So in that very, very small number of circumstances there is a provision for the commissioner to use discretion to make sure that the rules are applied in a fair way and that there are not any unintended consequences from these changes.

It is clear; this is not going to throw investors into chaos and provide an incredible amount of uncertainty. The overwhelming majority of investors will be completely clear on how the rules

might apply to them. There will be a very, very small number of investors which we are just unable to make provision for. No piece of legislation could envisage every possible case that might come before it. There will also be a revenue ruling, which will be put out for consultation by the commissioner to provide further clarity. That revenue ruling, after proclamation of the bill or of the then act will be issued and industry will have a further opportunity to consult on it. If the member for Davenport thinks I am going to play a game where he throws up any number of obscure possibilities and every permutation and combination that might apply and asks me to provide the house with some sort of definitive answer, I am not going to do it, because it is just not possible and it would be misleading.

The Hon. I.F. EVANS: For the sake of the record, these are not the member for Davenport's examples or what I have dreamt up. As much as I would like to have the capacity to be a corporate accountant or a corporate lawyer, that is not my lot, I am afraid. These are the submissions given to me by the corporate lawyers and the corporate accountants who do this work. They see them as very live examples, and I think I am right in saying they asked these very questions in their submissions to your agency many, many months ago. It is not as if this question is a surprise to the agency. The fact that we are sitting here and the agency cannot answer them, I think, proves the lobby group's point. I offered, as the minister knows, to adjourn the debate so they could have a look at it overnight and give me the answers tomorrow, and that offer was not taken up. If the commissioner can give a ruling on it to a company in the future, he could have easily given us a ruling on it overnight or between when the department got this submission to now—'I wonder if that pesky member for Davenport is going to ask that question that the lobby groups have put in their submission? I think we will get an answer ready.'

But not this government, no. I will tell you what we are going to get from this government: we are going to get the stonewall of, 'I'm not going to answer that detailed question. It will be up to the tax commissioner.' The best we might get is, 'We'll have a look at it between the houses,' and then the Hon. Gail Gago, that great leader of the place, will ultimately—

The Hon. M.J. Atkinson: And she is good.

The Hon. I.F. EVANS: That is not what you were saying previously.

The Hon. M.J. Atkinson: No.

The Hon. I.F. EVANS: And he admits it, Madam Chair. Thanks for having it on the record.

The Hon. M.J. Atkinson: Did you listen to me on the radio yesterday—or your mate, Lucas?

The Hon. I.F. EVANS: Ultimately, you will get the same answer in the upper house. Anyway, I have asked the question and the Treasurer has given the answer, so we will move on to the next question. The issue is still under clause 7, which deals with the new part 4—Insertion of a new section 91 dealing with interpretations. They have put in a new interpretation for goods, as to what is not included in goods. Amongst the things that are not included in goods is a thing called 'livestock'. Livestock is not defined in this bill; it is defined under the Livestock Act.

Is it the government's intention to adopt the definition of livestock as per the Livestock Act or is it going to be left open to the interpretation of the commissioner, or a court if there is an appeal, as to what livestock is?

The Hon. J.J. SNELLING: My advice is there has never been any great controversy over the definition of livestock. Presumably it would be left up to a court, if there was some controversy over what constituted livestock, but the best legal advice I am able to get at this moment tells me that, as far as we are aware, there has never been any controversy over—

Ms Chapman: What about the marine parks?

The Hon. J.J. SNELLING: Rumpole in the back there might have something to add to the debate, but—

Ms Chapman interjecting:

The Hon. J.J. SNELLING: Rumpole of the Family Court—to the best of my advice there has never been any controversy. It would just be whatever is the common definition of livestock according to the Oxford English Dictionary, perhaps.

The Hon. I.F. EVANS: That is excellent, Madam Chair. Can the minister now advise the house whether animals involved in aquaculture such as tuna and oysters are livestock?

The Hon. J.J. SNELLING: If fish were not considered to be livestock, then they would be caught up in paragraph (d), goods held or used in connection with the business of primary production. The Stamp Duties Act 1923, division 2—Interpretive provisions, section 2(1) states:

> business of primary production means the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

The Hon. I.F. EVANS: If that is the minister's belief—

The Hon. M.J. Atkinson interjecting:

The Hon. I.F. EVANS: That would be something new to the former attorney.

The Hon. M.J. Atkinson interjecting:

The Hon. I.F. EVANS: All you did was read the TAB form guide, wasn't it? I remember the Chief Justice complaining.

The Hon. M.J. Atkinson: She asked me the number and race of a tip and I found it for her.

The CHAIR: Okay, thank you.

The Hon. I.F. EVANS: If that is the case, why do you need livestock in this provision if it is covered under the provision in the act that you have just read?

The Hon. J.J. SNELLING: The purpose of this section is to be as broad as possible with what gets excluded from being taken into account. So, it is probably being a little over-thorough in making sure that that is the case; nonetheless, it is possible for there to be livestock that is not used in the business of primary production. I can see the glint in the member for Davenport's eyes. He is going to say, 'What about fish?' Could it be possible that you could have a pet fish sitting on the farm? Would that be caught up? Well, perhaps, but we would hope that common sense would prevail. The purpose of the provision is to be as broad as possible about what is excluded. So the fish, the pet canary, the horse, whatever livestock there might be, is going to be excluded, and that is the purpose of this provision.

The Hon. I.F. EVANS: The Treasurer tries to humour the member for Davenport. The member for Davenport just reminds the committee that the reason I am asking the questions about aquaculture is that in the six months that this government has been dealing with this act it has not had the courtesy to ask the aquaculture industry what they think of having to pay stamp duty on their aquaculture licences. I suspect that they are going to be mightily annoyed. I might be wrong; it is just a guess.

However, I think the opposition has a right to ask questions about matters on which the government has not consulted the industry concerned. The Treasurer may have a different view, but I am sure that, when we go and talk to the aquaculture industry about the great progress of this government, they will be pleased that we at least took the opportunity to ask the question, because, obviously, none of the Labor backbenchers did in caucus or, indeed, in the chamber. Speaking of aquaculture and licences, that brings us to the next issue still on this particular provision, clause 7, which seeks to substitute a new Part 4, new section 91. It inserts in the definitions a definition called 'interest in land'. It talks about a lease or licence granted under the Mining Act, the Offshore Minerals Act, the Petroleum and Geothermal Energy Act and, the Treasurer will be pleased to know, leases granted under the Aquaculture Act, so fish and any aquatic organism.

The Hon. J.J. SNELLING: Marron?

The Hon. I.F. EVANS: Marron, yes, and seahorses. Phycodurus eques would be there as well—one of the minister's favourites that I am sure he knows. The reason I want to ask this question is this: during the government's briefing, we were told that it had to include aquaculture and forestry—because forestry is also a new provision—because they were so attached to the land, being basically part of the land. That was the reason given to us. I come back to the member for Bragg's point. If that is the case, how is it that water licences are treated differently? Water, I think, is very much attached to the land and it is stored in aquifers underneath. There is an argument about whether or not you can clean it. Colin Pitman stores a lot of water in underground aquifers which are surrounded by land.

I am just wondering how the government has decided that forestry (which grows above the land) and aquaculture (which is somehow attached to the land) should be included but water

should not, because, without the water, the fish do not survive. I am just interested in how you have come to this policy decision. I am certainly not arguing for water licences to be included in this particular dutiable provision; I am trying to work out the government's consistency in its policy. The advice to the opposition was that forestry attached to the land must be included; aquaculture attached to the land must be included; water is not included. I am just wondering: why the policy difference?

The Hon. J.J. SNELLING: At some stage in the past it was decided that water licences would be exempt from stamp duty. It was a decision of the government. I am not sure how long ago that was; I would be happy to check. However, it is a standing—

The Hon. I.F. Evans: So were forestry agreements and aquaculture agreements.

The Hon. J.J. SNELLING: No, I am advised that that is not the case; they have never been exempt. Water licences, though, historically have been—or at least for a while—exempt from stamp duty and this simply carries on that provision.

Ms CHAPMAN: If I might clarify one matter then, minister. The licence is exempt—that is great—for the purpose of taking into account the value of the asset. Water of course is a purchasable item. In fact, in some rural communities now it has to be acquired to put in your tank or in your dam because you have not got enough rain or you have not got access to enough bore water or the like, so you buy it and you truck it in. Is the water itself assessable as a good for stamp duty?

The Hon. J.J. SNELLING: I am not sure if I entirely understand the point the member for Bragg is making. The licence is to extract the water. So, that is what the licence is for, to extract the water from the ground. If you are talking about having water trucked in or something like that, it would presumably be caught up under a good held or used in connection with the business of primary production, if you are getting water somehow trucked in in order to water your animals or whatever else. So, it would be caught up in that exclusion.

Ms CHAPMAN: Let me put another category. Leave that aside for the moment, because the water may be trucked in for aquaculture tanks that need pure water or water of a particular standard. Obviously the land itself will have a value and a factor to be taken into account in its value is its commercial capacity, and its commercial capacity and diversity of that will be influenced by the level of rainfall, etc. So, there is the value of the land itself, including one factor, which is the rainfall for the area.

A second aspect of the value of the land can be its access to bore water. Then we have the issue of water is stored on the property, which could have a commercial value if it is sold to a neighbour. Then we have the third lot, which is particular water that is acquired and purchased from someone else and brought onto the property. The first one I think is pretty clear. The value of the land, including the relevance of the rainfall to the commercial generation of that land is taken into account because the value of the land considers that factor. We dealt with the water that is trucked in. What about the water that is sitting in dams on property which does have a commercial value and which can be sold? Is that treated as a chattel or a fixture for the purposes of identifying the improved value of the asset, which is then dutiable?

The Hon. J.J. SNELLING: I think we are really debating how many angels can dance on a pinhead. Nonetheless, if the water in a dam were capable of being valued, and I doubt it, but if it were, it would be held under goods held or in connection with the business of primary production because you have the water in the dam to water your livestock.

Mr PEDERICK: I just want to make sure people are well aware of what landholding entities will be caught up in the legislation. You may have mentioned it in your opening remarks today, but I go to the paragraph under the same new subsection, and I am just going through the list:

> private company means—
>
> (a) a company that is limited by shares but whose shares are not quoted on a recognised financial market; or
>
> (b) a company that is not limited by shares—

but then it says—

> but does not include a company excluded from the ambit of this definition by the regulations;

Unit trusts are mentioned quite significantly throughout the bill. I am just wondering if this means to pick up discretionary trusts as well—family trusts and the like—and what companies are likely to be excluded from the ambit of this definition by the regulations?

The Hon. J.J. SNELLING: In terms of the trust itself, no, it is not the purpose of this provision to pick up discretionary trusts, but to the extent that discretionary trusts might have an interest in a land rich entity, then, yes. In terms of the trust itself, no, but only to the extent that a trust might have an interest in a land rich entity, in which case, yes, the land rich entity is what would be caught up in this provision.

Mr PEDERICK: So what you are saying—and I suppose I am probably speaking for possibly thousands of property owners in the farming community—is that they could be caught up in this if they have got a company established under a discretionary trust. I just want full clarification. You could have AB and BC Bloggs Pty Ltd under Bloggs family trust as trustee for the Bloggs family trust. So that does get caught up. I am just trying to make sure that we know exactly what we are talking about here.

The Hon. J.J. SNELLING: The member for Hammond is correct to this extent: yes, if you have got a company which is set up under a trust, which is a land rich entity, the purpose of this is to ensure that, if there is a change in ownership of that company and it is treated differently from any other, it is a land rich entity. But, for people who are established in this way, it is only going to affect them if there is a change in ownership of the land rich entity, in which case there would be duty payable. Otherwise, this does not affect them. It only affects them if there is a change in ownership of the land rich entity. So, the member for Hammond is correct. If there is a land rich entity or company, which is land rich, sitting underneath a trust and there is a change in ownership of that company, presumably from the trust to some other owner, then, yes, they would be subject to a higher duty as a land rich entity. That is right.

Mr PEDERICK: Obviously, if there was a transfer into family under those arrangements they would be exempt. I am just making sure we get all this.

The Hon. J.J. SNELLING: Yes, that's correct.

Mr PEDERICK: Is there any retrospectivity in regards to land held in both, say, a company as trustee for a family trust or in a unit trust ownership, as regards to this bill, or, with any deals done before the appropriate date in July, is how they act relevant to the legislation when they were formed?

The Hon. J.J. SNELLING: No, there is no retrospectivity. This only applies from 20 July 2011. There are some transitional arrangements so that if a contract is entered into and effectively signed but the acquisition itself does not occur until after 1 July, the current regime still applies. There is no retrospectivity at all.

Ms CHAPMAN: The Farmers Federation raised the question of double taxation where an interest has gone from 49 per cent to 100 per cent. Can you explain how that protection against there being a double taxation occurs? They suggested an amendment to ensure the way around it is that any stamp duty paid on an earlier acquisition is taken into account in the amount that then becomes assessable for the 100 per cent. I hope the minister recalls the example that the Farmers Federation presented. I think certainly my colleagues put it, and I briefly referred to it in my contribution.

The Hon. J.J. SNELLING: My advice is that if you have purchased anything up to 49 per cent interest in the land rich entity, then you have paid no duty. So you have paid no duty on anything up to 49 per cent of your ownership of that entity. There is no duty payable so there is no double taxation.

Progress reported; committee to sit again.

HEALTH SERVICES CHARITABLE GIFTS BILL

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

No. 1. Clause 15, page 7, lines 18 and 19—

Clause 15(c)—Delete 'the Investment Advisory Committee established in Schedule 2 and any other body' and substitute:

No. 2. Clause 15, page 7, line 22—

Clause 15(d)—Before 'body' first occurring insert:

person or

No. 3. Clause 18, page 9, line 2—

Clause 18(1)—Delete 'The' and substitute:

Subject to this Act, the

No. 4. Clause 18, page 9, line 4—

Clause 18(2)—Delete 'a public health entity' and substitute:

an entity or body (the *donee*)

No. 5. Clause 18, page 9, lines 11 to 16—

Clause 18(3)—Delete subclause (3) and substitute:

(3) In managing and applying a portion of the charitable assets attributable to a particular donor, the Board—

(a) must consider the intent, as far as it may be reasonably ascertained, of the donor; and

(b) so far as is reasonably practicable, must apply the portion in a manner that the Board considers is most likely to achieve the intention of the donor; and

(c) if the donee remains in existence at the relevant time as a public health entity or prescribed research body—may only apply the portion to some other public health entity or prescribed research body if the Board first consults the donee in such manner as the Board thinks fit.

No. 6. Clause 20, page 10, line 17—

Clause 20(4)—Delete 'property specified in Schedule 1 clause 2' and substitute:

prescribed property

No. 7. Clause 20, page 10, lines 22 to 27—

Clause 20(5)—Delete subclause (5)

No. 8. Clause 20, page 10, after line 39—

Clause 20—After subclause (9) insert:

(10) In this section—

prescribed property means property that—

(a) is prescribed by regulation and was given in a manner prescribed by regulation; and

(b) was held by the Commissioners of Charitable Funds immediately before the commencement of Schedule 3 (and vested in the Board as part of the charitable assets on the commencement of Schedule 3),

but does not include property given (or purportedly given) to or for the benefit of a body specified in Schedule 1 clause 1.

No. 9. New clause, page 11, after line 5—

After clause 22 insert:

22A—Board to meet with public sector employee nominated by Minister

(1) The Minister must, with the agreement of the Treasurer, nominate a public sector employee (with expertise, knowledge or experience deemed suitable by the Minister) for the purposes of this section.

(2) The Board must, on a quarterly basis, meet with the person nominated by the Minister for the purpose of receiving advice and recommendations from the nominee on the exercise of the Board's functions in relation to the Board's investment portfolio, investment objectives and strategies, and related matters.

(3) For the purposes of a meeting under subsection (2), the Board must provide the nominee with such information or records in the possession or control of the Board as the nominee may require in such manner and form as the nominee may require, by no later than 1 month prior to the meeting.

No. 10. Clause 23, page 11, lines 8 to 12—

Clause 23(1)—Delete subclause (1) and substitute:

(1) The Board may, subject to subsection (2), establish committees to provide advice on any matter affecting the administration of this Act as the Board thinks fit.

No. 11. Clause 23, page 11, line 15—

Clause 23(2)—Delete 'under subsection (1)(b)' and substitute:

(and the regulations may make provision in relation to the establishment of the committee and any procedure to be followed by the committee)

No. 12. Clause 23, page 11, line 16—

Clause 23(3)—Delete 'established under subsection (1)(b)'

No. 13. Clause 23, page 11, line 21—

Clause 23(4)—Delete 'established under subsection (1)(b)'

No. 14. Clause 23, page 11, after line 21—

Clause 23(4)—Before paragraph (a) insert:

(aa) as prescribed by regulation; or

No. 15. Clause 23, page 11, line 22—

Clause 23(4)(a)—Before 'as' insert:

insofar as the procedure is not prescribed under paragraph (aa),

No. 16. Clause 23, page 11, line 23—

Clause 23(4)(b)—After 'is not' insert:

prescribed under paragraph (aa) or

No. 17. Clause 29, page 12, lines 29 to 31—

Clause 29(3)—Delete subclause (3) and substitute:

(3) The report on the operations of the Board under subsection (1)(a) must include the following:

(a) if the Board has, in the relevant financial year, applied a portion of the charitable assets that is attributable to a gift to or for the benefit of an entity or body to some other entity or body, a statement of reasons for the Board's decision to so apply the portion;

(b) a summary of any advice given, or recommendations made, by the public sector employee under section 22A in the relevant financial year;

(c) any other information prescribed by regulation.

No. 18. Clause 29, page 12, line 34—

Clause 29(5)—Delete subclause (5)

No. 19. Heading to Schedule 1, page 13, line 15—

Schedule 1, heading—Delete 'and parts of the charitable assets'

No. 20. Schedule 1, clause 2, page 13, lines 23 to 35—Delete the clause

No. 21. Schedule 2, page 14, line 1 to page 15, line 33—Delete the Schedule

No. 22. Schedule 3, clause 6(1)(b), page 17, lines 1 to 4—Delete paragraph (b) and substitute:

(b) for the benefit of Metropolitan Domiciliary Care, including funds held in the Metropolitan Domiciliary Care fund in the *23 series accounts*.

Consideration in committee.

The Hon. J.D. HILL: I move:

That the Legislative Council's amendments be agreed to.

I indicate that the government supports the legislation as amended in the other place. The amendments were moved by our colleague the Hon. John Darley in relation to a number of matters. I had some very good discussions with Mr Darley, who, as members would know, is not only a member of the other place but is also a former chair of the board of the Charitable Gifts Trust. He raised some quite sensible, practical issues with me and, through negotiation with him,

we arranged some amendments which gave him some certainty about the protocols that were being put in place.

I understand that, when it went to the other place, this was agreed to by all parties. There was no contention about it, so that is a good thing. The bill is strengthened. This is a bit of legislation that has been around for a very, very long time. There has been a desire by members of the board to have amendments made over a long period of time, and I am very pleased that this parliament has now been able to deal with it. It creates a new institution based on the old. It gives it a lot more flexibility, greater clarity about its roles and responsibilities, and it allows it to get on with its job in a modern context. I can explain any of the amendments to members if they would like detail, but I am assuming they are familiar with what was agreed to in the other place. I commend this to the house and once again thank all members for their support.

Dr McFETRIDGE: I am pleased that the government has agreed to the amendments put up in the other place. I, too, spoke to Mr Darley and used his experience as the former commissioner to look at what was happening with this bill because many people were concerned that this was a cash grab by the government.

I have had long discussions with Mr Darley and others involved, and the opposition is confident that the bill will achieve its aim to ensure that endowments and gifts are used to the best advantage not only of the medical profession and hospitals in South Australia but also in the way that was initially intended by the donors and those bequeathing moneys and properties to be used for the benefit of hospitals and others. With that, the opposition looks forward to watching the act at work.

Ms CHAPMAN: I made a rather long, I think healthy—the minister might not think very helpful—contribution to this debate because I felt it was important that we ensure some independence of whatever structure is the modern version of the commissioners of charitable funds, and the new board is to come into effect. I thank the Hon. John Darley for introducing these amendments, many of which flowed from significant reform and concerns that the opposition raised about the extent to which there would be an obligation on the board to take instruction/direction/advice from people under the control of Treasury. That having been, I think, watered down by these amendments, I welcome them. As I say, I thank the Hon. John Darley for his insistence on such amendments, which we supported in another place.

I have previously thanked the retiring members of the board as a result of this legislation coming to pass, so I won't progress that again. But there was thorough consideration in the other place, and on this occasion I thank the minister for accepting those amendments so that we can proceed to the new structure.

The Hon. J.D. HILL: I thank the honourable member for Bragg for her shortest-on-record speech in the history of this parliament—congratulations!

Ms Chapman: No, my shortest is, 'I support that.'

The Hon. J.D. HILL: That might be a slight exaggeration, but I do thank her for her contribution, and I thank members for their support. It is all good news from here.

Motion carried.

At 17:47 the house adjourned until Wednesday 18 May 2011 at 11:00.