HOUSE OF ASSEMBLY

Tuesday 26 July 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.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

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) (11:02): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

Adjourned debate on second reading.

(Continued from 7 April 2011.)

Ms CHAPMAN (Bragg) (11:03): I rise to speak on the Statutes Amendment (Community and Strata Titles) Bill 2011 and indicate that the opposition will not be supporting the passage of this bill and, specifically, we will be seeking that the government withdraw it and undertake a substantive consultation with the stakeholders and ensure that any future bill addresses development contract enforcement. That is our position and that is what we will be asking the government to do. Its passage through this house today, therefore, given that we also can count, will not be with our blessing.

The history of this legislation is that the Attorney-General tabled this bill on 7 April 2011, and there had been a draft that had been presented, apparently, for some public consultation in December 2010. One of the difficulties that the opposition has, may I say at the outset, in understanding and therefore either appreciating, acknowledging or recognising the level of consultation in these exercises and therefore, if appropriate, our acceptance that it has either been adequate or, indeed, at least comprehensive enough to satisfy us, is that there is a complete cone of silence and shield of secrecy around who gets told what, what submissions they are invited to present and what they say.

Sometimes—I say this broadly—the Attorney-General sends a letter to myself, and presumably other members of the parliament, to say, 'There is a discussion paper attached on XYZ and you are invited to make a contribution about some proposed reform.' We thank the Attorney on these occasions that at least we are informed about an idea that he might have, whether it is a spark of genius, whether it is a perilously erroneous path that he is about to take or whether it is just to follow through on some ridiculous announcement that his leader has made in some previous election campaign. However, on some of those occasions we do receive an invitation to make a submission, or at least be aware that a review is underway. What is kept secret is who gets asked.

It is very interesting that when we go to briefings, which we attend in the usual course, we ask the representatives from the government who are there, or members of the department who are carrying out the consultation in pursuit of this legislative reform, 'Who has been consulted?' Sometimes they are quite helpful and they say, 'We have considered the various departments, we have gone through the usual suspects in legal stakeholders.' That might be the Bar Association or the Law Society if it is a legal matter, or the AMA if it relates to a public health issue, etc.

That can be quiet helpful because, if one is given sufficient time, then at least the opposition, or any member of the house, has the opportunity to follow up with that organisation to ascertain whether they have a particular view, whether they have considered the information provided, whether it has been enough to give them the full story and/or whether they are mindful to accept the principle being pursued but are concerned about the machinery that is about to be implemented. They may have one or a raft of amendments that they think might improve that position.

In that regard, that can be quite helpful too, because sometimes the Attorney-General, in carrying out his portfolio law reforms, if he considers it appropriate, is able to either adjust the terms of the bill that is ultimately laid in the parliament and/or make a contribution during the debate by tabling a number of amendments. Although I have not read them yet, I note that there have been some amendments tabled for this bill—106(3). I do not know yet whether it will remedy some of the issues that we are raising, but I will certainly look at that as soon as practicable.

Let us consider then what has happened in this scenario. This bill, tabled 7 April 2011, has been out to some form of public consultation in December 2010, and an assertion by the Attorney-General that the new regime that is proposed would improve protections to consumers. That is usually a very important aspect of a bill's attraction; that is, to think that it is to help the poor little humble consumers out there in the real world. It usually indicates to me that it is concealing some other mischief, and one needs to be careful of whether it really is the wolf in sheep's clothing.

In any event, it is always impressive to hear that there is some element of consumer protection provided, which, in the end, actually delivers consumer protection and which does not place a heavy burden on others that will ultimately come back at a major cost to consumers. That is the sort of thing that we are on the alert for when we hear these grand assertions.

Buying a unit in a strata and community title development does come with certain areas of responsibility, because, unlike the acquisition of a piece of real estate—that is, the purchase of a fee simple interest in a dwelling, property, or structure on a piece of land, with or without its improvements—where it is just one dwelling and it is somewhat more streamlined and able to be quarantined from all the complications that come with buying into an a strata entity, with a strata title there are inevitably shared areas of use, shared amenities and shared responsibilities.

I will say that, on our understanding of the history of this matter, a 2003 discussion paper led to a bill in 2008 under former attorney-general Atkinson. My recollection, although it is hazy regarding the debate and what happened, is that it did not advance very far and there were more complications. If my memory serves me correctly, I thought some issues had been raised and, in fact, I think the current Attorney-General, as a backbencher, had had some involvement in not just real estate reform but that this was the sort of issue that needed to be picked up.

I also say at the outset that I do—as I am sure a number of members of this house do—have some understanding of the complications that come with buying into a community or strata title. In my own case, one of my relatives—my grandmother, in fact—had a unit in a corporation which was transferred to strata title here in Adelaide and, from time to time, I would attend strata meetings on her behalf as her proxy.

This group of units was managed by a strata company. I think there is probably only a handful of them operating in Adelaide and they undertake most of the strata management of properties, and they are quite specialised in what they do. Essentially, one of their appointed representatives convenes the meeting and basically provides all the secretarial duties and ensures that proper compliance is met. Largely, they are paid a management fee to advise the owners at these meetings of the progress of maintenance of the community areas, or areas of joint responsibility, and are able to seek, by resolution, their support to progressing maintenance which can occur.

For example, if the property has external gutters that service the removal of stormwater from all the property and they are considered to be the responsibility of all of the tenants, then the manager might obtain some quotes for their maintenance, repair or upgrade, present those quotes to the meeting and seek approval to expend the funds to maintain or improve, as I have indicated. Certain rules apply in relation to a certain majority for decisions for them to have authority to proceed.

On other occasions, usually annually, a resolution would be put to the members as to how much money would be put into the fund to maintain areas of joint responsibility, and a levy or fee would then be issued to each of the owners for payment. Those moneys would be received, supervised and accounted for back to the meeting and in the annual report by the strata manager. It was a fairly basic sort of service, but it was necessary to appoint someone who was independent to do it.

Under the old corporation model, it was a shareholding interest which gave an entitlement to occupancy of the unit. That was a bit tighter sort of process, where a secretary of the corporation would be appointed, there would be meetings amongst the members and, again, they would go

through the process of resolving how they would deal with areas of joint responsibility, but that was probably much more internal.

One of the difficulties with those sorts of structures (and hence the transfer by a number of them to the strata system) is that it made it more difficult to sell a shareholding interest in these corporations, and they were not as marketable. So, often the value of the premises, and the space they occupied, were diminished or discounted, and there was some attraction to moving to the strata system. In any event, certainly at the time of my grandmother's transfer, which is now some 20 or probably 30 years ago, it was accepted by the shareholders of the corporation that it would be of benefit overall to transfer to a strata system.

There is no doubt, however, that, when a group has to make a decision about what is going to be happening in an area of joint responsibility, it can be a bit like a family: you can have a roundtable meeting around the kitchen table. You can have a discussion; there can be some dissidents; there can be some who say they should not be spending any money on buying a new car, for example, and others will say they should. So, there will always be some diversity of view about whether developments should occur, whether a piece of equipment should be acquired, or whether certain maintenance particularly should be undertaken.

One of the common areas under consideration at the moment is circumstances where people living in a community entity of a number of dwellings together have only one water meter to their property. This is quite common, as we know (it has been very public), for those who live in groups of housing trust, or housing unit, accommodation, where they have only one meter. Prior to this government's changing the water pricing regime for consumers, the allocation of water to housing trust tenants was essentially a cost picked up by the South Australian Housing Trust.

Now it is to be metered and, when it is over a certain amount of water, a bill is to be sent. It has become the practice of the government that they will simply divvy up the bill; so, if there are 12 dwellings in one group of units, they will each get one-twelfth of the bill. On the face of it, one might say, 'That's reasonably equitable.' Of course, the simple approach always comes with complications.

The sort of thing that causes disquiet about this type of model is when we find that a family of six lives in one unit and an 80-year-old widow lives in another. She might have a bath once a week, is very conservative with her water and only has a cup of tea in the morning and very little other liquid use during the day; she does not have a garden to water, just a little pot plant on the sill; and she is a very modest consumer of water—but very proud of her little pot plant. Next door, there are six people who are obviously using a significantly greater amount of water because there are children who go to school, play sport and might need a couple of changes of clothes, etc., and people going to work and need to launder their clothes a lot more. All the usual things that come with families—

Mr van Holst Pellekaan: And lots of visitors!

Ms CHAPMAN: And lots of visitors, indeed, the member for Stuart reminds me. When one has children living in the house you are usually feeding someone else's children most of the time. So there is extra consumption of lots of things and electricity and water, of course, are two of them. If you have a system which simply divvies it all up and there is a profile of occupants which is quite diverse then, inevitably, you end up with an inequitable system.

On that issue we have begged the government repeatedly to agree that it not have this system of charging their tenants until they give them access to their own meter. That would not only reward the water savers but it would ensure that the water wasters are not unfairly passing that cost on to some other neighbour. Of course, the government has consistently refused to consider that, but we think at a cost of under $300 per installation it would be sensible.

What has happened in areas in the independent or private sector, such as a group of 12 units under a strata arrangement? Some of them, I am told, have historically done just as the government is doing to its housing trust tenants—that is, they have one meter and they distribute it as to one-twelfth of the cost at their meetings when they receive it, or copies go out to everybody to pay one-twelfth each. In those circumstances, that is not uncommon, I am told by people who are in these arrangements, especially when it is very small and there might be only four or six in a strata, but also especially when the profile of the occupant is similar, that is, a single or a couple who are perhaps mature-aged as the general profile of those living in the households.

There is an acceptance that one or other might use a bit more water if they have a car that they might wash—although, of course, you have to be careful when you wash a car these days because there are all sorts of rules saying you cannot use a hose anymore—but the important thing here is that, as a group, they have a discussion at their strata meeting about whether it is even worthwhile to have the expense of everyone having their own meter, and they accept that there is a judicious use of water in their households and that everyone is on the same wavelength and they continue on quite happily.

Others have told me that they have discussed it at their meeting and it is thought by some, perhaps, that there might be one or two in the group who are much greater water consumers. Sometimes I have heard some quite flowery descriptions about the alleged waste by one or two of their neighbours and they are quite hostile about it. Many people in our community are very conscious about protecting water consumption in this state and they are very alert to the fact that it is important to preserve this natural resource and so they get a bit cranky when they see a neighbour who is wasting water.

In those circumstances the strata can meet, and a number of them say they have done that and said, 'Well, we think it is worthwhile each installing our own meter and transferring to that system.' One of the things necessary here usually is that you cannot just do it for one—there has to be an agreement. So by a majority decision it is resolved that it would be fairer, more equitable, that they pay the few hundred dollars each, have their meter installed and are actually able to then maintain their own judicious consumption and also ensure that they are not relying unfairly on a neighbour subsidising their consumption. That is the type of situation where we have an area of community responsibility when decisions need to be made.

There are others—it is not just maintenance or infrastructure discussions. I can recall another occasion when the strata manager was asked to call a special meeting. The issue was the apparent illegal parking of persons unknown but believed to be an acquaintance of some of the other occupants on the public property, on the area of community ownership. So that members can follow this important illustration, this was a block of 12 units, six of which had car garages and the other six did not. It was obviously built in an era when not everyone had a car and, furthermore, in those days some people did not want to have to purchase into a corporation, a shareholding, which meant that they would get a carport that they did not need. They were really just looking for a dwelling on a main road, with access to public transport; they did not want the expense, so they paid a lesser capital fee to the shareholding in the corporation.

This was a set-up where six had car parks and six did not. In the era of this strata group of units being built, not everyone had their own motor vehicle, nor did they seek to have one. Things have changed. A few years ago it became apparent that, having moved from a corporation arrangement where you had to have the other people's permission if somebody lived in the unit other than yourself—a family member had moved on and they had moved to a strata and some of the owners had then started to rent out their units—instead of being a community where everyone knew each other as owners, there was sometimes a regular turnover of occupants in these units as tenants; some would be students who were going to university and they would be sharing a unit.

Not surprisingly, here we are in the 21st century and a lot of these people had cars, and they had nowhere on site to park in a garage because the rules of the strata required that all of the other public area on the block of units was to be kept free of anything, including vehicles. So, if you visited somebody in this property and you could not use one of the carports at the invitation perhaps of another owner, you had to park on the street, around the next road or whatever, and that was the arrangement.

Nevertheless, some occupants decided that they wanted to park anyway, so they just decided they would park. They did not park on the driveway, where the other cars would come in and out, otherwise they would block the access of those people, they just parked on the lawn. There were nice little neat patches of lawn the occupants and other owners had proudly kept clipped and everything else, and next thing was that some of the tenants or their friends—persons unknown—would just come in, rip in in their car at midnight and park it on the lawn. In winter it become a quagmire and in the summer a dust bowl.

Not surprisingly, a special general meeting had to be called, and there had to be a discussion about what could be done about this and a request put to the strata manager as to what should be done, as there was a clear, deliberate flagrant abuse and disobedience of the rules of the owners. Because there were persons—apparently other than the owners or their authorised tenants—parking in this way on their private property, there was a question of whether it became a

civil matter to identify these vehicles, sue these people for the damages caused, or whether in fact it should be reported to the police and that this property unlawfully parked on this private area could be removed. So, we went through all that process.

Of course, it is one example, I would have to say, where the strata manager at the time seemed pretty reluctant to really do anything about it. The tenants were saying, 'Well, somebody's got to do something about it. We're having our own property damaged. This lawn area is dug up. We can't use it ourselves. It's a mess. It depreciates the value of our property,' apart from the fact that it was unsightly, and so on.

Ultimately it was resolved, members would be pleased to hear, by the occupiers themselves paying for bollards to be put up to protect against people parking on their property. It is not unique that people have to spend money to sometimes protect private property, but it was one of those examples, I think, where we needed probably to look at protecting the occupants of a property where there is a dispute between the occupiers and owners as to how a problem is addressed or whether or not it should be addressed, and then a resolution process.

I have always felt that there must be some way that we can improve legislation to protect in those circumstances and to protect minority interests. There is a whole welter of law out there to protect minority interests as shareholders in companies, but I think that there have been some deficiencies in the area for those in a strata or community title arrangement.

I also make one other general observation before commencing on this, that is, I think it should always be understood here that the nature of the title to which one abides to be able to occupy or own a property can have a very significant effect on the value of what the consideration is to pay for it. For example, as I said, you could have an estate in fee simple of the ownership of a single dwelling on a piece of land which you have purchased, or the improvements thereon, and you do not have to deal with anyone else (apart from neighbours) but you do not have a shared responsibility about which there needs to be consultation.

You can go through myriad different types of legal ownership or legal entitlement which graduate down to the rights that you have in an exclusive way. The other end of the spectrum is where someone acquires a right to occupy, for example, which is common in a number of retirement-type facilities. I visited one in the member for Light's area some time ago in my shadow responsibilities for ageing, and they essentially pay a fee to have a right to occupy.

They are entitled—a little bit like an aged-care home—to have a portion of it back, diminishing in percentage according to the number of years that they occupy the property. There is no actual legal ownership of property for the purposes of defining the applicability of stamp duty and/or land tax, so it is not a property interest, but it is one which gives them a right to occupy. For some people, this is a really important product to be able to access, usually because it is much cheaper in the capital moneys needed to actually acquire it. That is why it is important that, as best as we can, we offer different products that will provide a home for people on the clear understanding, though, that with diminished capital consideration, frequently there is much less protection, much less exclusive control and much more vulnerability to having to acquiesce to the wishes of others.

Let's go back to this particular bill. The general proposal under this bill, which, as I say, amends the Community Titles Act 1996 and the Strata Titles Act 1988, purports to do the following things. Firstly, it will provide for pre-contractual and contractual disclosure for body corporate management contracts. Secondly, contracts for the management of a corporation will be limited to two years, will need to be in writing and must specify identified matters. Thirdly, a strata corporation will be able to revoke a delegation of its functions to a body corporate manager at any time even if there is an agreement to the contrary. Community corporations already have this right.

Fourthly, commercial body corporate managers will be required to maintain a policy of professional indemnity insurance providing cover of at least the amount prescribed by regulation. Apparently it is $1.5 million per claim in Victoria and that is recommended to be copied. Fifthly, the corporation itself will also be required to buy a fidelity guarantee insurance. Sixthly, it will clarify that the appointment of a proxy or a power of attorney can be revoked at any time and limits the life of proxies to no more than 12 months.

Seventh, it will provide that strata corporations can impose a penalty of up to $500 for breach of a by-law; and eighth, it will provide a mechanism for the members of a community scheme by a majority vote to agree to insure some or all of the buildings in a community scheme through the agency of the corporation.

There are a number of other aspects which I will quickly summarise. Firstly, all owners will be entitled to inspect any records of the corporation in the possession or control of the body corporate manager within three business days of a written request. Next, it will raise from $3,000 to $10,000 the income threshold for exemption of community corporations without managers from being required to have an audit. Any owner may apply to the Magistrates Court for an order requiring an audit, with the court determining who meets the cost.

Next, where the corporation intends during the developer control period to delegate functions or powers to a body corporate manager or to enter into a contract for services, the developer must exercise reasonable skill, care and diligence and act in the best interests of the community corporation as it will be constituted after the developer control period ends. A strata corporation special resolution is passed if no more than 25 per cent of all lot holders vote against it at a validly convened meeting. Deposits for off-the-plan sales are to be held in trust.

Next, there will be provision for a mechanism to enable requirements to be placed on developers to provide security for fulfilment of their obligations under development contracts and to provide for applications to cancel or amend a strata or community plan to be heard in the Environment, Resources and Development Court rather than the higher courts. Finally, council's power to require an owner to rectify or demolish a building will apply to buildings that form part of a strata or community title development without the need for approval of the works by the corporation.

I think these reforms fall into three categories. One is to introduce a regime which we think on the face of it is probably onerous on the strata manager, the agent who has been appointed to do the management, to resolve an ill which is not necessarily perpetrated by them, that is, how to address an issue where there is a significant minority or a level of intransigence in what would be on the face of it a reasonable thing to do by other owners and how to resolve that. It is difficult. Introducing a regime which purports to provide some remedy to the consumer I think is actually ill-founded, because even with all of this it is not necessarily going to provide any greater protection to the consumer, namely, the occupants who are in the facility.

The second area is to create some machinery of access to records and the like, which of course can be passed by resolution in any event within organisations, but there are significant obligations for the provision of insurance. I do not know of any in these circumstances who do not make provision for insurance, but there may be, and there may be some circumstances where the attorney can explain to us why this is necessary.

The final area is to transfer the role of these issues from the current courts to the Environment, Resources and Development Court. I do not think there is any justification for this. I think that we need some explanation as to why the government keeps going down this line. I do not know if the Environment, Resources and Development Court does not have enough to do that it keeps wanting to transfer property disputes, and why when we have a land and evaluation division in the Supreme Court and when we have a structure through the superior courts in South Australia, we should quarantine these off into determination by the Environment, Resources and Development Court. I do not see the connection. I see no valid reason to do that, and we need some explanation.

It is not unique; this is not the first time this government has not transferred the ordinary jurisdiction from the Supreme or District Court to the ERD Court, where the access to the court structure, we think, should be retained. Sometimes circumstances have a particular area of development and planning aspects which could be attached. An example is this question of having legislation for demolition of property by councils. Perhaps that is a process in the ordinary planning jurisdiction which councils would otherwise be going to the ERD Court on and which could justify some determination, but to have applications to cancel or amend a strata or community plan to be heard in the ERD Court I think will diminish the effective services to the litigants in those circumstances, and without proper explanation it simply cannot be justified.

We are further advised that, with the support of the Real Estate Institute and the Institute of Conveyancers, the Agents Indemnity Fund, under the Land Agents Act and the Conveyancers Act, will fund a dedicated strata information and advice service to provide unit owners with information about the rights and obligations attached to community and strata title properties. These always seem to be a good idea: when you read them you think that information is available to people and that you have somebody dedicated to the fund to provide it, but I wonder whether we keep reinventing the wheel with these things and whether, in fact, there has been any real assessment of what else is already out there and available.

For example, I have a booklet here, entitled *Strata and Community Titles*, which is published by the Legal Services Commission of South Australia. It sets out the obligations in relatively easy-to-read layman's terms, with easy-reference answers to what the rules are in a strata or community title. It does not purport to be so comprehensive that every answer is in here, but it contains common things raised by owners of property in these circumstances and a pretty easy reference to the process, the person, the party or the organisation that one would go to to have some remedy of their concern.

It outlines common questions and answers about converting to community title, about restrictive rules (in an apartment complex, for example), about fines, about administrative requirements and about buying a community title. It asks questions such as, 'My neighbour would like to buy a strip of land on my lot. Does this require a unanimous resolution of the corporation?' and questions about administrative requirements, 'We are members of a small group of units. Do we have to comply with all the administrative requirements of a community scheme such as annual general meetings and an administrative and sinking fund?'

All this is set out in simple language courtesy of this publication by the Legal Services Commission. I think it is a very helpful booklet, and I assume it is still being regularly published—October 2009 was the last update. At the back of the booklet, it provides a list of the contact addresses and numbers of all the offices of the Legal Services Commission across the state, of community mediation centres, of the Land Services Group (which is at the Lands Titles Office), and of all the community legal centres across the state, for people who do not elect to obtain their own paid legal advice to get access to advice on these matters.

I find it rather puzzling that we have a situation where more money is going to be harvested and then, to make it look really good and helpful for consumers, they are going to get a little publication, a booklet, or an educational database or something else out of it to try to make the pain of having to pay extra meritorious when we already have very comprehensive and adequate material available; if it is not, and somebody says, 'Yes, but they are not providing sufficient advice on this aspect,' for goodness sake add to it. Stop reinventing the wheel and trying to justify a whole new fee structure on the basis that it is going to have the side benefit of providing a cost to the consumer.

We have spoken with some of the key legal stakeholders, bearing in mind that the provision of documentation from the government as to what has been received has been woefully inadequate and that it is impossible for us to make an assessment without that information. Of course, we have had to have consultation, and the Hon. Stephen Wade in another place has sought a number of comments, including from the Community Titles Institute of South Australia, the South Australian division of the Property Council, the Real Estate Institute of South Australia and the Australian Institute of Conveyancers.

The Real Estate Institute has confirmed that there is general support but suggested a formal two-year review of the act. The Law Society has indicated that there is general support and had no comment to make on it. Bear in mind here that, when we have stakeholders who say, 'We don't have any objection to the bill,' or, 'There is no legal impediment that we see that is going to contravene some principle that is going to be, perhaps even inadvertently, crunched,' it does not necessarily mean that they are either supporting or opposing a policy initiative of a government. They, I think quite rightly, leave those policy decisions to a government.

I think it is always important that we understand here that, when organisations scrutinise a piece of proposed legislation, whether or not they agree with the direction of the regime, they are looking at it—and this is what they are expected to do and properly do—from the perspective of how it might affect those over whom they have jurisdiction or a responsibility as members of their association. It is important that we understand that this is somewhat more limited.

The Community Titles Institute suggested a number of amendments; the first is to clarify that a delegate cannot undertake works without consultation; secondly, to increase from three days to 10 days the time frame within which records need to be made available for collection; and, thirdly, to clarify that the developer control period relates to the developer having control of the corporation, whether or not the developer, 'has an interest in, the majority of lots in the community scheme'.

The Property Council has expressed some concerns, including concerning the procedures for dissolving a strata title. It is their view that, with 100 per cent approval needed for individual owners in a strata group to amend or dissolve a strata scheme, it has become virtually impossible

to use these properties for the higher and best use. Without reforms, they claim, it is almost impossible for the state to deliver the new housing and commercial stock essential for our inevitable future growth.

As I mentioned before, they are really saying that a number of different types of product can be available. They are at a very different regime of cost but, unless we can offer this variety of product, the capacity to accommodate those in future homes—especially if there is any growth in population and a growth in the dependent population, whether they be aged, disabled or otherwise—we are going to really struggle as a state. The Property Council has recommended the implementation of a 75 per cent threshold of strata owners supporting termination.

Members are probably aware that presently under the South Australian law, where owners are not unanimous a party can apply to the court for an order to terminate a strata or community scheme. The government claims that it is making this process more accessible under this bill by providing for applications to cancel or amend a strata or community plan to be heard in the ERD Court, as I have said before, rather than the District Court under the Community Titles Act or the Supreme Court under the Strata Titles Act. I do not accept that.

If it were to suggest that there would be a significant reduction in cost then we would look at it, but the ERD Court essentially has all the trappings of the District Court—whilst there are some limitations in the value of jurisdiction—and in my view it is important to maintain it in the general court system. We have yet to see any demonstrable benefit that the government could give if it wanted, and if it were accurate as to how much better, quicker or cheaper it has been for litigants in other jurisdictions where they have transferred into speciality courts and removed the capacity to be in the general court system. It has not done so.

The opposition believes that the setting of the threshold, the amount of support needed for termination of strata corporations, should itself be out there for direct consultation and we should be able to hear what people say about it and what alternative proposals they offer. At this stage we have had one significant stakeholder already saying that the threshold is too high and that we need to review it.

The Property Council has also looked at the issue of payment of deposits and how they are held in trust when people pay deposits for off-the-plan sales of property interests, for example, in a community title or small strata title. While the council acknowledges this 'appears to currently be standard practice within the development sector', the council claims that 'the development sector is still suffering under the financial constraints placed on it by the finance sector and the risk is any new regulations that increase red tape and/or put at risk the ability of residential developers to obtain finance'. So the Property Council here recommends that, if the government intends to maintain this requirement, the implementation of this amendment be delayed for 12 to 24 months to allow time for the finance sector to get itself back in order. That may not be necessary.

I suppose it is hard to understand the impact that the GFC had, or is still having, on the capacity of people to get finance. If you listen to the Hon. Wayne Swan, everything is sweet and beautiful again, according to his great stewardship. If you listen to the Prime Minister, she says that everything is under control because of the massive spending spree of public dollars that we have had over the last few years—as inept as the management of that was. Nevertheless, generally all is sweet and rosy and, in fact, we are in such good circumstances that we are about to have a 23 per cent carbon tax that can easily be accommodated. Well, she may have her view, but I have a different one.

From the federal government's perspective all is sweet and rosy. The reality is that we have significant areas of concern in unemployment, and we already have industries under pressure. I know from having a specific responsibility for families and communities, housing, disability and ageing in this place of the ever increasing number of people in our community—ordinary people, couples, individuals, families—who are straining under the weight of increased cost-of-living charges, especially service costs, with diddly-squat benefit from the state Treasurer. So, we will see whether the impact of this type of regime is going to be significantly onerous to add one extra aspect of weight, that is, access to finance.

I reiterate that the structures that we have under consideration are not applicable to many people (even in this house); that is, people who are in a position to buy property, real estate, investments, single dwellings, mansions (whatever) and who have lots of opportunity to buy and sell, remain independent and have that autonomy. That is a privilege, frankly, that comes with a lot of money. There is a whole group in the community who will never have access to private single

dwelling ownership, let alone investment and other things, and there are many in the community who will not even have a home unless we have products which we maintain are accessible.

Whenever we are dealing with strata or community titles, which add this extra range of product to give people a home, it is important that we understand the significance of creating a regime which is more regulatory, which costs more and which ultimately is a burden to the very people in the community who will be excluded if we push them too far. We have enough people who are either homeless, sleeping in cars, or living in cramped accommodation (if they have it at all) and who are in desperate circumstances. That is already very much under pressure. For the significant group in the community who access these types of accommodation and who are able to do so, let us not make it harder for them and push them away from this opportunity.

Firstly, I ask the Attorney-General to provide the opposition with the submissions that have been received so that we may properly assess what may be beneficial support for some of the introduced reforms of the government and enable us to properly consider this bill. Secondly, the government must address the development contract enforcement aspect, which I suspect it has put in the too-hard basket. In other words, it has come up with this window-dressing that is going to regulate the strata management industry, impose all sorts of new obligations on insurance and transfer to courts, some of which, as I say, may have some merit in the course of that.

However, the really hard issue is how we are going to address the development contract enforcement, which, if anything, is the area that needs to be considered. What is the point of having reform unless we address some of these hard issues? I am sure the Attorney-General must have had questions raised about this. Putting your head in the sand, doing the whole ostrich thing, is not going to resolve the complications and genuine concern that this issue has raised, which just seem to have been completely ignored in this reform.

The summary of the amendments that seem to be significant—and they may have been picked up in the amendments that have been tabled—is: to provide for a formal two-year review, to allow delegates 10 days rather than three in which to make their records available, to clarify that the developer control period relates to a period in which the developer has control and not merely to the interests in a majority of lots in community schemes, and to set the start date for deposits for off-the-plan sales 12 months after the commencement of the act. They are some of the recommendations that have been picked up from the information we have received.

I am not personally familiar with the National Community Titles Institute (NCTI) but the shadow attorney, the Hon. Stephen Wade, has had consultations with this body and is familiar with it. The NCTI, which is affiliated with the Community Titles Institute South Australia, apparently wrote a letter to the Attorney-General, dated 18 May, highly critical of the bill, describing it as a draconian approach to consumer protection—and I see the Attorney's antenna coming up—in the context of an industry without any known problems. That is a summary, which I hope is clear, because I will not detail all of that.

As I understand it, the alarm expressed in the letter relates to the reform the Attorney has in this bill. The institute claims it will create confusion and increased costs, which is exactly the type of problem that we, from this side of politics, are concerned about: alienating people and making it more difficult for them to continue to have access to this service.

The NCTI has proposed a number of changes to the bill: one, to remove the limitations on remuneration; two, to remove the capacity for a body corporate management contract to be cancelled at any time by the passing of a general resolution; three, to redraft the fiduciary duty provisions; four, to remove the three-day time frame for the handing over of records during the transition from one body corporate manager to another; and, five, to remove the proposed complaints and information service.

On a general assessment of other material available, I would have to agree with the last change for a start because, as I say, I think that is just the window dressing sweetener to try to suggest that this is all for the public benefit. The NCTI considers that a more focused review should take place immediately with appropriate industry stakeholder participation, including consultation with the NCTI. I address this comment to the Attorney: it is concerning to our side of the house that this is a body which, on the face of it, has not been consulted, and it found out about—

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: Right. If it has been consulted and is familiar with it and ignored it—that is, it was given an invitation but ignored it—that is something it can explain. Nevertheless, it seems

that at least by 18 May, having apparently seen the bill and read it, the NCTI raised concerns about it. I think I am correctly assessing that this is a body that had been given an opportunity to be consulted. If it was consulted on an issues paper back in December and it did not put in a submission—or even if it did—and then was not shown the bill, that is a big concern. What we are told in here about what has some merit and what a structure is proposed to have benefit for does not necessarily translate to what was available or clear at the time of the discussion paper.

Let us assume that we have a statement in a discussion paper about the importance of the owner of an interest in a community or strata title having control of instruction and authority in the appointment and dismissal of the managing agency, that is a principle that seems to permeate the need to be able to have some level of accountability and avoid what apparently appears to be an ill; that is, that the strata manager comes in and runs the show, everyone else gets told what to do and then it is hard to get rid of them.

That is the impression that we are getting, that the baddies in this are the strata managers and not recalcitrant or intransigent owners of a property who are expressing some noisy minority interest, perhaps. I think if anyone acts as an agent, whether it is someone who is selling property on their behalf, a lawyer or an adviser, they obviously have a certain duty of care, they have a responsibility. There needs to be, and there frequently is, some regulation as to what they are to do if they are holding trusts for people: accountability of records, access to records, information and the like.

What is also important here is that apart from having a chance to be consulted, I certainly do not, and I do not think others in this house, presume that everybody who lives in these community structures, or stratas, is some kind of fool that they have to have all of this controlled. They may be, on an overall profile, less financially well off, they may have less access to private advisers, they—like many people in the community, irrespective of their pecuniary background—may not have an easy understanding of what their rights and responsibilities are, but that does not mean that they are fools.

To try to dress up a complete new structure which states that you have to have automatic cancellations of appointments for a period (whether it is a year, two years, or whatever), seems to me the suggestion that the owners of these titles are somehow or other not competent themselves to make a decision about who they have or how they can get rid of somebody they do not like. It is sort of an automatic cancellation policy.

I can remember the Australian Labor Party in South Australia going ballistic about a proposal introduced in this state by the former Brown Liberal government in which it amended the automatic deduction of union fees from government employees' wages as something that was not to be a continuous authority. The former premier Mr Brown said, and I paraphrase, 'We think it's important that members of a union'—it might be the teachers' union, the nurses' union, of which they are legitimate members—'can make a decision for themselves about whether they want to have their union fees deducted.'

But so that they might even be reminded that this money is being deducted from their salary into the union, that authority to have it deducted from their salary had to be annual, although it may have been every two years. It was a time period which had elapsed and it required the employee to sign a further authority, and presumably email it to the relevant party, which enabled the government then, as an employer, to deduct those payments to the union, presumably along with their income tax and Medicare fees or whatever, under the instruction of the employee.

The Labor opposition at the time thought that this was outrageous. Why should there have to be a termination of this? If an employee wants to have a never-ending time, why shouldn't they? They are not fools. They can continue to do that. They can find out at any time on their pay slip and get advice on it and they should be able to do so. The member for Waite was in that previous government, not as a minister at that time, but I think at the time that Mr Brown and Mr—

The Hon. J.R. Rau: Olsen, the other one?

Ms CHAPMAN: No, I will come to him in a moment. Mr Brown and the then treasurer, who was the Hon. Stephen Baker, and the then attorney-general, Trevor Griffin, had outlined the significance of this new regime and why it was important that they be given back some control over their pay packet and not to be ravaged by some group that had some other interest. The opposition was outraged at this. I think the member for Waite came in later in the regime and would probably still have heard the echoes of outrage and heartache from the Labor opposition at the time of this regime.

They were very vocal on this issue, so what is extraordinary to me is that here they are saying that the people who own community titles and strata titles need to have protection and that they need to do a reappointment of these people after a certain period of time. Is the government now saying, in direct contradiction to what they had done when it came to automatic deduction of union fees for government employees, that these people who own these titles are too stupid or too something to be able to manage their own affairs that we have to have these automatic removals? I find it puzzling that there seemed to be an absolute triple backflip, or whatever they are, in the apparent desire to protect the consumer now and give them some heightened power in the apparent imbalance in the relationship between them as the appointor of this manager and the strata manager themselves.

The Hon. J.R. Rau: We are the consumer's friend.

Ms CHAPMAN: Yes, the Attorney says, 'We are the consumer's friend.' Where was he when the workers of the Public Service in this state were being protected by the Brown administration against similar ravages? I simply say that the hypocrisy is deafening. The Attorney-General said in his second reading contribution, on the question of NCTI:

> During consultation on the draft bill comment has been received from over 50 respondents, including the [NCTI]...There was broad support for the measures contained in this bill. The NCTI and individual body corporate managers who commented supported the proposed disclosure and insurance requirements for managers. The NCTI was concerned that the proposal to allow contracts with managers to be terminated at any time could lead to managers suing for damages for termination without cause. However, the effect of this provision is that it will prevent such litigation.

Introducing a regime which is wrong but would cauterise any right to sue does not necessarily remedy the problem.

The Hon. J.R. Rau: It stops the suing.

Ms CHAPMAN: It may stop the suing, but the point is, if the regime is draconian in the first place, that is unacceptable. What is important, though, is that that is the contribution made by the Attorney in relation to the NCTI. He may wish to read out the letter of 18 May which, I simply make the point, appears to be a very different description to what the Attorney has given to this house. What the Attorney has told us is a very sanitised, glossed version and summary of what the NCTI's position was, and remains.

Therefore, I would not go so far as to say that the Attorney in some way was misleading in his summary, but it highlights the importance of all members having the opportunity to view these submissions and be able to generally consult and nut out where we might make improvement (and everything can always be looked at from the perspective of improvement), where the ills are that need to be remedied and how we might practically apply that. We should not have some expensive regime which will produce onerous costs ultimately for title holders which, surely, is contrary to the intent of the legislation which, on the face of it, as the Attorney claims, is supposed to be for the improved protection of consumers.

Therefore, let us go out and deal with this properly, let us have some full disclosure and, most certainly, let us look at what is clearly still the elephant in the room, that is, dealing with development contract enforcement. Clearly, that is an issue on which we cannot just put our heads in the sand: it must be dealt with. With those few words, I trust that the Attorney will give serious consideration to those matters raised.

Mr HAMILTON-SMITH (Waite) (12:23): I rise to speak on this matter largely from the point of view of small business and just to raise a few issues. My colleague talked about the need for the house to ensure there has been adequate consultation. The minister assures the house that that has occurred and I am sure he will add some detail to that later in the debate. Naturally, members on this side want to be comfortable that all of the relevant parties have been thoroughly and exhaustively consulted, and I look forward to that confirmation.

The other aspect of this, of course, is to ensure that what we do not do is solve one problem and create another, that is, that we do not introduce measures that might seek to protect consumers but, in the process of doing so, create red tape and obstacles for small businesses that might provide strata services and make their businesses unviable as a consequence. One has to find balance.

A number of parties have made representation to the opposition on this bill, and my colleague the member for Bragg mentioned the NCTI (National Community Title Institute), which is just one of several parties that contacted us. I understand they been consulted extensively but they

did feel that in some respects the bill was a little draconian and might have some unintended consequences.

I know that they were particularly concerned about issues such as the removal of limitations on remuneration, the removal of the capacity for a body corporate management contract to be cancelled at any time by the passing of a general resolution, the re-drafting of fiduciary duty provisions, the removal of the three-day time frame for the handing over of records during the transition from one body corporate manager to another, and issues to do with how proposed complaints and the information service were managed. These are concerns coming from the industry and I would hope that the government can consider those concerns and, in its response during this debate, assure the house that they have been addressed.

The stakeholders that have contacted the opposition are seeking what they feel is a more focused review to take place immediately, with appropriate industry stakeholder participation. I note the government feels that has already taken place, so again we look forward to receiving that reassurance. A number of stakeholders that contacted the opposition did support large tracts of the bill and did see a need for many of the provisions it will introduce.

However, as I said, there were some concerns. I will focus in particular on the issue of contracts. I am sure it would be the case that many body corporate strata managers are big businesses. They probably have quite a lot of body corporates on their books. They might be large enterprises that employ quite a lot of people in large offices and, as contracts are entered into or expire, they probably have enough deal flow through the business to keep their business rolling forward.

However, there would be other small businesses who are strata title or body corporate managers that might be much smaller operations. They might only have two, three or four contracts. The idea initially put forward in the bill that, after a very short period—I think it was only a matter of months—the body corporate could by resolution terminate that business and, if you like, escape the contract, did raise some concerns with me as a former small business proprietor. I know what it is like. I had 120 staff and six businesses in two states. You go to the mailbox every morning and if it is not a cheque, you put it in the pending tray, and you are there filling out your forms. If it is not GST, it is WorkCover, Payline or whatever the case may be. It is not easy running a small business.

I did warm to that concern, I have to say. It did seem to me that, if you have entered into a contract as a manager of a strata title for a year or a two-year period and you have hired staff and set your business and your office arrangements up on the basis that that business will be there for you over the year or the two years of its tenure, you have a right to expect your customer to honour that contract. That is not to say that, if there are provisions in the contract for malfeasance, inappropriate behaviour or if you fail to deliver on what you have agreed to deliver—you do not do your job properly—there should not be escape clauses in the contract. I did understand the concern that we might be introducing a piece of legislation that could somehow interpose onto that contract and give the customers a right to escape from it and leave the small business high and dry. For that reason, my view is that a longer period of certainty should be there.

I understand that the minister has amendments and that, as a consequence, there is consideration of a 12-month period or so when there will be some certainty for the small business that is managing the strata title. Perhaps we need to talk to industry about whether that should be 12 months, 18 months or two years. I am not sure what a reasonable period is, but perhaps that is something that the minister and the shadow minister in the other place can thrash out over the coming week if need be, and we can reach some sort of compromise.

I certainly understand the point the minister makes, that you can have a circumstance where a developer might build a development, engage a strata title manager over a very long period of time—maybe 10 years—and effectively foist that manager upon the unwitting owners of these small homes as they buy them. Suddenly, they find they are struck with a strata title manager who then acts like Lord Dudley, does not do his job, acts in an arrogant and superior manner and does not deliver the services that people expect. They were not part of the original deal; they have bought into the development six months or a year afterwards, and they are virtually done over in a cosy deal between the developer and the strata title manager.

I can well imagine that that might occur, and I can understand why the government might seek to remedy that in this bill, but the problem is that we do not want to swing the listing ship over

to the other side to such a degree that we simply then fix that problem but create a problem for the small real estate agency or office that might only have two or three contracts.

They get caught up in a situation where they have no certainty in the contracts they have entered into, and the bank manager simply says to them, 'Look, I can't extend to you that business loan, because on examining your business arrangements, I see that your customers can simply vanish on you in two months or in 12 months, because there is a cause here that says they can just cancel their business with you, even though you have a two-year or three-year contract.'

So, I can understand how these businesses might take the view that, if they have a two-year, three-year, or five-year contract to be the strata title manager for that building complex, that is a bankable bit of goodwill; that is their business. If they want to sell their business and they want to sell that goodwill, the value is really contained in the tenure of that contract. I can well understand why, from the point of view of protecting their property and their business, and protecting their interest with the bank, they want some certainty that those contracts are going to be delivered.

I am also not completely convinced that there would not be cases where a five-year or a 10-year tenure might not be to the mutual benefit of all parties. After all, as a general principle, being a Liberal I take the view: let business do business. The less government interferes, the better. There may well be cases where a body corporate feels they can get a really good deal out of a strata title manager over a five to ten-year period and they want to enter into a longer contract. Well, good for them; why should we interpose?

But, I do accept, as the minister has argued, that there can also be these cases where cosy arrangements emerge between developers and strata managers that are ultimately to the disadvantage of individual homeowners but very advantageous to the developer and the strata title manager who gets the good deal. So, we need to strike a balance, in other words, not solve one problem and create another. It is that point that, to me, stands out in this bill as one that we need to thrash out together and make an effort to improve the bill.

My colleague who opened (the member for Bragg) has talked about development contract enforcement. There are obviously some issues there that need to be dealt with as well. I can understand the intention of the bill, and I can understand that it seeks to protect the innocent, and it seeks to protect customers. I have certainly seen, in my own experience, cases of body corporate managers throwing their weight around, in the knowledge that the members of the body corporate cannot do much about it.

All sorts of things occur in bodies corporate, as the minister could well imagine. Situations occur where there might be two or three homeowners living in the building who feel they own the building, and 70 per cent of the owners in the building might be investors. They enter into all sorts of wonderful arrangements in consultation with their body corporate manager; such as, for example, 'We won't allow tenants in the building unless it is a minimum of 12 months.'

That suits the people who are homeowners in the building, because it means they do not have people coming and going, and so it suits them just fine; they are going to have other people living there as long-term residents just like them. But what about the other 70 per cent of owners in the building—and this might be a building down at Glenelg; it might be a building in a wonderful seaside location, where holiday rentals could result in a much higher return for the investor? The investor might say, 'Well, why not make it a six-month period?' Again, members of the body corporate can cook up something with their strata manager that suits the people who have managed to get themselves elected as president and secretary because they happen to live there and, unbeknownst to the investors, the value of their investment is being diminished by these cosy arrangements.

These are the sorts of things that go on all the time in body corporates, where two or three people get control of the committee and then try to impose all sorts of rules and regulations on the poor old silent majority, who suddenly find that they have to wrap their garbage in silver and gold-lined packaging and drop it down the chute in the five minutes between 9pm and 9.05pm, and no pets are allowed, or pets are allowed, whatever the case may be—and so it goes on. So, all sorts of abuses go on in the body corporate process and a whole lot of people are not happy, for one reason or another, with the way in which their body corporate is being managed.

I know this bill is seeking to free up and, to some extent, empower the homeowners, the people who comprise the body corporate, to make sure that they are not pushed around by the strata manager; I understand all of that. I would simply say to the minister: if we could look at those parts of the bill which might create an unnecessary burden on small business, which might affect

the value of their enterprise and which might affect their relationship with the bank by taking away the value of their business, simply because there is no certainty in the contract. If we could look at that, I would be much more comfortable with the bill. Having said that, I look forward to the rest of the debate.

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) (12:37): I thank members opposite for their contribution. I want to say a couple of things by way of an initial response to what has been said. The first thing I would like to say is that I note with disappointment that the member for Bragg, in effect, has announced to the parliament—and it is important to know this—that the opposition intends to oppose the bill, not amend the bill.

I know the member for Bragg to be a reasonable person. I know that, if the matter were left to her, she would have identified those aspects of the particular bill before the parliament with which she had a disagreement. She would probably have rang me and said, 'Minister, I have a disagreement about X, Y and Z in your bill. Can we have a talk about it because this is an important bit of reform, and it is important that the parliament can actually do something. The parliament is supposed to be constantly reviewing the legal system in South Australia and trying to upgrade and update things and I, like the you, as a lawyer, think it is important that we do that.' That is what the member for Bragg would have done.

Unfortunately, here, as in so many other instances, we are not really dealing with the member for Bragg, we are dealing with the Hon. Stephen Wade, who managed to find 52 ways to amend a law that basically said that habitual criminals should be banned from using knuckledusters. Unbelievable, but true. One would have thought that what we had tried to do in that legislation about weapons was introduce a new regime whereby all children under the age of six were going to be shot, compulsorily, because that is the sort of attention that legislation received.

I say again: that legislation was designed simply to say the sort of person cannot have a firearms licence, because they are such a ratbag, should not be allowed to buy big knives and knuckledusters, either. Well, goodness me! What an outrageous piece of infringement of civil liberties: well-known thugs and criminals not being allowed to openly buy or possess knuckledusters. Yet there were 52 amendments. I have not seen the final list of amendments and everything, but the bill is probably now more like the pig marketing act than the bill it originally started off as, that is how much amendment it has had.

I do not know whether the obstructionism, which is deeply engrained, it would seem, in Mr Wade, is because he does not understand what is in the bill or he thinks that being able to say no makes him significant. I am not quite sure but, whatever it is, unfortunately it has come through here. Instead of offering constructive amendments, what has happened is that there has been opposition, and it has been opposition on spurious grounds with a couple of exceptions—and I will come to them in a moment. First of all, in relation to consultation, I invite Mr Wade in particular—because I am sure the member for Bragg has done this—to read the second reading speech.

Ms Chapman: I've done that.

The Hon. J.R. RAU: I said I know you have. I am not worried about you; I am worried about somebody else who has not, obviously, because if he had he would not be persisting in the behaviour that he is going through now because the second reading speech makes it fairly clear about consultation. Just for the record, can I say that originally I wrote to the former attorney-general in 2003 because, when I did an inquiry into the real estate industry in South Australia in 2002, I had a whole bunch of people complaining about strata title and community title issues.

It was too big to do the whole lot as one thing, so I finished the work I was doing in relation to dummy bidding at auctions, handed it over to the attorney and said, 'Here you are; do what you will with this,' and then I went off and did this other thing, which I handed to him. However, simultaneously—and not because I was doing it—he was also preparing a discussion paper about it, and he put it out. That was 2003.

Ms Chapman: I have mentioned that.

The Hon. J.R. RAU: Yes, I know, but I am just addressing the point that some of these Johnnies-come-lately in terms of grizzles are suggesting that there has been no consultation. We have this business, and then we have a draft bill that goes out—and, again, my predecessor did

that. Was this bill hidden in a cupboard and not shown to anybody? No, it was put out. I have a list here of all the people who were sent a copy of the bill and invited to comment on it.

Just to give you some flavour of it, there were people from the courts, as you would expect; a number of MPs who had written to the then minister about strata title issues who clearly had an interest in it; consumer affairs people; the Local Government Association; the Community and Strata Corporations Institute of South Australia—member for Bragg, are you listening to all these people?

There was also the Community Titles Institute of South Australia, the Real Estate Institute of South Australia, the Australian Institute of Conveyancers, the Property Council of Australia, Whittles (and that name will become important later), Gordon Russell, Strata Data, Adelaide Strata and Community Management, Ace Body Corporate Management, etc.—and on it goes, pages of them, even lawyers who were seen in public with strata managers were sent one just in case. So that was 2008.

Ms Chapman: Where are the answers? Show us the answers.

The Hon. J.R. RAU: There are the answers—tantalisingly, there they are. We are talking about consultation. When I became Attorney, I said, 'What's going on with this strata thing?' They said, 'Well, there's been a whole bunch of stuff done. We've got a draft bill. We've consulted with all these people.' I said, 'Okay, let's have another look at it,' so we did, and then—because, member for Bragg, we actually like consulting with people before we drop things on them—we did it all over again and sent another bunch of letters out to people, the usual suspects as you might call them. Out the letters went and, interestingly enough, they went again to people like the Real Estate Institute of South Australia which, by the way—as the Premier would say, 'News flash, late-arriving news'—represents these characters.

Ms CHAPMAN: World-breaking news.

The Hon. J.R. RAU: World-breaking news, right. If the Real Estate Institute does not take letters out of its letterbox or, when it does it, does not read them or does not send letters to people it represents to ask them, 'What do you think?' that is not my fault.

We have been writing to people about this. This is back in December of last year, and we received a great many responses, which were then the subject of further consideration with the bill. The member for Bragg might say (I am anticipating this), 'Well, why didn't you go out with your next version?' Because, at the end of that, there would have been more comments by more people and at the end of that we might have a new version where we go out again. It is endless. The fact that this has been the subject of consultation for at least eight years I would have thought is not bad; it is not a bad start.

The other thing is that this is an area of law that is crying out for reform. I have had so many people complain about this to me as a member of parliament, and other members of parliament have had it too. It is in a disgusting state at the moment and it needs to be fixed up. A constructive attitude in relation to this would be: there might be elements of the bill that we have a difference of opinion with you on; let us talk about those between the houses, let us try to work them out. If that is your point, I am in for it—I am absolutely happy to talk to you about whatever you want to talk about.

I have given you the time line—November/December last year—when all these things happened. Then, in May this year, a tiny two watt globe goes on in the head of somebody who has not read their letterbox for eight years, and they write a letter to me as Attorney, which I am paraphrasing a bit, starting off basically, 'Dear Imbecile'. It actually does not have 'Dear Imbecile'; it does not have 'Dear' anything.

Mr Hamilton-Smith: It might have been sent to your predecessor.

The Hon. J.R. RAU: No, it is directed at me, trust me. It says here:

There are several problems in this ill-conceived and poorly thought-out bill. These are the critical ones:

1. The bill was introduced into parliament and—

I quote here as they are really good words; this fellow has chosen his words so, so carefully—

without any prior consultation with key stakeholders. This is highly irregular for legislation of this nature.

Yes, it would be, but it is not true. I suspect that the member for Bragg has not been taken in by this person, but I suspect somebody else has, which is why, instead of having a constructive conversation about what we should be doing with this bill, we had the bizarre spectacle of the opposition opposing the bill completely—completely opposing it.

Yes, this chap from Whittles, who in May this year for the first time in eight years—bing, the little light goes on—realises something is going on and did not like it. We had not consulted with him. Wrong! He had not been to his letterbox or, if he had, he did not read the letters because guess what? We have a record of the stuff that has gone to Whittles. This is the man whose credibility you are nailing your colours to the mast of, a man who makes outrageous statements like, 'The bill was introduced into parliament without any prior consultation with key stakeholders.' Completely and utterly wrong, absolutely wrong! How can you take seriously a person who is prepared to make an idiotic statement like that? Most of the rest of the complaints in there are similarly lightweight.

Let us go back to some of the particulars. I agree with the member for Waite that, if there are issues about how a strata group can get out of one of these contracts and there is a question about whether a one year, two year or whatever notice has to be given, I am happy to have a discussion with the opposition about what is an adequate balance to solve that problem. If that is the only problem holding up this bill, I will sit down as soon as we finish here and talk to whoever I have to talk to—although I would prefer it to be you two, rather than somebody else—to try to sort this out and sort it out quickly.

The Parliament of South Australia expects us to do something. If you collectively aspire to be a credible alternative government, occasionally you have to say, 'Yes, that is something that is sensible. It is in the interests of the community of South Australia it be done, and we will support it', and, guess what? The public will say, 'Well, hey, maybe that mob have got a few brains. Maybe they are actually on the ball. Maybe we might even take them seriously', but no, no.

Rather than, 'We want to talk about amendments. We oppose the bill; absolutely oppose the bill.' Okay, you are going to lose that vote here, probably, but, in another place, if you persist with that attitude, well, who knows what is going to happen. Anyway, I just think that it is appalling that, after eight years of discussion about this (and everyone knows that this desperately needs reform; everyone knows that), and we are putting up these proposals, and you are not even prepared to come to me and say, 'Look, can we just fix up this business about the notice period for strata people getting out?' Okay, fair enough—small business, I understand your point.

But do not ignore this: I have seen contracts where developers in multistorey buildings have assigned strata management rights for 25 years to strata managers, and if you do not believe that dollars are not changing hands somewhere in relation to that, you must have come down with the last shower. That means that, in effect, that strata manager is getting a guaranteed income stream for 25 years. Where do you get one of them these days? Where do you get one of them?

Not only that, not only have they got the income stream guaranteed for 25 years, but they have got their hands on all the knobs that calibrate how much the income stream is, too. How good is that? It is not like you are saying, 'Well, you can go to the bank and you have got 6 per cent interest if you can do a fixed deposit for 25 years.' You get the 6 per cent interest, but if you do not like six you can tweak it up to eight, 10 or whatever you feel like, because you have got the knobs in your hands as well. Fantastic! What a deal! Why would you not want one?

That is what you are defending, and that is what we are trying to do something about. Now, I agree that if you have the really small operator who wants some certainty as to whether he has a part-time person on to help him do the rent roll, and an abandonment of contracts with 28 days' notice is going to make his life impossible, fair enough, let us have that conversation. I am happy to deal with that, but, for goodness sake—I am sorry to be directing these comments to the members for Waite and Bragg, because they should really just turn around and look that way, behind them.

Anyway, then there was a lengthy thing about the trade unions and that, and we all know that story about payroll deductions and all that. The big difference is this: whether or not you are a member of a trade union is entirely a matter for you and whether or not you have a strata manager is not an option—you have to have one. There is a captive market already and, as I have just explained, some of these people are being locked up for up to 25 years in this situation.

As interesting as that sort of digression down memory lane was, it is not an apposite comparison. Can I say, too, that the honourable member mentioned development contract enforcement. I agree with you—

Ms Chapman interjecting:

The Hon. J.R. RAU: Can I just finish? I agree with you, but that in itself is a big topic. It is a big topic because I agree that something needs to be done about that. There is no question about that, but the mechanism by which it is done is very important because, for example, do you use bonds? Do you use bank guarantees? Do you use deposits into a certain fund? What mechanism do you use, because every mechanism you use—and you were talking before about cost to business—will have a potential implication for the development industry?

If you say to a potential developer of a housing estate, 'Look, before you do this, you've got to put $5 million in the bank—just in case you go broke—to finish the garden off.' That might actually affect that person's capacity to do the whole project. I am in fierce agreement with you that something needs to be done about this, but, first, it is a discrete topic; and, secondly, it is a topic that we should give very serious consideration to in consultation with the development industry, because I can tell you that, despite the member for Bragg's considerable legal skills and practical knowledge of the universe, if we were to devise something today to solve that problem, I am sure that we would find that industry would say, 'Hang on, that's not right.'

Ms Chapman: You've had eight years.

The Hon. J.R. RAU: Oh, for goodness sake! I have been talking about strata titles. I am telling you that this is a severable issue. You show me a draft provision and I will be able to get back to you in 24 hours as to whether we will go with it. You give it to me and I will have a look at it, or give it to me next week or the week after that and we will have a go at it but, for God's sake, do not hold this up on account of the fact that there is another issue out there which I agree needs to be addressed but which nobody has actually turned their mind to properly yet.

Ms Chapman: Why not?

The Hon. J.R. RAU: Why isn't there a replacement for the space shuttle? I don't know. Anyway, let's get back to the strata title thing. I would urge the opposition to please consider two things. Remember this: I have actually brought to the chamber anyway amendments to our original bill which attempt to take into account some of the complaints made by the people from Whittles who did not read their mail for eight years and also other people who have raised issues.

I have attempted to deal with that. If that is not good enough, let's have a conversation about that. I am happy to talk to the member for Waite and the member for Bragg about these things. In fact, I would love to. Quite frankly, I would love to. Let's try and find a position that we can actually all agree upon in relation to those matters. I am happy to do that. If we can do that, we can get this important piece of legislation in place so that there is some protection for people who are being ripped off. They are being ripped off, so let's get this protection legislation in place.

I agree entirely that the development contract enforcement is a very important point. As soon as you give me your view as to how that should be constructed, I am ready to have a go at it, but I caution everybody about this. This is exactly the same as the contractor guarantee legislation which we have in place about how people who are working as subcontractors in building sites are guaranteed that they are going to get paid. It is a great idea.

Nobody disagrees with the idea, but the practicalities of it are not necessarily obvious, and the implications of getting it wrong can be bad. The last thing we want to do is to introduce well-intentioned development contract enforcement legislation here that shuts the development industry down. So, yes, let's do it; I agree with you but, if we do that and we get that wrong, we are going to cause some serious trouble.

Can I just finish on this note, because it is nearly time for me to stop talking, you will be relieved to know. What we are talking about in our legislation here is actually more competition, and you folks should like that. We are talking about more competition for people offering the service of strata title manager, inasmuch as the market has consumers who are the strata title holders who are going to have a better option to move from one to the other.

It is a bit like the banks. We have had this argument about bank exit fees. Most people say: why should you be locked into a bank if they are really working you over when you should move to another one but you cannot because there is an exit fee?

I know that causes its own little debate as well, but the point is that we are trying to free up movement from one strata manager to another by removing the anti-competitive, restrictive practices that are entrenched in this industry and, if you want to defend anti-competitive, restrictive

practices that benefit people at the expense of consumers most of whom, as the member for Bragg quite rightly points out are not the most affluent people in our community, then good for you, but I think it is an absolute shame.

Can I just finish on this score: please talk to me about amendments you want; please consider the amendments we put up; please reconsider your decision to simply oppose this legislation. It brings this house into disrepute and it will bring the parliament into disrepute.

Bill read a second time.

In committee.

Clause 1.

Progress reported; committee to sit again.

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

CONTROLLED SUBSTANCES (OFFENCES RELATING TO INSTRUCTIONS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

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

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (DE FACTO RELATIONSHIPS) BILL

His Excellency the Governor assented to the bill.

ELECTRONIC TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

VISITORS

The SPEAKER: I draw the attention of members to a group of students in the gallery today from Immanuel College, who I believe are guests of the member for Morphett. Welcome.

BOHLIN, MR B.

The SPEAKER (14:03): I also let members know that today we are losing Bill Bohlin, who has been with the library since 1998 and is now moving on. He was a train driver before he came to us and he is going back to train driving, so he will be back to Thomas the Tank Engine. I am sure most of you will remember Bill and recognise him around the place. We are sorry to see him go.

KRUSE, MR E.G. (TOM)

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) (14:03): I move:

That the House of Assembly expresses its deep regret at the recent death of Esmond Gerald, better known as Tom, Kruse MBE, the outback pioneer who won international recognition as the mailman of the Birdsville Track, and places on its record its appreciation for his lifetime of outstanding service and dedication to our remote families and communities, and that as a mark of respect to his memory the sitting of the house be suspended until the ringing of the bells.

Like so many South Australians, and countless people around Australia and across the world, I was saddened by last month's passing of Tom Kruse. For more than 70 years, Tom's name was synonymous with the spirit, the values and the character of the great Australian outback. Through his fortnightly mail runs from Marree in our state's far north-west up to Birdsville in remote southern Queensland, he became more than a legendary character. For many families and individuals, he was their only regular link with the outside world. He was the provider of not only eagerly awaited letters and parcels from loved ones but also essential goods, fuel and even medicine.

Tom Kruse's mail deliveries became just as important to folks living in some of the world's most isolated terrain as were the services of that other great bush institution—the Royal Flying Doctor Service. At the same time, Tom's story very much reflected the story of South Australia: his

willingness to take on the toughest challenges, his refusal to be daunted by obstacles in his path and his ability to innovate and adapt to make sure he always delivered, which meant he earned the trust and the esteem of so many people he met during a most remarkable life.

Tom Kruse was born on 28 August 1914—eight months before the Gallipoli landing—at Waterloo near Manoora in our state's Mid North. He was the 10th of 12 children born to Harry and Ida Kruse and, at age 14, he left school to begin work as a casual labourer on local farms. However, due to the effects of the Depression, he went bush in 1934 to work for a haulage firm at Yunta.

Two years later, when the owner of the haulage company took over the region's Royal Mail contract, Tom made his first mail run. With his trusted Aboriginal partner, Henry Butler, riding alongside, Tom took his 1936 Leyland Badger truck along more than 500 kilometres of the uncharted and unpredictable Birdsville Track. Each run took two weeks, although sometimes it was longer, depending on mechanical breakdowns, flooded creeks, rutted roads and the likelihood of getting bogged in the shifting sand dunes.

In 1942, Tom married Valma Fuller. In 1947, he took over the mail contract in his own right. In 1954, Tom was immortalised in John Heyer's award-winning documentary *The Back of Beyond*. This is a film that not only broke new ground in Australia but won awards at Venice, Edinburgh and Trento, amongst other places. It is widely regarded as the first Australian film to make a big impact on the world stage.

During her historic first visit to Australia in 1954, Her Majesty Queen Elizabeth II, saw the famous movie. As a result, when her New Year's Honours list was released in 1955, Tom Kruse was awarded an MBE for services to the community in the outback. The wife of the then governor-general, Sir William Slim, flew to Birdsville to present the award. Unfortunately, even though the wife of the governor-general had flown from Canberra, Tom could not make it because he had been stranded in the outback due to flooding, so it had to be awarded in Adelaide at a later date.

Tom made the last of his regular rounds in 1957, the same year as the Leyland Badger was abandoned when it broke down at Pandie Pandie Station, near Birdsville. In 1963, Tom sold the mail contract and, the following year, Val moved to Adelaide for the benefit of the children and their schooling. Tom stayed up north, doing what he loved: building roads, sinking dams, hauling loads.

Eventually, in 1984, the couple retired to Cumberland Park but Tom's life was anything but sedate. In 1986, he was involved in the Jubilee Mail Run re-enactment that featured 80 vehicles and, during which, his old Leyland Badger—abandoned so many, many years before—was found and retrieved. The vehicle was then lovingly restored and, in 1999, a second re-enactment of the famous mail run was staged. The Leyland was trucked to a few kilometres outside Birdsville to allow Tom to make one final grand entrance into town. The next morning, loaded with more than 7,000 letters, many from wellwishers, he set off for Marree. 'The Mail Truck's Last Run', as the event was known, allowed everyone along the track to bid Tom goodbye and also raised thousands of dollars for the Royal Flying Doctor Service.

In 2000, Tom was inducted into the National Transport Hall of Fame. In 2003, *Australian Geographic* magazine awarded him one of its prestigious Lifetime of Adventure awards, an honour he shares with our home-grown astronaut Andy Thomas and Arkaroola's Griselda Sprigg. Also that year, Tom, along with his truck, were nominated as South Australian icons by the National Trust of Australia. In 2008, life-size bronze busts of Tom were placed at Birdsville, Marree and at the National Motor Museum at Birdwood, where the unveiling was performed by the then governor-general, Major General Michael Jeffrey.

Tom Kruse was a true pioneer, an exemplary citizen and a quintessential Australian. The Leader of the Opposition and I attended his funeral quite recently, and it became very clear that he was a devoted husband, inspirational father and grandfather, and a great, great friend to countless people he met during his work and through his travels. The regard in which he was held, and the special place he carved in our state's history was so evident at the celebration of his life at Morphettville Racecourse earlier this month.

On behalf of all members on this side of the house, and all South Australians, I want to express my gratitude for his outstanding contribution to our state and our nation, and also my sincere condolences to his friends and family, especially his children Pauline, Helen, Phillip and Jeffery; his eight grandchildren; and his 18 great-grandchildren.

Mrs REDMOND (Heysen—Leader of the Opposition) (14:12): It is my privilege and my pleasure to second the Premier's motion. Tom Kruse was an outback legend, a South Australian icon and Australia's most famous mailman. From the 1930s to the 1960s, Tom was also a lifeline to people along the Birdsville Track. During this time, he provided a critical service to some of the most remote areas of Australia, delivering mail, general supplies, fuel and medicine once a fortnight along the track from Marree to Birdsville.

But Tom was more than just a mailman to the people along the Birdsville Track. He was also a friendly face, providing company and good cheer to them as he delivered information from the outside world. People were dependent on Tom: if he did not make his fortnightly deliveries, many of the stations along the Birdsville Track would have been isolated from the outside world. But Tom disagreed that he was some sort of hero, insisting that he was simply doing his job.

Esmond Gerald, otherwise known as Tom Kruse, was born on 28 August 1914, the 10th of 12 children, to Ida and Harry Kruse. He left school in 1927 at the age of 13 and undertook various labouring jobs, including a job in his father's blacksmith shop and in a small garage owned by his older brother. He started his truck driving career in 1932 at the age of 18, working for a Yunta storekeeper and postmaster by the name of John Penna.

Tom began working for outback transport operator and mail contractor Harry Ding in 1934 when he was just 20. Ding's expanding business empire soon included the Birdsville Track mail contract and, on 1 January 1936, Tom made his first Birdsville mail run in scorching 45° heat. The mail run between Marree and Birdsville normally took between seven days and a fortnight to complete, but it sometimes took a lot longer, depending on the condition of the track. On one occasion, Tom was away for six weeks. Tom regularly battled difficult conditions including dust storms, sandhills, flies, floods and swollen rivers and creeks. Back then, the journey was tough and dangerous. The track itself was only graded for the first time in 1957—so, for the first 21 years that Tom was driving the mail along it, the track had not even been graded.

Breakdowns were also common, and Tom had to rely on his own initiative and resourcefulness as a skilled bush mechanic to overcome the harsh conditions on the track. On one of his first mail runs in 1936, Tom had to walk to Mungerannie and back to Mulka in 40° heat to get a broken tail shaft fixed. On another occasion, when the fuel pump broke, Tom put a container of fuel up on the roof, knocked a hole through the bonnet, and put a pipe down to the carburettor to fix the problem. It sounds like something the boys on *Top Gear* would have been really proud of.

Tom bought the mail run and the contract for it from Harry Ding in 1947 but stopped doing regular trips along the Birdsville Track in 1953 when he started an earthmoving and tank-sinking business in the pastoral north. His last trip to Birdsville on the mail run was 1963. It is remarkable, and a mark of the man that, so many years after that last mail run, Tom remains famous for that work. As the Premier has indicated, the story of the Birdsville mailman entertained many generations and became an international award-winning documentary. Tom starred in *The Back of Beyond* in 1954, which won the Grand Prix at the international film festival of Venice that same year.

Of course, Tom's most famous truck was the 1936 Leyland Badger, which was abandoned when it broke down on Pandie Pandie Station in 1957. However, in 1986 the Badger was rediscovered in the desert and restored by Tom and a group of enthusiasts. The truck's last run was in 1999 when Tom, by then aged 85, drove the truck from Birdsville to the National Motor Museum in Birdwood, delivering more than 7,000 letters from around the world on the way. During that trip, $12,000 was also raised for the Royal Flying Doctor Service.

Although Tom remains famous for his work as the Birdsville mailman, many may not be aware of his other work in the outback. In 1939, Tom helped transport supplies for explorer Dr Cecil Madigan, the second European person to cross the Simpson Desert by camel. He was also involved with the early exploration of the oil and gas industry in the Cooper Basin and worked as a contractor in the early days of Santos.

In 1955, as was mentioned, Tom was made a Member of the British Empire for his services to the outback. He was supposed to receive his award in Birdsville from the wife of the then governor-general but missed the ceremony because he was cut off by floodwaters across the track. He officially received his title in Adelaide in 1956. As the Premier also mentioned, Tom was inducted into the National Transport Hall of Fame in 2000 and recognised as an Outback Legend by *Australian Geographic* in 2003.

Despite all the recognition he received, Tom remained a very humble man. Kevin Oldfield, from Clayton Station, also remembered Tom as being easygoing. He said:

> When it got tough he would just laugh; [he was] a very casual sort of old fella, who took everything in his stride.

Above all, though, Tom was a proud family man. He was happily married to Valma for 68 years until her death in August last year. Together they had four children—Pauline, Helen, Phillip and Jeffrey—eight grandchildren and 18 great-grandchildren. I offer my sincere condolences on behalf of all those on this side of the house to the family, the extended family and particularly to those who are present in the gallery today.

Tom passed away peacefully in Adelaide on 30 June 2011 aged 96. Tom's large extended family attended his funeral, despite some of them having to travel a very long way to do so. It is not surprising, given the large extended family over the generations, that I saw cousins actually meeting cousins they did not know for the first time at Tom's funeral.

Tom was larger than life, but also a gentle giant, a true gentleman and a truly great South Australian. His contribution to the outback and his dedication to the job will never be forgotten. I commend the motion to the house.

Mr VAN HOLST PELLEKAAN (Stuart) (14:18): It is with sadness about his death but also with pleasure about his life that I speak today, on behalf of the people of Stuart, of the passing of one of our heroes, the late Tom Kruse MBE, who died on 30 June just two months short of his 97th birthday.

While I do not pretend to have known him well, I do consider myself very fortunate to have met Tom on two occasions. The first was in the year 2000, when he came in with a group of friends for dinner at Spud's Roadhouse at Pimba, where I lived and worked. He was an elderly man then but still full of life and internal energy and was engaging company.

Although completely unintentional on his part, he was instantly recognisable and obviously considered a star by everyone who saw him. I can clearly remember the excitement of a woman from one of the nearby stations, who rushed in from the bar and burst into the kitchen to tell everyone, with great enthusiasm, that Tom Kruse had come in for dinner. Well, as you can imagine our first thought was, 'Which one?' and as one sharp young staff member instantly quipped, 'Roast lamb or roast beef?' To everyone there that night, Tom came across as a friendly, down-to-earth, genuine person who was comfortable being the centre of attention but certainly did not yearn to be. He was open and welcoming to everybody who wanted to talk with him.

The second time I met Tom was in 2008 in Marree, a very important outback town at the southern end of the Birdsville Track, when a life-size bust of him was unveiled and placed at the Marree telecentre. This vivid and realistic sculpture is a timeless reminder to locals and visitors alike of the importance that Tom Kruse has had and will always have to the town of Marree and the outback more broadly.

That day Tom was physically frailer than he was at our first meeting, but he was certainly on the ball mentally and had lost none of his laid-back charm or his star attraction. We have heard much today from the Premier and the Leader of the Opposition about the history of Tom and his family, including his late wife, Val, sons, daughters, grandchildren and great-grandchildren, and also about the tremendous achievements and accolades that he has deservingly received throughout his life.

Tom Kruse is a hero, and Tom Kruse will always be an Australian legend. He was one of the very rare people to deservingly earn both those titles during his own lifetime. He does not just stand out today as an icon of a romanticised, bygone era. Tom stood out among his contemporaries and was well recognised for this at that time. Just to put it into context, very few people have had or ever will have a movie made about them during their own lifetime and, because nobody else is up to the task, play themselves in the leading role.

Far more important to his family and close friends than these accolades is that Tom was a very down-to-earth, normal and decent man. He did not seek the limelight, but he did accept it with modesty and openness. He did not set out to be famous but became famous by doing what he did. For me, Tom Kruse is the best kind of hero: a grassroots hero. He achieved and became famous on the back of his own work.

Whether crossing the Simpson Desert, helping to explore for oil or gas in the Cooper Basin, delivering the mail and supplies along the Birdsville Track or, as most of his working life was spent, undertaking earthworks contracts throughout outback South Australia, Tom was recognised for his strength, resilience, determination, skill and, most importantly, his nature. This is so admirably demonstrated by his most notable quote, 'I'm simply doing my job.' Tom Kruse did not do his unique jobs so that he would be well recognised, but he was recognised for doing his unique jobs so well.

In this age of mobile phones, emails, internet shopping, computer games, 24-hour news cycles and virtual reality, and in a world where unfortunately so many people's self-esteem is based on how many website hits, Facebook friends or Twitter followers they have, I applaud a man who lived and worked for decades in the harshest of environments and whose personal capacity, dedication and character shone through above all else.

I have never lived on a cattle station. For several years I did live and work in a very small outback town with a population of 35. I understand how important having good relationships with the people who passed through is, and the people who provide a regular service are especially appreciated.

This is as true today as it ever has been on the Birdsville Track and throughout the rest of outback South Australia. Today, the people who live in these areas want their friends and associates to call in. They look forward to it, and they need it. I can only imagine how important that must have been back in the 1930s, forties, fifties and sixties, when communication with people from off your station was primarily based on rare conversations, letters, telegrams and two-way radios.

One of the most important aspects of the service that Tom Kruse provided to the people of the Birdsville Track is that, as well as delivering newspapers, mail, passengers, freight and supplies, he was also the conduit of communication between station homesteads. In many ways, to locals this was an equally important part of the service. It goes without saying that only a person of Tom's character could have been so trusted to do this for so long.

To Tom Kruse's family I offer my condolence and also my appreciation for their contribution to his life, including great care in later years. To Tom Kruse himself, on behalf of the people of Stuart: thank you for everything that you did for us through so many decades of your working life; thank you for being a real life, grassroots hero for the rest of your life and for being so accessible to all those who wanted to engage with you; and thank you for so deservingly being one of our outback legends forevermore.

Mr VENNING (Schubert) (14:25): Tom Kruse was a friend of so many Australians, an Australian legend and a real Australian inlander. Tom (real name Esmond Gerald Kruse) was a friend of our family and is related by marriage to my son-in-law, Anthony Haynes, is the son of Marlene, daughter of the late Reg and Mabel, and Reg was Tom's brother. I saw the film *The Back of Beyond* in the mid-1950s when I was approximately 10 years old and, like most Australians, it left a huge impact on me, and still does. Because of my interest in things mechanical and historical, I marvelled at what Tom achieved.

Born at Waterloo, one of 12 children (nine boys and three girls), Tom (as I said, not his real name) was the last survivor of the family. Harry and Ida, his parents, were blacksmiths and undertakers at Waterloo. Tom was married to Valma, who predeceased him only a few months ago so, certainly, they were a long time together. They had four children—Pauline, Helen, Phillip and Jeffrey. He was to be 97 years on 28 August this year.

He began the first mail run on 1 January 1936 and helped supply the explorer Dr Cecil Madigan on the first European crossing of the Simpson Desert in 1939. In 1947 he bought the mail run from Harry Ding, who lived in Yunta. The Leyland Badger, built in 1936, was his legendary truck, as we all know.

At home in my shed I have some parts off the original Leyland truck, and I am happy to display them. They were taken off the original wreck parked outside Mungeranie many years ago, a long time before they recovered the other one. I am so proud that I have these, and what is most important and so precious is that they are signed by E.G. (Tom) Kruse as genuine articles. I did not steal them. He told me where they were, and there was not much else on the truck worth salvaging. I am happy to display them, Madam Speaker, in this house next week, if you wish. They found the Badger truck in 1986, and it was restored and is now, of course, in the Birdwood National Motor Museum.

As we know, Tom was awarded an MBE and inducted into the National Transport Hall of Fame in 2000. He certainly was an icon in the National Trust, and a living Outback Legend in 2003. Eight hundred people attended his funeral, madam, as you know. He was a thoroughly nice man.

Our condolences go to Pauline, Helen, Phillip and Jeffery and their families, and also Mabel and Marlene. You are so proud of him, and so are we all. Thanks, Tom, for all you have done for South Australia and our outback people. You will never be forgotten. RIP E.G. (Tom) Kruse. You have gone, but the legend will truly live on.

The SPEAKER (14:28): I rise today as Speaker but, more importantly, as the member for Giles to also add my comments. Giles being an electorate of over half a million square kilometres of outback, I certainly have travelled all the areas that Tom Kruse covered. Even though they are not in my electorate, I have certainly been in those areas as well. As I drive around in my four-wheel drive with my fridge in the back, two-way radio, satellite phone, GPS and EPIRB, I never cease to be amazed by the resilience, tenacity, bravery and dedication of men and women like Tom Kruse.

Tom Kruse was truly a legend in the outback, along with a number of others. One in particular was Len Beadell, who also I think has the same amount of notoriety, or whatever it is, out there. Men like Tom Kruse and Len Beadell were incredible pioneers and incredible people, and part of our history. With the distances Tom Kruse travelled, the conditions he travelled under and the state of the roads, without any of the safety equipment that we have nowadays, it is incredible that he was able to do it for all those years and continue on. He truly was a legend.

I was very pleased to hear the comments today from members. I know that he will be remembered in the outback with a great deal of respect and fondness by many, many people. His family can be extremely proud of him and the legend that he leaves behind, and I pass on my sympathy to them. I was not able to go to the funeral because of my duties here, of course, but I would love to have been there. I ask members to stand and recognise him in the usual way.

Motion carried by members standing in their places in silence.

[Sitting suspended from 14:31 to 14:37]

FORESTRYSA

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition): Presented a petition signed by 1,141 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 ForestrySA plantations.

Members interjecting:

The SPEAKER: Order! There is far too much background noise today. Member for Croydon, you are very vocal today.

ANSWERS TO QUESTIONS

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

ABORIGINAL AFFAIRS AND RECONCILIATION DIVISION

237 Dr McFETRIDGE (Morphett) (12 April 2011).

1. How many Aboriginal and Torres Strait Islander persons were employed in the Aboriginal Affairs and Reconciliation Division as at 1 April 2011 and what were their roles?

2. How many non-Aboriginal and non-Torres Strait Islander persons were employed in the Aboriginal Affairs and Reconciliation Division as at 1 April 2011 and what were their roles?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion): The Minister for Aboriginal Affairs and Reconciliation has provided the following information:

1. There were 19 Aboriginal and Torres Strait Islander people employed in the Aboriginal Affairs and Reconciliation Division in the following roles:

- 4 x Community Council Support Officers
- 2 x Administrative Support Officers
- 1 x Executive Director
- 1 x Ministerial Liaison Officer
- 1 x Principal Policy and Programs Officer
- 1 x Principal Project and Policy Officer
- 1 x Senior Project Manager
- 1 x Senior Community Development Officer
- 1 x Community Development Officer
- 1 x Programs Officer
- 1 x Executive Assistant
- 1 x Executive Officer of the South Australian Aboriginal Advisory Council
- 1 x HR Support Officer
- 1 x Ministerial Support Officer
- 1 x Graduate.

2. There were 49 non-Aboriginal and Torres Strait Islander people employed in the Aboriginal Affairs and Reconciliation Division in the following roles:

- 6 x Principal Project Managers
- 4 x Project Officers
- 3 x Project Managers
- 2 x Heritage Officers
- 2 x Principal Policy Officers
- 2 x Project Support Officers
- 2 x Senior Heritage Officers
- 2 x Senior Policy and Programs Officers
- 2 x Service Coordinators
- 1 x Director Aboriginal Policy and Coordination
- 1 x Director Projects and Planning
- 1 x General Manager Maralinga Tjarutja
- 1 x Manager Policy
- 1 x Manager Strategic Services
- 1 x Project Leader Legislation
- 1 x Project Manager Change
- 1 x Principal Heritage Officer
- 1 x Principal Project Officer
- 1 x Registrar Aboriginal Sites and Objects
- 1 x Community Adviser
- 1 x Executive Officer
- 1 x Heritage GIS Officer

- 1 x Ministerial Officer
- 1 x Office Manager
- 1 x Senior Community Development Officer
- 1 x Senior Programs Manager
- 1 x Senior Project Manager
- 1 x Senior Project Officer
- 1 x HR Support Officer
- 1 x Personal Assistant
- 1 x Procurement and Contracts Officer
- 1 x Project and Executive Support Officer
- 1 x Records Officer.

ABBEYFIELD AUSTRALIA

239 Ms CHAPMAN (Bragg) (10 May 2011). How much departmental funding has been provided to Abbeyfield Australia in each year since 2006 and how much will be provided in 2011?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability): The Department for Families and Communities has not provided any funding to Abbeyfield Australia. It has, however, made grant funding available to the Abbeyfield Society (District of Barossa) Inc, which is an affiliated local society in South Australia.

In 2005-06, DFC provided the Abbeyfield Society (District of Barossa) Inc with a Grants for Seniors grant of $2,500 to purchase sound equipment, exercise equipment and music to support the seniors exercise programs.

On 10 July 2008, the former Minister for Housing wrote to Abbeyfield Society outlining approval in principle of up to $1.2m (excluding GST), through the Affordable Housing Innovations Fund (AHIF).

The full payment of the AHIF grant of $1.2m (excluding GST) was made to Abbeyfield Society (District of Barossa) Inc during the 2010-11 financial year.

POLICE INVESTIGATIONS

In reply to **Mr PISONI (Unley)** (6 April 2011).

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): The South Australia Police (SAPOL) have advised that as part of their procedures in place to manage reported crime, supervisors have the responsibility to ensure investigating officers under their control are conducting enquiries in a timely manner. Procedures exist that where an investigating officer takes leave, retires, or is transferred, his or her tasks require re-allocation to another employee.

DISPLACED EFFORT WORKING GROUP

In reply to **Mr BROCK (Frome)** (6 April 2011).

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water): I am advised that:

1. The first meeting of the Displaced Effort Working Group (DEWG) was an induction meeting and there was no communiqué produced from that meeting. A communiqué from meeting 6 was drafted, but was not finalised at the time by the DEWG. However, key matters from meeting 6 were dealt with in subsequent communiqués.

There were no communiqués produced from meetings 7 and 11, the latter being the DEWG's final meeting.

SA WATER SURVEY

In reply to the **Hon. I.F. EVANS (Davenport)** (19 May 2011).

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water): I am advised that:

1. Willingness to Pay (WTP) research is a standard market research method for understanding how much customers are willing to pay for different levels of service. Interstate regulated water utilities spend in the order of $500,000 per annum.

This survey was the first of its kind undertaken by SA Water, hence the need to bring in a consultant to investigate the methodology and design the survey. SA Water paid the consultant approximately $78,000.

The contractor (NTF) completed the early stages of work required to undertake the WTP survey, including research, design and methodology development and SA Water conducted focus group sessions and developed options for investing in new infrastructure with the community.

Given the impact of drought conditions in South Australia and uncertainty in terms of future measures to address water security at the time, the then Chief Executive of SA Water determined that it was inappropriate to proceed with the second stage of the assignment at that time. The remaining money was reallocated to respond to critical drought response projects which had emerged since the survey was commissioned.

PAPERS

The following papers were laid on the table:

By the Speaker—

Ombudsman SA—City of Adelaide—Final Report 28 June 2011—Ordered to be published

By the Premier (Hon. M.D. Rann)—

Appointments to the Minister's personal staff under the Public Sector Act 2009

By the Minister for Transport (Hon. P.F. Conlon)—

Regulations made under the following Acts—
- Harbors and Navigation—Restricted Areas—Port Stanvac
- Motor Vehicles—
  - Road Trains
  - Safer Driver Agreement
- Road Traffic—
  - Heavy Vehicle Speeding Compliance—Speed Limiters
  - Road Rules Ancillary and Miscellaneous Provisions—Road Trains
  - Road Trains
- Local Council By-Laws—
  - Port Augusta City Council—No. 2—Moveable Signs—2011

By the Minister for Families and Communities (Hon. J.M. Rankine)—

Regulations made under the following Act—
- Liquor Licensing—
  - Dry Areas Long Term—
    - Hallett Cove 2011
    - Port Pirie

By the Minister for Mineral Resources Development (Hon. A. Koutsantonis)—

Schedule of Amendments being made to the Environmental Authorisation which forms Schedule 3 to the Whyalla Steel Works Act 1958

Regulations made under the following Act—
- Gaming Machines—Approved Trading System

By the Minister for Employment, Training and Further Education (Hon. J.J. Snelling)—

University of South Australia—

Annual Report 2010
Financial Report 2010

By the Minister for Workers Rehabilitation (Hon. J.J. Snelling)—

WorkCover Corporation—
Charter 2010-11
Charter 2011-12

By the Minister for Road Safety (Hon. T.R. Kenyon)—

Rules made under the following Act—
Road Traffic—Australian Road Rules—Level Crossing

ARKAROOLA WILDERNESS SANCTUARY

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) (14:41): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Last Friday, I travelled up to the Arkaroola region of the state with the Minister for Environment and Conservation and the Minister for Mineral Resources Development to announce that the area would be protected forever. Arkaroola is unique with sensitive environmental, cultural and heritage values.

Members interjecting:

The SPEAKER: Order, the member for Kavel!

The Hon. M.D. RANN: See, there is a division on the other side on this issue. When I visited the stunning landscape last year—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —I found its beauty to be compelling and asked the Minister for Environment and Conservation and the Minister for Mineral Resources Development to examine options to protect it. We engaged in comprehensive discussions in consultation with Doug and Marg Sprigg who hold the pastoral lease, and I know that the minister for the environment had meetings with the traditional owners.

The Minister for Environment and Conservation had direct consultation with other key interested parties about the future management of the Arkaroola area including meeting with the Adnyamathanha Traditional Lands Association on two occasions. In addition, officers from the Department of Environment and Natural Resources also consulted with the traditional owners. The Minister for Mineral Resources Development also held discussions with various mining interests and the South Australian Chamber of Mines and Energy about Arkaroola.

Following those discussions, we decided to give the region unprecedented protection, initially under the Mining Act, but going even further with legislation to specifically exclude mining and giving clear and specific protection to the area. Marg Sprigg has said that she could not wipe the smile off her face, and representatives of the traditional owners have expressed a variety of opinions including relief and also a leader describing it as a dream come true.

Our new legislation will fully recognise the unique character of this remarkable mountain wilderness. We could have settled for what the Greens wanted, which was simply to ban mining, but we were not satisfied that this would provide enough protection from all forms of incompatible development. Such a ban could have been easily overturned administratively with a stroke of a pen by a future government. We are not only protecting it by proclamation but we are backing that up by introducing legislation to protect this unique region for all time and nominating it for further protection as well.

This will involve a three-step process, with the first step being to reserve the area from operation under the Mining Act by proclamation, preventing further exploration and mining titles being granted in the area. The second step will be to enact special purpose legislation to protect the natural, cultural and landscape values of the area in perpetuity. This step would define the area

under statute, prohibiting mining, mineral exploration and grazing in the ranges, but specifically providing for the public appreciation and enjoyment of the area, with recreational activities regulated by a strict environmental management plan. The third step will be to nominate the area for listing on the National Heritage List and to seek to have it nominated for World Heritage Listing through the UNESCO process.

It is important to emphasise that the native title rights of the Adnyamathanha traditional owners will be fully respected in this process. This week we will move to reserve the area from the Mining Act. We will have further consultation with stakeholders in the area, including the Adnyamathanha traditional owners as well as pastoral leaseholders, before introducing our bill to protect the area forever before the end of the year.

Arkaroola is one of the most spectacular areas in the world, featuring unique biodiversity with an abundance of national and state conservation rated species. Some of the area's most unique species, such as the Flinders Ranges purple-spotted gudgeon and the spidery wattle, are not found anywhere else in the world. The area also provides a haven for the nationally threatened yellow-footed rock wallaby. We will proceed with nomination of the area under the national heritage listing, working closely with the traditional owners—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —and the pastoral leaseholders. Following that, early next year we will write to the commonwealth seeking World Heritage Listing for the area. The unique nature of the region justified the decision to end mining access.

Earlier this year we renewed the one-year exploration licence for Marathon Resources with strict conditions to allow exploration within Arkaroola, as we were legally obliged to do. We acknowledge that the mining industry needs certainty, which is why earlier this year we made it very clear that the exploration licence in no way conferred a right to mine. Furthermore, we advised that we were actively examining options for the future conservation management of the Arkaroola sanctuary, including the exclusion of mining.

We understand that Marathon has today announced it is taking advice about action to redress the impact of this decision. Marathon Resources was given a licence to explore the Arkaroola area, not a licence to mine. The Minister for Mineral Resources Development will meet with Marathon Resources later this week to hear their concerns about the impact the decision has had on their operations.

This government has been, is and will continue to be unashamedly pro-mining. When we came to office in 2002 there were just four mines operating in the state. Now there are 17, and there are dozens more in various stages of development, including the expansion of operations at Olympic Dam that will create the world's biggest mine. We have successfully worked—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The divisions in the front bench have broken out, even before question time. We have successfully worked with the federal government to unlock an area the size of England for exploration in the Woomera Prohibited Area. The area in and around the Woomera Prohibited Area is estimated to hold—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —mineral resources estimated to be worth—

The SPEAKER: Order! Premier, could you just hold on a moment please. Would members please stop shouting at each other across the room. The Premier will be heard in silence.

The Hon. M.D. RANN: The area in and around the Woomera Prohibited Area is estimated to hold mineral resources believed to be worth in excess of a trillion dollars. We have a major mining interest examining prospects there with keen interest. The future of mining in South Australia is assured. This government has done the right thing.

EVANS, MR C.

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) (14:49): I seek leave to make a ministerial statement.

Leave granted.

Ms Chapman interjecting:

The Hon. M.D. RANN: Thank you. I beg your pardon? I am sure all members of this house will join me in congratulating Cadel Evans on his magnificent victory at the weekend, becoming the first Australian to win the Tour de France. The Tour de France is one of the great sporting events of the world. It is the ultimate test of endurance and requires an extremely high level of fitness, skill and mental toughness to complete this three-week endurance race. I know there are a number of sub-elite cyclists here on the front bench. It is worth reminding the house that this gruelling race covers a distance of 3,430 kilometres over some of the most challenging mountain roads in Europe. The race this year consisted of 10 flat stages, six mountain stages and three stages that mixed climbing and sprinting. The longest stage for a single day covered 226.5 kilometres, so it is not an event for the faint-hearted.

To not only complete the race but defeat the best riders in the world and win takes a very special person. This is why Cadel's victory is one of the greatest individual achievements in Australian sporting history. It is a tribute to the courage, sheer hard work and unwavering determination displayed by Cadel Evans over the course of his riding career that, at the age of 34, he has become the oldest rider to win the Tour de France in post-war history. Having already won the world championships in 2009 and now the Tour de France in 2011, his international status as a cycling legend is beyond question.

South Australians had the pleasure of watching Cadel ride in the Tour Down Under in 2010. While wearing a rainbow jersey as the reigning world champion, he competed against many of the best riders in the world in our Pro Tour event. I can inform the house that yesterday I wrote to Cadel to congratulate him on his remarkable achievement and asked him to consider coming back to South Australia to ride before a legion of Australian fans in the 2012 Tour Down Under. Cadel received an extraordinarily warm reception from the fans in 2010, including, of course, as the member for Mawson will remember, on a fantastic, brilliant performance on the Willunga Hill.

We know the response from the thousands of Australians who gather to watch the Tour Down Under would be even greater in 2012 if he were to ride as the reigning Tour de France winner. On behalf of the hundreds of thousands of people in Australia who would like the opportunity to see Cadel ride again on home soil, in the only world tour event in the Southern Hemisphere, we hope he can make it to the Tour Down Under as part of his preparations for the defence of his Tour de France title next year.

Ms Fox: Félicitations! Vive Cadel!

The Hon. M.D. RANN: There are some French speakers behind me.

KLEMZIG GROUNDWATER TESTING

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:54): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. CAICA: On 16 August 2010 I received a briefing from the EPA indicating that they would be undertaking testing of bores in the Klemzig area as a result of their having received a notification of contamination at what I am told was a former smallgoods factory on O.G. Road at Klemzig. I was advised that various substances had been identified on the smallgoods factory site, all associated with motor fuel, including benzene, a known carcinogen. I was advised that the benzene levels were at a concentration of 22 milligrams per litre, far in excess of the guidelines of 0.001 to 0.3 milligrams per litre.

There was no evidence at the time to indicate that domestic bores were affected. There was no suggestion in the EPA briefing that any members of the public were at risk. The EPA indicated that they were to approach the owners of 17 registered wells to conduct groundwater testing to rule out any health risk. I was advised that testing would commence within a day of the

samples being taken, that the EPA would prepare advice in conjunction with SA Health and that the EPA would provide advice to those persons whose wells had been tested.

It was confirmed with me yesterday that a doorknock of properties with registered wells within a 500-metre radius of the former smallgoods factory site was undertaken. There were 17 properties doorknocked because they had registered bores. I was advised that this occurred on 17 August 2010. I am advised also that Port Adelaide Enfield council staff members were notified verbally and via email on 16 August 2010.

Of the 17 properties doorknocked, four private groundwater wells were sampled on 17 and 18 August 2010. I am advised that these four were tested because, in the majority of cases, the wells no longer existed or could no longer be accessed, so they were not in use by residents. The EPA tested the four groundwater wells that were in active use by residents. They were analysed for total petroleum hydrocarbons, BTEX, lead and methyl t-butyl ether (MTBE).

Results showed that in three of the four tested wells groundwater contaminants that were being looked for were not found. I am further advised that in one property the laboratory reported some total petroleum hydrocarbon fractions that were indicative of a middle weight petroleum-based product such as diesel.

I am further advised that this groundwater well was subsequently re-tested on both 22 August 2010 and 17 November 2010 and analysed for the petroleum hydrocarbons. I am advised that results from these later testings indicated that no contaminants were found. I repeat: no contaminants were found.

The EPA has advised that it could not establish the source of the initial positive TPH detected in the first sampling test but that, because two subsequent sampling events showed no presence of hydrocarbon contaminants, no further sampling was required. These tests revealed no contamination of groundwater under these residential premises. There was no risk of hydrocarbon contamination identified. There was no evidence to suggest that contamination existed under residential areas near the former smallgoods factory site.

I am advised that the residential properties sampled were all advised of the testing results for their wells. The three properties that initially returned no contaminant results were advised by phone and writing on 20 October 2010. The fourth property received a final report from the EPA on 20 December 2010. As per usual advice provided, the EPA reinforced to groundwater bore owners that they must carry out regular testing of water quality to ensure the water is fit for purpose.

At the time of the original briefing, the EPA determined that no broadscale media release was deemed necessary, as there was no evidence of any risk to public health and safety. Following the testing, it was established—

Members interjecting:

The Hon. P. CAICA: Well, ask me some questions afterwards if you like.

Members interjecting:

The Hon. P. CAICA: Good. I look forward to it. Following the testing, it was established that no hydrocarbon contamination was present at those residences; consequently, there was nothing to announce. Changes brought in by this government created an obligation on the part of property owners to advise the EPA of contamination on their sites.

This government appreciates there is a strong desire on the part of the public for ready access to information held by the EPA regarding site contamination. That is why, late last year, I encouraged the EPA to ensure that information relating to contaminated sites is made more easily available on the EPA website. This information is currently available from the EPA.

It is a government priority to ensure that, in cases where contamination in residential areas is established, residents are informed first. The EPA and the government are concerned—greatly concerned—that residents within the local area have been misinformed about potential risks in relation to this issue, and the EPA will be undertaking a local letterbox drop to reinforce the message that from the tests required by the EPA at the residential bores there were no detectable levels of substances found.

QUESTION TIME

KLEMZIG GROUNDWATER TESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (15:01): My question is to the Premier. Is it an acceptable standard of ministerial conduct that a minister only release public health information to the public if the information can't be kept from the media?

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) (15:01): As I understand it—if you are referring to events in relation to the EPA, because I think, probably, it pays to be a little bit more specific—the EPA did testing of 17 bores in the area, four of which were operational, and, if my memory serves me well, I think that three of those bores were found to be clear, a fourth bore was found to have had excessive levels of the substance—it is interesting that you have not changed the question given that the question has already been answered by the minister—then what happened is that it was re-tested on two occasions—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —and found to be clear. As I understand it, the people concerned were actually informed. Given that the minister has just gone through this in some laborious detail then I think that, perhaps, the Leader of the Opposition—

The SPEAKER: Order! Point of order.

Mrs REDMOND: The relevance of the Premier's answer: he is not addressing the issue of the ministerial code of conduct and whether the minister's conduct was appropriate in trying to keep the information from the public unless the media found out about it.

The SPEAKER: Thank you. I don't uphold that point of order. The Premier can answer as he chooses.

The Hon. M.D. RANN: That is a nonsense and you know it.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: While the minister worked in concert with his colleagues, and in consultation with the community to save Arkaroola, the two on the front bench have fallen out before question time started.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The minister has acted appropriately in making sure that people are informed who are affected.

The SPEAKER: The member for Torrens.

Members interjecting:

The SPEAKER: Order!

KANGAROO ISLAND DEVELOPMENT

Mrs GERAGHTY (Torrens) (15:03): My question is to the Premier. Can the Premier update the house on the government's new approach for supporting development on Kangaroo Island?

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) (15:03): I went to Kangaroo Island on Friday with many of my colleagues here and I will be returning tomorrow for the 175th anniversary of European settlement of Kangaroo Island by British settlers. In fact, it was part of the plan really, it could have been the capital of South Australia, and, if you listen to the member for Finniss, it may still well be. So tomorrow is a very important day in our state's history.

This past weekend, the cabinet travelled to the island for the government's 55th community cabinet meeting, the third time the cabinet has been to the island since we were elected in 2002. Ministers took the opportunity to appreciate the outstanding beauty of its wild landscape, and through meeting many, many hundreds of people and travelling across the length and breadth of the island to see firsthand the challenges that communities on the island face.

Many of these challenges are addressed by the Economic Development Board in its report Paradise Girt by Sea that was released on Sunday. The government is already responding to many of the key recommendations in that report. Over the weekend we announced a new approach on how we support Kangaroo Island, backed by millions of dollars in new infrastructure and legislation.

This new approach includes establishing a single authority, working with federal, state and local government and the private sector, to coordinate development on the island over the next five years. The authority will be supported by a board led by the EDB chairman Raymond Spencer, and will report directly to the Deputy Premier—which is, of course, appropriate to his role in planning, as well as tourism and food marketing. The authority will examine how to encourage appropriate development that addresses:

- links to the mainland;
- the cost of establishing and doing business on the island;
- road and other transport infrastructure, including the airport;
- power generation, including examining renewable options;
- the protection of native vegetation; and
- the skills base available on the island.

The EDB report also called on government to consider what options there were for dealing with the so-called 'water gap', which reflects the additional costs for passenger and freight movement to and from Kangaroo Island. The EDB rejects proposals for a standing subsidy for the island, but suggests considering some form of taxation relief. Therefore, the new authority will examine whether there is a sound business case for time-limited taxation relief for the island.

The government's new approach to supporting the island received a very enthusiastic welcome. Mayor Jayne Bates very generously supported the government's approach and commitment to make things happen on the island. In a presentation to cabinet yesterday, she said that there was nothing more she could ask for.

I also want to pay tribute to the member for Finniss, who has been an effective advocate for his electorate and who has supported many of the initiatives now being pursued by the government. I would like to thank the member for Finniss for his interactions with us; indeed, prior to this, many months ago—

Mr Pengilly: And football!

The Hon. M.D. RANN: Yes, we will get on to that. We have had many meetings, and I think it is terrific to be addressing Kangaroo Island in a bipartisan way. However, that bipartisanship ran out on the football field, on the oval at Parndana, in a spectacular clash between the member for Finniss and myself, with some interesting comments from the crowd.

In truth, as far as the rest of the world is concerned, Kangaroo Island is an Australian tourism icon that sits alongside the Great Barrier Reef and Uluru. Tourists go to the island seeking the opportunity to enjoy our nation's unique flora and fauna, beaches and bush all within one package. Yet many South Australians and visitors from interstate are yet to explore this amazing destination right on our doorstep. That is why the South Australian Tourism Commission will spend $6 million over the next financial year making the island the star of our interstate tourism campaign, with a big focus on television advertising promoting the island.

Alongside tourism the island is also developing a deserved reputation for the quality of its clean and green local produce—particularly in niche markets for honey, dairy, lamb and grains—and that needs to be supported to reach its full potential. We are also backing our commitment to the island with many million of dollars of investment including:

- $8 million over four years to improve key roads (which was announced in the budget);

- $5 million earmarked to create a world-class multi-day walking trail, a sort of Milford Track approach to a five-day walking/camping trail along the coastal areas;
- $1.7 million for stage 2 of the Seal Bay boardwalk upgrade;
- $1.2 million towards the construction of a new passenger ferry terminal at Penneshaw;
- $620,000 spent on restoring the historic Kingscote jetty, which was officially opened by the transport minister in the last day or so after he returned from fishing—

The Hon. P.F. Conlon: For one hour.

The Hon. M.D. RANN: 'For one hour,' he says. I continue:

- $500,000 to be divided between two feasibility studies for a renewable energy solution to the island's power generation challenges, including looking at the possibility of a considerable biomass plant that could be the base load for renewable power on the island;
- $500,000 through the Premier's Renewable Energy Fund to provide solar power to a redeveloped airport;
- $400,000 for the construction of a new landing point at Penneshaw jetty to enable tender vessels to ferry passengers between large cruise ships anchored offshore and the island; and
- $400,000 to upgrade the road to Cape de Couedic on the south-western tip of the island.

It is crucial that development on the island must protect its unique natural heritage and its pristine environment. To ensure this, the Deputy Premier will also, following along from McLaren Vale, Willunga and Arkaroola, introduce new planning legislation to protect Kangaroo Island from inappropriate development. I am prepared to say today that we could call it the Kangaroo Island act.

We have a rare opportunity to ensure that Kangaroo Island is developed in a way that reflects its unique character. It is not an opportunity to be wasted. I know there are honourable members opposite who were born and raised on Kangaroo Island, and I look forward to joining them on the island tomorrow for this very historic day.

KLEMZIG GROUNDWATER TESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (15:11): My question is to the Minister for Environment and Conservation. Will the minister confirm that, when the Premier said this morning that the people were informed about the environmental contamination at Klemzig, he was referring only to the registered bore owners and that no other people in the immediate vicinity were advised of any potential problem? Can the minister also confirm whether the 14 people whose registered bores were not in use were given any details of the contamination?

Honourable members: Good questions.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:11): If they are, you didn't think of them. I thank the honourable member for her question. I will start off by saying this: as I understand it, an FOI application was made by the opposition, in particular the—

Mrs Redmond interjecting:

The Hon. P. CAICA: You asked a question. Do you want hear the answer or not? I know that you are struggling—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: I know that you are struggling with your own issues, but I will just ignore the interjections and answer the question. What I will be attempting to do is put some things in context. The Deputy Leader of the Opposition made an FOI application. I understand that that FOI application was processed on 12 July, and, given a day's postage, I guess it would have got to him on 13 July. Madam Speaker, they sat on it for 12 days. If they indeed thought there were any health risks associated with this, with respect to residents, you would have thought that—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —they might have raised that issue a bit before the day we returned to parliament. I am very satisfied with the way this particular matter has been handled.

Mrs Redmond interjecting:

The Hon. P. CAICA: Well, I'm satisfied with the way this has been handled. I'm not satisfied with the way you have handled yourself, because you have been—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Madam Speaker, the Leader of the Opposition has been totally reckless, totally irresponsible. We now have people in the Klemzig area who, because of the actions of the opposition leader, are even questioning whether or not the water coming out of their taps is safe to drink. It is just irresponsible.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: I have provided them in a ministerial statement; I won't go over that. At 35 O.G. Road, a former smallgoods site, was tested—

Ms Chapman interjecting:

The Hon. P. CAICA: 'Yes or no.' There was—

Ms Chapman interjecting:

The SPEAKER: Order, the member for Bragg!

The Hon. P. CAICA: The EPA was notified of contamination on that particular site. Testing was done. Testing showed that there were levels well in excess of what is expected from the groundwater there as it relates to benzene in particular—hydrocarbons. As a result of that, a decision was made to spread that testing out to registered bore owners. There were 17, as we said, within that particular area, four of which were operational. All 17 bore owners were doorknocked the day after, I was advised, on 17 August, and all but four of those bores were not any longer in use or not accessible.

As a result of that, the four bores were tested, and three of them had no level of contamination identified with respect to the substance being tested and one had some fractions of hydrocarbons. Every step of the way the owners of the four bores that were tested were advised.

Quite simply, what were we going to advise other people of? Quite simply, there was no contamination, there is no contamination and there is no health scare, and you have been irresponsible—Madam Speaker, not you—the Leader of the Opposition has been irresponsible with respect to—

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

Mr PENGILLY: 127. The minister is imputing improper motives on the leader.

The SPEAKER: Order! Thank you, I can protect myself.

The Hon. P. CAICA: I am not impugning improper motives. I am stating that they were improper motives, that the Leader of the Opposition is playing base politics—

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

Mr WILLIAMS: Is the minister suggesting to the house that the opposition, in raising a matter of important public health—

The Hon. P.F. Conlon: What's your point of order?

Mr WILLIAMS: He is imputing improper motive, 127.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Madam Speaker, is the minister—

The SPEAKER: Order! Thank you, I understand your point of order. We do have some leverage in here regarding political points of order. Minister, I ask you to get back to the substance of the question, however.

The Hon. P. CAICA: Thank you very much, Madam Speaker, and I will. I would make this point: if, indeed, there were such concerns as are being promoted and promulgated by the opposition at the moment, why did they sit on it for 13 days before raising it? Last time I remember, I think every member of the opposition has my mobile phone number. If there were such concerns, they could have rung me and clarified it. But no. There is some political grandstanding going on here, Madam Speaker, and I am certainly satisfied—

The SPEAKER: Order! Point of order.

Mrs REDMOND: The minister is debating the matter instead of answering the question. It was about whether people actually received any information about the contamination other than the four people whose bores they tested.

The SPEAKER: Minister, I ask you to conclude your answer.

The Hon. P. CAICA: Yes, I will wind up, Madam Speaker. Let me put it this way. The Liberal Party policy previously—

Mr Marshall interjecting:

The SPEAKER: Order, the member for Norwood!

The Hon. P. CAICA: The Liberal Party's policy on these matters, unless it has changed—

The SPEAKER: Order! The Leader of the Opposition.

Mrs REDMOND: It is not up to the minister to discuss our policies. That surely is debate, Madam Speaker.

The SPEAKER: I will uphold that point of order. Minister, conclude your answer.

The Hon. P. CAICA: I will not go there again, Madam Speaker. The four people whose properties were affected because their bores were operational were advised every step of the way. Had there been—

Mrs Redmond interjecting:

The SPEAKER: Order, the Leader of the Opposition!

The Hon. P. CAICA: Had there been anything that was worthy of further notification (that is, gone to the next level of communication) as a result of what was found, that would have been done but, quite simply, there was no contamination and there is no contamination. What were we going to tell people?

The SPEAKER: Thank you, minister.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

Members interjecting:

The SPEAKER: Will you stop arguing across the floor, or I will call this question time to a close. The member for Florey.

HOSPITAL INFORMATION DASHBOARD

Ms BEDFORD (Florey) (15:17): My question is to the Minister for Health. What measures have been taken to increase the capacity of the South Australian health system, and how will the display of real-time information about the number of patients in Adelaide's hospitals make our health system more transparent?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:18): I thank the member for Florey for her question, and I acknowledge her very strong

interest in health matters, particularly those related to the Modbury Hospital. There are other hospitals, I would inform the member for Florey, but she does know about the Modbury Hospital.

Today, I am very pleased to announce that the operational business intelligence (known as OBI), the dashboard for inpatient beds, is now available on the SA Health website—that is the OBI for inpatient beds. The inpatient dashboard data will be updated, from now on, every half hour and it includes information on how many patients are in our metropolitan hospitals and how many beds are available at any given time in each of our hospitals. As I say, information is available for each hospital, and even for each area or clinical unit within each hospital, such as, for example, the cancer centre or critical care. No other state, I am told, provides this level of detail nor updates the information as regularly.

The dashboard also includes information on the average length of stay in each of the hospitals and inpatient flows. This information has been used internally by hospital managers and healthcare providers for some time to better manage patient flows and to ensure that all demand is met. The information is now available to the general public along with the emergency department dashboard that went live on 30 June this year.

The emergency department dashboard had 16,319 page views from the time of its launch to Monday 21 July, with an average time on the page of five minutes and 48 seconds, which is an indication of a high level of interest and a high use by those who are interested in health statistics. The inpatient dashboard data shows that demand fluctuates, as you would expect. However, thanks to the extra capacity that we are building into the system and the hard work of doctors, nurses and hospital administrators, this demand is always met. No-one is ever refused the medical care they need in a public hospital in our state.

We know that as our population gets older we will require more health care. We are preparing for this future demand by increasing capacity by redeveloping every single metropolitan hospital and building the new Royal Adelaide Hospital. We are also working with some success to slow the growth in demand for hospital services.

In terms of increasing capacity, we have now added over 200 beds to the metropolitan system since coming to government and we have about another 250 beds to be delivered by projects that are currently underway. This year's budget provides $497.8 million for health infrastructure. This is an unprecedented level and an increase of $362.1 million on the 2005-06 budget, or 267 per cent. We also have record numbers of nurses and doctors.

In addition to creating extra capacity, we are having some success in slowing the growth in demand. In 2006-07, the year before the launch of our healthcare plan, emergency department presentations grew in that one year by 5.9 per cent. This was on the back of a 5.5 per cent growth in the previous year. Every year since our healthcare plan has come into place, other than for a spike with swine flu in 2009-10, the rate of growth has slowed. This year to date, up to the end of May, it has been below 3 per cent.

In terms of inpatient activity, the last four to six weeks have been very busy for our metropolitan hospitals, especially the Royal Adelaide Hospital and the Lyell McEwin Hospital. However, the long-term trend reflects the same slowing in growth as the emergency department figures show. In 2006-07, metropolitan hospital separations grew by 4.6 per cent. In the years since, the growth in separations has slowed year on year to 3.3 per cent, 2.1 per cent and 1.9 per cent. Last financial year, to the end of May, the figure in metropolitan Adelaide was down to 0.1 per cent. In 2006-07, it was 4.6 per cent growth; this year, it was just 1 per cent flat growth.

South Australia is leading the country in reducing hospital demand, despite the fact that we have the oldest population. We are increasing capacity, we are slowing the growth in demand and we are also improving services, as measured in a key range of statistics. In the year to May, 71.2 per cent of emergency department patients were seen within clinically recommended times. This is an improvement of 4.3 per cent on last year and builds on improvements every year over the past three years.

We have also improved our position compared to other states in timeliness of elective surgery every year for the past four years for the median waiting time for elective surgery, which is now 36 days. We also have the least number of patients in the nation who have waited more than a year for their procedure. Whilst we are always striving to make further improvements to our healthcare system, we are very proud of what has been achieved to date. By displaying a level of real-time information online that is in excess of any other state in the country, we are making the healthcare system transparent and accountable to the people of South Australia. It is my hope that

this transparency will improve the public understanding of the healthcare system and help to drive further improvements.

KLEMZIG GROUNDWATER TESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (15:23): My question is again to the Minister for Environment and Conservation. Is the minister aware of any other environmental contamination elsewhere in South Australia of which the government is yet to inform the public?

Members interjecting:

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:24): Yes, that's right. I will allow for those interjections.

The SPEAKER: Order!

The Hon. P. CAICA: Anyway, I am going to stay very calm, Madam Speaker. You will be very pleased about that because, quite frankly, the Leader of the Opposition should be brought to account for her irresponsible and reckless behaviour.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Point of order, Madam Speaker. This is outrageous. Standing order 98: the minister has to answer the subject of the question and not be abusive towards the questioner.

The SPEAKER: Thank you for your point of order, but I do not uphold that. The minister is answering the question as he chooses. However, if it continues in that vein then I will think about it.

The Hon. P. CAICA: Thank you, Madam Speaker. I think I have said this in the house before that, given the nature of the industrialised world in which we live, the past custom and practice that was acceptable custom and practice in days gone by has resulted in a level of contamination within groundwater as a result of what was then custom and practice which is no longer the behaviour that is acceptable.

As a result of that, not only here in metropolitan Adelaide but throughout the industrialised world, there are problems and difficulties associated with the leaching of chemicals, solvents and a whole host of other contaminants working their way through to the groundwater. That is why Health's quite appropriate directive and advice is that, if you have access to groundwater, don't drink it. If you have access to groundwater, we say don't use it, and if you are going to use it, get it tested and then tested every two years thereafter.

What I have attempted to do since I have been minister is ensure that the EPA becomes totally transparent about the information that it provides to people. In regard to this particular incident at Klemzig, as I said, there was no contamination, there is no contamination and what were we going to go out and tell people? It was appropriate to find out what is there and then develop the communications policy.

Members interjecting:

The Hon. P. CAICA: 'Let's tell the public that there is nothing there.' Why would we do that? By way of information, the EPA legislation requires the EPA to place on the public register the test results in relation to not only those four tested bores but any other area that is being tested in this state at this point in time.

Ms Chapman interjecting:

The Hon. P. CAICA: On the website. The former smallgoods site at 35 O.G. Road is on the website. This is interesting, Madam Speaker, because I am being accused of hiding stuff and burying stuff. It has been on the website since—

Mr Marshall interjecting:

The SPEAKER: Order, member for Norwood!

The Hon. P. CAICA: It has been on the website since 14 April this year.

The Hon. J.M. Rankine: You've hid it on the World Wide Web.

The Hon. P. CAICA: On the World Wide Web.

The SPEAKER: Order! The Leader of the Opposition.

Mrs REDMOND: I rise on a point of order on the relevance of the minister's answer. The question to the minister was specifically: is he aware of other contaminated sites that the public has not been told about?

The SPEAKER: No.

The Hon. P. CAICA: Madam Speaker, as I mentioned earlier in the context of the world in which we have lived and the consequences on the world in which we live, there are lots of sites. There are lots of contaminated sites, and what we are doing is prioritising the uploading of those sites onto the website.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: The first priority is to notify those people who are affected.

Members interjecting:

The SPEAKER: Order! I cannot hear the minister's answer.

The Hon. P. CAICA: What I would say is this, 'Someone's dropped a bomb somewhere contaminating the atmosphere.' It's the opposition, and they are just bombing out.

The SPEAKER: Thank you. The minister will sit down. Order! Supplementary question.

KLEMZIG GROUNDWATER TESTING

Mrs REDMOND (Heysen—Leader of the Opposition) (15:27): Will the minister advise the house how many other sites there are that are contaminated that the public has not been told about?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:27): I am not aware of any other sites that are contaminated that people have not been notified about. I cannot give people information that I am not aware of. The EPA is telling people of sites that are contaminated, not sites that are not contaminated. I just don't understand; I think they picked a loser on this one.

Members interjecting:

The SPEAKER: Order! Members will not shout across the chamber.

Members interjecting:

The SPEAKER: Order!

KLEMZIG GROUNDWATER TESTING

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:28): My question is again to the Minister for Environment and Conservation. Has the EPA undertaken any subsequent investigations in the Klemzig area in order to ascertain whether there remains a pollution plume in the vicinity of the former smallgoods factory on O.G. Road and to delineate the extent of any such plume or is it assumed that the contamination has simply disappeared?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:29): I thank the honourable deputy leader for his question and quite simply the answer is this: the initial test was done on the site at 35 O.G. Road. As a consequence of what they found there, testing was done within a 500-metre radius to see whether or not there had been any, if you like, spread of what was found on that site to other areas. Of the four bores that were tested in August, three showed no traces of contamination. One showed some trace contamination or fraction contamination, as I think it is described. Subsequently, that bore was then retested on two occasions and found to be all clear. As a result of that, the EPA determined that there was no requirement to do any further testing because—and I go back to what I said earlier—there is no contamination; there was no contamination.

Ms Chapman interjecting:

The SPEAKER: Order!

KLEMZIG GROUNDWATER TESTING

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:30): My question is to the Minister for Environment and Conservation. In accordance with the minister's statement to the house today, does the minister consider it reasonable that residents have to first identify if there is groundwater contamination in their area via the EPA website, and then have to make an appointment with the EPA to go and look at the register to find out the details of any such plume, and pay for the privilege of doing so some $17.40 for every 10 minutes that they inspect the register? Is that making access to this information easier?

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! You have asked your question. Be quiet.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:31): Of course, I refer the opposition back to the previous statement, and that is the advice that is provided in the alerts that are issued from health. If you have access to groundwater, don't use it. If you are going to use it, don't drink it, but have it tested and have it tested every two years thereafter. What the EPA did was contact the 17 registered bore owners within the area. They were provided information that, of course, was not charged to them; they did not pay for that information. The EPA contacted them via phone, via doorknocking and provided the results, particularly on those four bores—

Members interjecting:

The Hon. P. CAICA: Well, part of that was determining—

The SPEAKER: Order!

The Hon. P. CAICA: Part of that was determining, which was a previous question, whether or not contamination had moved off that site. There is no contamination. There was no contamination.

Mr Williams interjecting:

The Hon. P. CAICA: Well, the only reason people—

Mr Williams interjecting:

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

The Hon. P. CAICA: Had different information been found by the EPA with respect to those bores, a different level of notification similar to what has occurred at—

Mr WILLIAMS: Point of order, Madam Speaker. The question was about the fact that you have to pay $17.40 for every 10 minutes—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: —to access this information. The question is: does the minister think that is reasonable?

The SPEAKER: I think your point of order was irrelevance, but I did not hear what you said for all the yelling.

The Hon. P. CAICA: Yes, irrelevance: that's right. It was, Madam Speaker, but that is for you to determine, not me. Quite simply, a change of policy occurred some time ago and that is that those people who are affected by contamination on their site are not required to pay for that information. That information will be provided free of charge.

Members interjecting:

The Hon. P. CAICA: Well, what the residents of Klemzig know now is something that is not the case because of the irresponsible and reckless behaviour of the Leader of the Opposition.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order, member for MacKillop!

Mr Williams interjecting:

The SPEAKER: Member for MacKillop, you are warned for the second time.

Members interjecting:

The SPEAKER: Order!

SOUTHERN ZONE ROCK LOBSTER FISHERY

Mr PEGLER (Mount Gambier) (15:34): My question is to the Minister for Agriculture and Fisheries. Can the minister inform the house why he has reopened the southern zone rock lobster fishery during the month of October? Can he also provide advice on the outlook for the future rock lobster stocks in the fishery?

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture and Fisheries, Minister for Forests, Minister for Energy, Minister for the Northern Suburbs) (15:34): I thank the member for Mount Gambier for the question and I acknowledge his advocacy on behalf of commercial fishermen of the southern zone rock lobster fishery in the South-East. This is undoubtedly an important industry for his electorate, as it is for the member for MacKillop. The rock lobster industry is valuable to the entire state, with the southern and northern zone fisheries bringing in a combined total of $85.8 million to the South Australian economy in the last financial year, and the bulk of this was through exports to China. So it is a very important export industry and one that underpins a large number of communities in the South-East.

The primary tool used to ensure fishing occurs within ecologically manageable limits is through setting a quota on the total allowable commercial catch, the TACC. Due to concerns about the long-term sustainability of the southern zone rock lobster fishery, the 2010-11 quota was set at 1,250 tonnes, which was 150 tonnes lower than the 2009-10 quota. As an additional precautionary measure—as I am obliged under the act—the fishery was closed during the month of October 2010 with the possibility of a further closure during October 2011.

Independent scientific data gathered from the 2010-11 season suggests a significant improvement in the health of the southern zone rock lobster fishery. The data has informed us that for the first time in four years the quota was fully taken in the southern zone; the pot lift, which is the weight of lobsters pulled from the ocean on every pot haul, was 56 per cent higher than in 2010-11; and the average number of days fished during the 2010-11 season was 35 per cent lower than in 2009-10, which meant that fishermen spent less time at sea to catch their quota. In day terms this was 114 days compared with 175 days in the previous year. In a practical sense this means less in fuel and wage costs for those businesses.

This notable improvement in the performance of the fishery during 2010-11 and the evidence of a strong recruitment pulse for the year 2011-12—that is the number of undersized fish that are caught; it gives an indication of the catch several years in advance, the biomass and the probability of good catches in the coming years—was sufficient to convince me that we no longer have to close the month of October to fishing. That is particularly important. I think a number of members would know this is one month that we fish that is not fished anywhere else in Australia. The member for MacKillop would well know—he has raised it with me—that it gives us a premium in the Chinese market. So in the South-East there is great satisfaction with this particular decision.

As I said, as a result I have announced that the 2011-12 fishing season will run from 1 October 2011 until 31 May 2012 for both the commercial and recreational fishing sectors. it should be noted that the fishery is still in a historically low position. There is general agreement between all stakeholders that the quota shall remain at 1,250 tonnes for the southern zone to facilitate continued stock rebuilding, and I concur. The decision I took was based on a revised harvest strategy for the southern zone, which includes decision rules to guide the process of setting a quota. The revised strategy was developed by a rock lobster working group made up of an independent chair, independent scientist, PIRSA Fisheries and Aquaculture, and industry experts from the southern zone. The strategy will underpin future management of the zone and provide a structured framework for decision-making in line with the Fisheries Management Act 2007.

I would like to put on the public record my appreciation for the work of the working group in developing the harbour strategy, especially the employment of a decision tree methodology to arrive at recommendations for ministerial consideration and the setting of clearly defined trigger points for movements either way in the setting of the fishery quota recommendations. My view is also shared by the industry. Ms Catherine Barnett, independent chair of the South Australian Rock Lobster Advisory Committee, said:

> The level of collaboration between industry, PIRSA Fisheries and SARDI Aquatic Sciences over the past months to arrive at this point must be commended.

Mr Justin Phillips, Executive Officer for the South Eastern Professional Fisherman's Association Incorporated, has echoed Ms Barnett's comments, and I quote:

> There has been significant work and cooperation between [the] industry, PIRSA Fisheries and SARDI Aquatic Sciences to get [us] to this point, and...all [the] stakeholders have worked together [and this] must be acknowledged.

I am sure the members for Mount Gambier and MacKillop share these sentiments.

Mr Pengilly: O'Brien for premier is what I reckon.

The SPEAKER: Thank you for your opinion, member for Finniss. Member for Norwood.

KLEMZIG GROUNDWATER TESTING

Mr MARSHALL (Norwood) (15:40): My question is also to the Minister for Environment and Conservation. Why did the minister's office fail to inform local members of parliament of the environmental contamination in the Klemzig area, as promised?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:40): I did say on the wireless last night that if there were any—

An honourable member interjecting:

The Hon. P. CAICA: —the radio—procedures that were meant to be undertaken by the EPA that were not undertaken and the local members were not notified, I would look into that. The nature of the question said, 'Why weren't the local members advised of the contamination?' I would also say that there is no contamination and there was no contamination.

Members interjecting:

The SPEAKER: Order!

Mr Marshall interjecting:

The SPEAKER: Order, the member for Norwood! You have asked your question.

The Hon. P. CAICA: Yes, he did. I will finish off by saying this: if indeed there was, as the opposition is asserting, clear and present danger relating to that contamination, why did they sit on their FOI application for 13 days? Why wouldn't they, as a matter of course, have either raised it directly with me or, indeed, issued their press release that day.

As I said, if there are some shortcomings with respect to the notifications that were not received by local members, I am going to look into that and make sure the EPA rectifies that. I would again reinforce the point: there was no contamination, there is no contamination and the opposition is being irresponsible and reckless.

Members interjecting:

The SPEAKER: Order! Supplementary.

KLEMZIG GROUNDWATER TESTING

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:42): The minister in his answer has just said, 'there was no contamination, there is no contamination'. If that is the case, why did the EPA notify the Port Adelaide Enfield council and, if that is the case, why does the EPA have on its website that there is a source of contamination at 35 O.G. Road?

Members interjecting:

The SPEAKER: Order! Minister.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:42): It was identified on 35 O.G. Road that there was testing that was done and contamination was found—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —as a result of testing in the area. Certainly, the council was notified at that time that there was testing being done. No information was received at that stage that indicated that that contamination had spread, but, as a proper approach, the EPA then tested those bores within a 500 metre radius of—

Mr Marshall interjecting:

The Hon. P. CAICA: I am going to ignore the member for Norwood.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: The member for Norwood, like all members of the opposition—except the member for Davenport, I think—has my mobile phone number. If there was clear and present danger, he could have—

Members interjecting:

The Hon. P. CAICA: The member for Davenport said, 'I don't need your mobile phone number. I will never ring you.' So that is fine. I can only assume that the member for Norwood never contacted me because maybe the person who sought the FOI did not tell him, maybe he was preening himself, maybe he was preparing himself for the leadership challenge, maybe he was looking for his soul mate—I don't know. All he had to do was get on the phone. If they thought there was clear and present danger, they should have contacted me. There was no contamination, there is no contamination.

Members interjecting:

The SPEAKER: Order! Thank you.

Mr Marshall interjecting:

The SPEAKER: Order, the member for Norwood!

Members interjecting:

The SPEAKER: Order! Leader of the Opposition.

BURNSIDE COUNCIL

Mrs REDMOND (Heysen—Leader of the Opposition) (15:44): My question is to the Premier. Is it an acceptable standard for a minister to not read a government document because he cannot trust himself not to reveal its content, as stated by the new Minister for State/Local Government Relations, and what process has been put in place regarding this minister's access to confidential cabinet submissions?

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) (15:45): I think I announced on Friday that it was my clear view, and that of the Attorney-General, that the Burnside documents, having been suppressed by the Supreme Court—which, by the way, is a higher court than the ones that you are involved in—

Mrs Redmond interjecting:

The Hon. M.D. RANN: Oh you did? Okay.

Mr Williams: So you can apologise now if you like.

The SPEAKER: Order!

The Hon. M.D. RANN: I apologise; it was uncalled for—that, in fact, the Burnside report should go to the police commissioner and should go to the Director of Public Prosecutions and go to the Anti-Corruption Branch.

Mr WILLIAMS: Point of order, Madam Speaker—standing order 98: as informative as this may be, it has got nothing to do with the question. Despite the ludicrousness of this circumstance, it is a serious question. We have a minister of the Crown—

The SPEAKER: Thank you—

Mr WILLIAMS: —who is not game to read confidential information.

The SPEAKER: Thank you. I understand your question is serious; but I don't uphold your point of order because the Premier is answering it, and I think it is relevant—I see it as relevant.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: I am trying to put this into some intellectual framework for the Leader of the Opposition. Drawing upon 29 years of experience as a justice of the peace, it seems to me that it is very important for a minister to take legal advice. Of course, the Solicitor-General has given ministers and the minister's predecessor legal advice. The Supreme Court had suppressed the document so it is appropriate for the police commissioner—the Solicitor-General who, I understand, said that there was no likelihood of prosecutions—

Mr Pisoni interjecting:

The SPEAKER: Order, member for Unley!

The Hon. M.D. RANN: —but I am quite relaxed about the fact that the police commissioner, the Anti-Corruption Branch and the Director of Public Prosecutions are getting a copy. But I do think it is important for the minister to abide by Supreme Court decisions.

Members interjecting:

The SPEAKER: Order!

BURNSIDE COUNCIL

Mrs REDMOND (Heysen—Leader of the Opposition) (15:47): My question is to the Attorney-General. When did the Attorney-General seek the advice of the Solicitor-General in relation to the Burnside council investigation, and when was the Attorney-General provided with that advice?

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) (15:47): I thank the honourable member for that question. Last year, in the context of the litigation in which the state was a party by virtue of the application by the various applicants of those proceedings in the court, a number of matters were discussed in circumstances that it would not be appropriate for me to discuss as they were actually privileged conversations in relation to litigation before the court. However, I can say that those conversations with the Solicitor-General occurred last year, to the best of my recollection, and certainly in the lead-up to the matter proceeding to court.

BURNSIDE COUNCIL

Mrs REDMOND (Heysen—Leader of the Opposition) (15:48): My question is again to the Attorney-General. Has the Attorney-General asked the Solicitor-General why the MacPherson report draft findings regarding the Burnside council recommend criminal charges but the Solicitor-General found, and I quote from the Attorney-General's statement, that he did not believe that there was any criminal conduct revealed in the material he saw?

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) (15:49): Again, I thank—

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: —the honourable leader for her question. I have tremendous respect for the former auditor-general, Mr MacPherson, as I am sure we all do.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: However, if there was a matter before me where there was a view expressed by Mr MacPherson, the bulk of whose career has been acting as an auditor-general and Martin Hinton QC, who is actually the Solicitor-General, in general terms I would prefer to take advice from the Solicitor-General.

INNOVATIVE COMMUNITY ACTION NETWORKS

Mr ODENWALDER (Little Para) (15:49): My question is to the Minister for Education. Can the minister advise the house of the progress of getting the successful school retention program ICAN to schools across the state?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (15:50): I thank the honourable member for his question, and also for his advocacy on behalf of constituents in his electorate, particularly in making sure that they have the best possible opportunities in life by getting a solid education, including a strong vocational education for those students who seek it.

I have had the benefit of a number of discussions with him, and meetings with him in the electorate, and I know that he would be pleased to hear that the ICAN (Innovative Community Action Networks) initiative, which members would be aware of and which was an initiative of the Social Inclusion Board back in 2004, has now been expanded to cover the whole of South Australia. The reason we have chosen to roll out that school retention strategy to the whole of South Australia is that it has been spectacularly successful. It has improved school retention rates, given communities the opportunity to come together to provide specialist support for young people at risk, and given them the opportunity to actually complete their schooling.

We know that it will require 12 years of schooling, at a minimum, to gain access to the jobs that will be out there in the future, the jobs that are growing within the community. Even trade jobs now require a higher level of skill than they ever have before, so a minimum of 12 years of schooling is absolutely essential; and that is why keeping young people engaged in school is absolutely essential. This program has so far successfully helped more than 10,000 public school students to re-engage with their studies and learning. That is 10,000 young people who have a brighter future, 10,000 young people who have the skills to allow them to transform their lives, 10,000 young people who will increase the capacity of our community.

Since its inception, we have, of course, been expanding this program. With the expansion of the program to the Barossa, the Mid North, the eastern suburbs and the Adelaide Hills regions, we have now expanded this initiative to the whole of the state. In addition to this statewide rollout, we are now also extending our ICAN network to primary schools. The new primary school model of ICAN identifies and addresses individual issues that could affect the ability of a student to transition to high school. We know that those transition points are absolutely crucial. They are the points at which students become disengaged; the points at which we begin the process of losing young people from our schooling system. Truancy, non-attendance, and disengagement can often begin at those crucial transition points, and that is why the ICANs are so important at that time.

We know that there are many young people who have barriers to their success, many of which are beyond their control. For many of them, education will seem a very low priority in the order of things that are confronting them in their lives. We have teenage mothers who have been thrown out of home, we have kids overcoming the consequences of abuse or neglect, we have homeless children, we have kids with the responsibility of actually supporting their own families, and we have other children out there with caring responsibilities for disabled family members. Those young people are not putting education at the top of their priorities because they cannot, so we need to find ways of supporting them so that they are engaged in and part of finding a solution for themselves.

They cannot do it alone. They need the assistance of non-government organisations, the assistance of family and friends, they need to be supported to be well before they can learn. They need to be supported to make a success of their careers. That is what the ICAN initiative does, and I am very proud that it is being run out across the state.

SA WATER

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:54): My question is to the Premier. What lies or improper conduct did the member for Mawson, Leon Bignell, claim

SA Water had undertaken, and why did the Premier's chief of staff, Nick Alexandrides, try to suppress the member for Mawson's concerns? Is this another example of open—

The Hon. P.F. CONLON: Point of order. That question contains clear comment and argument. Can I repeat it for you? Why did a certain person try to suppress the plan? That is an argument.

Members interjecting:

The SPEAKER: Order! The question was out of order. There was an allegation in that question. However, now that the question has been asked, perhaps the minister would like to respond to it.

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) (15:55): I am very happy to answer this question. I want to commend the member for Mawson for his diligence on behalf of his electorate.

Members interjecting:

The Hon. M.D. RANN: You don't think so? Okay.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: As I understand it—and my memory is legendary—there was an issue in the Mawson electorate relating to the Aldinga wastewater plant; indeed, the desire, during the time of the worst drought that we faced in computer modelling in a thousand years, to extend the amount of wastewater that was made available for the wine industry and other agricultural purposes in the Willunga Basin. As a result of considerable action at governmental level the decision was made for an extension of the dam and the building of a very large dam, which the member for Mawson showed me the superstructure of before it was filled. Unfortunately, even though, through the usual processes, a consortium or a company had been chosen to build the aforesaid dam, it was delayed by inclement weather.

Naturally, the member for Mawson, acting on behalf of his constituents—his people—experienced a degree of frustration and wrote to complain about the delays. As I understand it, we now have a situation where the minister—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —for whom I have extraordinary respect, Karlene Maywald, is no longer the minister, the CEO who he complained about is no longer the CEO, and the dam that was not built has been built. So, you could say that the—

The Hon. J.R. Rau: It was a 'dam' good outcome.

The Hon. M.D. RANN: Yes, a 'dam' good outcome.

DISABILITY SERVICES, REGIONAL SOUTH AUSTRALIA

Mr PICCOLO (Light) (15:58): My question is for the Minister for Families and Communities. Can the minister give details of how the Rann government is boosting disability services in regional South Australia?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (15:58): I thank the member for Light for his question and his ongoing commitment to supporting South Australians with a disability in regional and country areas.

I recently had the privilege of launching new disability services in Whyalla, Kangaroo Island and Port Lincoln to support local people with a disability and their families. Whilst we know that there is more still to be done, our state provides accommodation support for nearly 5,000 people, and nationally this is the highest proportion of any state's total disability population.

When I visited Whyalla, Madam Speaker, you joined me at the opening of a four-bedroom respite home that is being run by Orana. This is a respite service that is also licensed to provide overnight care for children. To get this service up and running, a grant of $198,000 per year has

been provided by the state government. Respite will operate on weekends from Friday night through to Monday mornings.

Additional funding is being provided by the Department for Families and Communities to extend the use of the house during weekdays, where it will be used for other activities such as vacation care programs. I understand approximately 38 adults and 12 children with disabilities living across Eyre Peninsula are now registered to receive the weekend respite services.

This will be bolstered by another respite facility in Port Lincoln, which I opened only last week. Three new homes will provide supported accommodation as well as respite for 20 to 30 local people with a disability. The homes in Port Lincoln are part of the $10 million project funded equally by Bedford and the state government to deliver more supported accommodation across South Australia.

As well as delivering accommodation in the metropolitan area, country South Australia has benefited with projects in Port Pirie, Murray Bridge, Wallaroo and, soon, Millicent, where we will be turning the first sod. The Bedford housing program will deliver new homes and a new life for 70 people, and is contributing to a bigger program of the Rann government that represents a spending commitment of nearly $74 million for nearly 400 people.

Last weekend I also announced an extra $400,000 in funding for respite and day option services for people living with a disability on Kangaroo Island. This will deliver much-needed services for people who have had to travel to the mainland to access them. Respite services will be introduced as quickly as possible and should start within the next couple of months. I am told that will benefit around 50 people. The flexibility in this package also ensures islanders can still access respite services on the mainland if they choose to do so.

I have to say that this announcement was very enthusiastically welcomed by the mayor and locals alike. I had the pleasure of visiting the day options program and meeting a number of people receiving those services. It was cooking day yesterday at the day options, so I was able to share my expertise in making and rolling the sausage rolls, but I did the right thing and left before they saw the final product coming out of the—

Mr Pengilly interjecting:

The Hon. J.M. RANKINE: I did my best to support the local economy and I bought a hand-woven, hand-knitted woollen beanie in Kingscote and one in Penneshaw. I attended the Wisanger Sports Club's 100th anniversary. I did not see the member for Finniss, but I was there helping them celebrate.

We know there is still more work to do but this government has doubled the funding for disability services, and our commitment and determination to make a difference in the lives of those living with a disability, and families caring for them, continues in both metropolitan and country South Australia.

The SPEAKER: Members, I ask people to watch the wording of their questions very carefully in future. I do give time for questions to be asked so I do not jump too quickly but, when allegations are made in a question, it is only fair to allow a minister to respond. However, in future, I will listen very carefully to those questions and may not be as patient.

GRIEVANCE DEBATE

SCHOOL BUS SERVICES

Mr GRIFFITHS (Goyder) (16:03): I wish to inform the house about an event which occurred last Friday, being a rally on the steps of Parliament House of concerned people from regional South Australia about their school bus contracts. There is a bit of history to this and it has been coming into play for the last few months and, indeed, last Friday was the expression of the frustration that these small contractors and family businesses feel.

It is important for the house to understand that some of these family businesses have actually provided school bus contracts for up to 55 years. In my own electorate I have one person who has been involved for 52 years, another person for 37 years, and other people for down to five years. All of them are really concerned about the future of their activities and the future quality of the services that are going to be provided to the kids.

We know that there are about 270 of these privately provided school bus contracts that are administered through DECS. We know that four rounds of contracts have been called for so far,

and in the first announcement of the first round, 20 of the 45 contracts that were awarded were given to an interstate firm that has, admittedly, operated in South Australia for 16 years or so but has only had one school contract in the past. Now, suddenly, they have got 20.

All across regional South Australia there are operators who are concerned about their future. All of them recognise the fact that they need to upgrade their buses. Some have been asked to extend their contracts (which expired last year) forward at least for 12 months to allow the contracts to be negotiated and providers put in place. All of them were encouraged to submit for more runs than they probably wanted to.

We know that the minimum number so far has been six and the maximum has been about 19 for each of the tender runs. I have to express on behalf of the Bus and Coach Association the real fear their members have about what the future is going to be. They are very concerned that the corporate players are going to come in and the family business are going to be removed from operation, and these people want some recognition of the quality of service they have provided.

I admit and acknowledge to the house that there is a tolerance shown when it comes to the consideration of tenders. The DECS procurement process provides for a previous supplier of the service to have a 5 per cent tolerance built into the tender consideration. Even with the absolute minimum amount of personal return, these business do not feel they can get down to that figure. DECS has set a benchmark figure that, even with the best of accounting advice that these private family companies are getting, they just cannot get down to, to meet their financial obligations with the purchase of new buses, to meet their operational costs, and to make some level of profit to provide for their own family and to keep some surety for their employees.

A lot of these contractors operate probably two runs. Some of them go up towards 10 runs. I have spoken intimately in the last couple of weeks to people who have two runs and have owned it for five, seven or 10 years, and they do not think they have a business. That is what upsets me. With the announcement of the first round of contracts that have gone to the Adelaide Hills and Fleurieu area, I thought that the interest of other corporate parties would not extend beyond that. However, I know the Adelaide Plains, the Riverland and the Yorke Peninsula areas are concerned, and these small family companies are really fearful of what is going to happen.

The uncertainty of their financial future is making it difficult for them to retain their staff. Because school bus driving is a bit of a strange shift operation in the morning and then in the afternoon, with some odd opportunities thrown in for some private contract work, it means that you have to have people that are flexible in their times. These people love what they do and they build relationships with the kids of the schools that they support. It would be a great shame to lose those small family businesses, who have supported communities for many years.

I was given an example on Friday at the rally by a Yorketown operator. If it is raining but the kids at the kindy need to get transported to the school for the transition for year 1, the kindy will ring the bus operator and say, 'Can you come and pick up the kids because it's wet and we can't walk them up there?' and the bus operator will gladly go down and do that. That is an extra service that they provide out of the commitment they make to their communities. They questioned with me whether the corporate players that may come in would show that level of commitment also.

The government faces some difficulties when it comes to determining the financial costs associated with it. I would ask the minister to ensure that the benchmark figure is reviewed so that it provides an opportunity for family businesses who have operated it for decades to have an opportunity to be successful. If they are not, the rally that we saw last week, which had 85 buses driving around the city for two hours, all making public announcements about what they think of minister Weatherill and the Rann government, is only going to continue. The Bus and Coach Association will take up the fight for as long as it possibly can. We have to ensure that these family businesses have a future. At the moment, it looks a very dark and bleak time approaching them.

INTERNATIONAL CONFERENCE OF WOMEN ENGINEERS AND SCIENTISTS

Ms THOMPSON (Reynell) (16:08): I rise today to draw the house's attention to the recent International Conference of Women Engineers and Scientists, which was held at the Convention Centre. This is the 15th international conference and it was a great victory for South Australia to secure this important event. I thank Marlene Kanga and Ha Do, who were the co-chairs of the organising committee, for the work that they put in to bringing the conference to Adelaide as well as the superb organisation of the conference.

I note that among the eminent people involved in the organisation of the conference was the Hon. Trish White, former member for Taylor, who is the chair of the advisory committee. The organising committee reads like a who's who of women in particular who have leading roles in science and engineering in Australia. It was indeed an international gathering, with delegates from Kuwait, Nigeria, Korea, Mexico, United Kingdom, Canada, Bangladesh, Germany, Ghana, Japan, United States and Taiwan. I recall delegates from Brazil, Spain, Congo, Papua New Guinea, Senegal, Zambia and Mongolia, as well as of course our near neighbours, New Zealand. I undertook some duties at the conference in place of minister Gago who was not able to attend and it was indeed a pleasure to do so.

The women were clearly committed to their profession and committed to having more women involved in engineering and science. They told me that generally they find that women seek to use the skills in engineering and science in ways that benefit humanity and the environment. On occasions this may not be directly through their work but through their volunteer work in using their scientific skills, for instance, to look at more flexible working hours in a particular manufacturing plant in Monterrey in Mexico.

The keynote speakers were extremely impressive. One of them was Dame Professor Jocelyn Bell Burnell DBE FRS FRSE from Oxford University. Dame Professor Jocelyn Bell Burnell is a distinguished astrophysicist based in the UK. As a postgraduate student she worked on the discovery of the first radio pulses but missed out on the Nobel Prize for physics which was awarded to her supervisor. She is the current president of the Institute of Physics, UK, the first woman in that role.

Dr Maria Jesús Prieto-Laffargue from the World Federation of Engineering Organisations in Spain is a telecommunications engineer, the first woman to be president of the World Federation of Engineering Organisations. She is a prominent figure in the international arena of communications technology and international business. Dr Laffargue has served on several boards advising national and international companies and organisations in telecommunications, energy, aerospace and transportation. Dr Laffargue has been a delegate of the Spanish government to several European and world organisations. She has served and is currently active in a group of select experts preparing for the United Nations work on the summit on sustainable development.

Just reading the information about the conference gives an insight to the exciting careers that are available for women in science and engineering. There was a lot of discussion about what changes might need to be made to those professions to make them more compatible with the combined responsibilities women still have. It was very interesting that the delegates from Kuwait told me that 50 per cent of their intake into engineering and science is now women. Some of these delegates were wearing a headscarf and we have the view that they are not as progressive as we are. They are beating us.

KANGAROO ISLAND DEVELOPMENT

Mr PENGILLY (Finniss) (16:13): Earlier today, the Premier made some comments about what happened with the government on Kangaroo Island over the last few days. Just let me remind the house that after 1993, when the Brown and then Olsen governments were in place, they spent tens of millions of dollars on Kangaroo Island. What they spent it on was things that were going to do the world of good for local residents. They spent it on such things as a desalination plant at Penneshaw to improve the water for the Penneshaw residents and tourism. They spent money on sealing the South Coast Road which improved no end the way of life of those people who live on the south coast and on the West End Highway and their ability to do business. They put in a filtration plant at Middle River. They did quite a bit of work on the hospital all for local residents.

What we have seen over the last few days with the announcements on the island is absolutely what Paddy shot at for the local residents of Kangaroo Island—absolutely sweet Fanny Adams. Nothing of what they have done will be of any benefit whatsoever. So, what we have seen is expenditure in areas, which I will come to in a minute, but they have missed the point. I say to the other side of the house that, if you want to get Kangaroo Island going, the key issue is to do something about the cost of getting across the water. That is the issue. The Water Gap project identified it; the government has pushed that to one side. Where that push has come from, I do not know. That talks about a federal subsidy on freight and a state subsidy on passengers and cars.

If you want to get double your visitor population, if you want to do something for the local people, if you want to do something for the economy that translates to farming, fishing and people's

ability to get back and forward—and, of course, tourism—you do something about that. That is the simple answer to the question, but nobody seems to want to tackle it.

What they have actually done is they have announced funding in certain areas. The $8 million for the roads, I support—obviously, I would be a fool not to support it—but that will go into resealing some of the roads that were done under the Brown-Olsen government, and that is desperately needed. I point out that it is half what the Liberal Party promised in the lead-up to the last election.

The $5 million towards the development of a walking trail: that is in the government's own infrastructure, so when that comes in—and I do not mind it, I am quite happy with it. However, all it is going to do is aid and abet the ability of the national parks and wildlife service (DENR) to raise more income through their business enterprises in the parks. By the way, the whole lot burnt out in 2007, and they have done nothing about looking to the future, so it is going to be really good if someone is on a walking trail, it is 45 degrees and the bush goes up. They have not thought through that one very well; that worries me.

The $1.7 million for the Seal Bay boardwalk: that has already been put out to tender. It is on its way; it has started. They have reannounced it once again for their own business structures inside the parks for the government. That is what is happening there. The $1.3 million for SeaLink: the people of Kangaroo Island think that SeaLink is getting the whole lot done, but the $1.3 million is the result of five years of attending meetings by SeaLink to get a new terminal at Penneshaw. Only a couple of weeks ago the CEO of SeaLink expressed frustration to me that he keeps going to meetings and nothing happens, so I am pleased that something has finally happened, but I want to see it happen and I want to see it in writing because I do not trust you mob anyway. I do not trust you at all.

The fact of the matter is that $500,000 is talked about to put a solar power unit into the redeveloped airport. There is nothing there about putting money into the airport. The state government does not have any money. It would have to be federal government money, and I actually welcome anything to redevelop the airport. I welcome a longer runway, even though Tom Koutsantonis has not worked out that you cannot bring a 737 from Adelaide to Kingscote, as he told one local resident on Sunday night who thought he was off the planet. The reality is that we must not put at risk Regional Express Airlines. You must not put that at risk. That would be inherently dangerous.

There are many other things that I wish to say, but I will run out of time, but let me say that we do not want legislation to further restrict development on the island. It is nonsense. I do not believe this appellation model fits into Kangaroo Island. We have the NRM, the native veg act, the council's development plan—you want to stop everything, you do not want to get it going. You want to stop everything. What is wrong with you people? There is a fair way to go on this. It will be interesting to see what sort of format this development authority has (the board). I hope that it has a majority of local people on it because you do not seem to want to listen to the locals. You want to seem to listen to all of these shoddy backside bureaucrats from Adelaide.

Time expired.

AUSTRALIAN RED CROSS

Mrs VLAHOS (Taylor) (16:19): Today I wish to speak on an important Australian and broader international community organisation, the International Red Cross and Red Crescent Movement. It is an international institution that is made up of 186 national societies, including our local Australian Red Cross. Its mission is to prevent or reduce human suffering wherever it is found around the world, with fundamental values of humanity, neutrality, voluntary service, unity, universality, impartiality and independence being the cornerstones of this mission.

The movement began in 1859 with the vision of Henry Dunant and has operated through two world wars up until today. According to their website, in 2008 and 2009, approximately 23,000 members and 28,000 volunteers helped to coordinate more than 1.3 million blood donations; assisted more than 89,000 people with disaster and emergency services across 257 separate disaster events; educated over 11,000 people on international humanitarian law issues; traced and assisted several thousand asylum seekers and refugees who needed help; and issued more than 96,000 first aid certificates. Its Good Start breakfast program has helped serve more than 603,000 breakfasts with its 180 clubs to children in need in schools across Australia each day. Its healthcare team alone in that year made over 1.5 million calls to people in their

homes who are isolated with disability or location issues and who lack the daily support of family members.

In the Two Wells area, the local branch has operated for almost 72 years. Together, local people raise money via raffles, trading tables, catering, Red Cross calling and badge stalls, and the yearly Red Cross Baby project. Each meeting averages around 10 members, with the club hosting about 30 full and associate members.

Two Wells is a very tightly-knit town. Each year, for three weeks the club joins with other community clubs to produce a melodrama, which is written, produced, acted and catered for by the local community. All the ages and all the skills of the community are put to good use in this project. Tickets are sold to the show and dinner, with $8 from each ticket going to the local clubs involved. The melodrama has become a central community event for the town and it is both fun and profitable for the local people.

This year, in April, two of the associate members held another important event, a pasta night which was used to raise funds for the Queensland flood victims, raising more than $2,000 for this appeal. The oldest member of this branch is 95 years old and this treasure—I will not reveal her name, because she is a pretty shy person—is very active in the branch today and very active in their trading table. The club is proud of its fundraising efforts and over the last 10 years alone has raised over $106,000 for the Red Cross appeals.

I would like place on the *Hansard* my thanks and admiration for the selfless volunteers who are members and associates of the Red Cross in Two Wells. Your work is remarkable and very worthy. Special thanks go to the effervescent Jasmin Daniele, the branch's secretary for so many years, who has worked to make sure the Two Wells community and the broader area of the Northern Adelaide Plains is served well by the Red Cross.

YOUTH PARLIAMENT

Mr GARDNER (Morialta) (16:22): It gives me pleasure today to take the opportunity to talk a little about the youth parliament and also about some of the local volunteers and achievers in the eastern suburbs of Adelaide. Last week, a number of members would have been able to take the opportunity to come into this chamber and see it transformed into a sea of vibrancy and youth debate, carried on with passion and vigour—and, I have to say, probably a little more decorum than we sometimes see when our parliamentarians are in here.

The YMCA Youth Parliament for 2011 took place last week, and I want to put on the record my congratulations and appreciation to all the youth parliamentarians who made a contribution and who gave up a week of their holidays from school or university, or took time off work to make their contribution and to put on the record their thoughts about how to make South Australia a better place. I also wish to put on the record my appreciation of the volunteers, the members of the Office for Youth and the YMCA, who facilitated that opportunity and the personal development which so many of those youth parliamentarians were able to access.

The youth governor, Sam Mitchell, gave an extraordinary speech on the Monday without notes, and it was only topped by her fantastic speech on the Friday, which I noted the Minister for Youth found so compelling as she was laughing the whole way through, as were all the members of parliament who were able to witness that fantastic speech. I know that the member for Schubert, I think the member for Ashford, the Hon. Stephen Wade MLC, the Hon. Tammy Franks MLC, the Hon. John Dawkins MLC, the member for Hammond and others all took the opportunity to appreciate that.

Some of the adjournment speeches I heard that day were particularly poignant: Matthew Schilling gave a fantastic presentation on youth suicide; Ms Phoenix Jade spoke about teen depression; Georgina Morphett spoke on a completely different issue—the need for lifeguards at Wallaroo; Scott Kennedy talked about volunteering in community organisations; and Thomas Stratfold spoke about the media's influence on politics. These youth parliamentarians come from a range of different backgrounds, and the fact that they were able to bring to each other's attention the issues that were important to them from such a range of areas I thought was fantastic to witness.

I note that last week the youth parliament passed five bills: the Rural Students Housing Scheme Act 2011—the rural student living subsidy; the Music Education Act; the Migrant Education Act; the Sex Work Decriminalisation Act 2011—and I am sure the member for Ashford will be interested to see the model they have taken as she considers the pursuit of that issue; and, I was

particularly pleased to note, the Workforce Participation Act 2011, promising liberal reform of shopping hours. The youth of South Australia have spoken and I am sure that the government will take note of the youth parliament's progress of that bill.

The new youth governor for 2011 is Thom Manning. I am particularly pleased to note that as I, along with several other MPs, was pleased to sponsor Thom Manning's participation in the program this year. I note that, this Sunday at 12 noon, all past participants of any year of youth parliament have been invited to Cocolat on Rundle Street for a forum to discuss what made the program so successful and how to make it better in future. It is a program I enjoyed being part of in 2003. I know that every year the YMCA does a great job in giving those youth parliamentarians the opportunity to make a contribution, and I am sure it will do so for many years to come.

In the brief time available, I also just want to take the opportunity to note some achievements of local figures, particularly in the Morialta area. Members of parliament on both sides, I am sure, would recently have been spending a fair bit of time at changeover dinners for Rotary and Lions clubs and so forth. As you would all know, the senior award for Rotarians' service to their communities is the Paul Harris Fellowship.

In Morialta, we are fortunate to be served by four Rotary clubs: Campbelltown, Morialta, Magill Sunrise and Burnside. Scott Nicholls of the Campbelltown Rotary Club, a former president who is very well known to many people in the Campbelltown community, was given this due acclamation—I am sure it would have been done earlier, had he not been in senior positions in the club in the years when he otherwise would have got it—as was Emidio Equizi in the Morialta Rotary Club, Pauline Hill and Rita Stirling in the Magill Sunrise Rotary Club, and Brian Wall in the Burnside Rotary Club. The Burnside Rotary Club was kind enough to make him president, just after it awarded him the Paul Harris Fellowship, for which I am sure he thanks the club.

MILLSWOOD SUBWAY

The Hon. S.W. KEY (Ashford) (16:27): I would like to talk about a project that I have been involved with for quite some time in the Ashford electorate. This has been initiated by constituents in the Ashford electorate, particularly in the suburbs of Goodwood, Millswood and Clarence Park. They mentioned to me that they would like to see some improvements to the appearance of the Millswood subway or underpass.

The subway is a significant local landmark that has needed some visual improvement. There have been a number of commendable efforts by locals to make decorative improvements to the site. In the north-west corner, on Lonsdale Terrace, above the subway, a small garden has been established, complete with garden seats and flowering plants. The garden is obviously well looked after. On the north-east corner, on Vardon Terrace, a watering system has been established to assist the number of bougainvillea bushes planted a short distance from the edge of the subway with the hope, I think, of establishing a Hanging Gardens of Babylon effect.

In efforts to look at what we could do with the subway, I have been greatly assisted by former Unley councillor Les Birch, community arts officer for Unley, Matthew Ives, and Mark Thomson, probably best known for his role at the Institute of Backyard Studies but also a former Clarence Park resident. According to the Unley staff, the efforts that I have just mentioned were initiated and maintained by private local people. These efforts indicate to me a sincere desire of people of the subway's vicinity to improve the aesthetic amenity of the area.

The centenary of the subway's construction takes place in 2015, which creates a good time frame for local people and others interested in making the subway into a distinctive and exciting landmark. I need to mention the support I have received from the member for Unley, David Pisoni. He has, with me and local councillors, attended community meetings to talk about where we could go with the subway. We have decided to create a series of graphic panels along the pedestrian walkway above the road on the western side of the subway. These panels will encourage discussion and feedback by suggesting a wide range of options we could pursue. In doing so, we are asking people to keep their minds open about some of the possibilities that exist on this site.

One strong theme is that the subway—the only deviation on the whole length of Goodwood Road—is a natural transition point or, to use the current language, a gateway into and out of inner southern Adelaide, Goodwood and the showgrounds zone. A public art and design project around the subway could help create a more distinctive marking of the precinct.

Just a little about the background to the subway: the research that Mark Thomson has done shows that the Millswood subway (or the Goodwood subway as it is sometimes known) was

officially opened on 2 March 1915. The subway's construction, in part, had been motivated by a spectacular and tragic car/train collision on Goodwood Road on 11 January 1913. In the collision between the train known as the Clapham Dodger and Mr Padman's Vulcan motor vehicle, Mrs Dora Leach and her son of Hyde Park were killed and several others were injured. The crossing had been a problem for quite some time as the train line and a horsedrawn tramline—we had trams on Goodwood Road all those years ago—met diagonally across Millswood Station. There was a lot of debate about what needed to happen, and an over-way for the train and a subway for the traffic, including the horsedrawn traffic, was drawn up.

When you look at that particular structure, you can see the engineering magnificence of it, but these days it looks quite dreary and ugly, and we are very keen to get local submissions about how we can make the subway into an art space. This has been greeted with a lot of enthusiasm by local people so I look forward to reporting back to the house about some of the decisions we may make.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

In committee (resumed on motion).

Clause 1.

The Hon. J.R. RAU: I can advise the committee that I have had a brief discussion with the member for Bragg and we propose to move quickly through the bill and the government amendments, which I will move as and when they come up. The opposition will consider between the chambers whether there is going to be some prospect of an agreed set of subsequent amendments, or these amendments in another place. I think both the member for Bragg and I have stated our broad positions anyway before so we do not want to occupy too much time in the chamber going through each individual matter.

Clause passed.

Clauses 2 to 16 passed.

Clause 17.

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

Page 9, after line 27 [clause 17, inserted section 78A]—After subsection (2) insert:

(2a) A delegation by a community corporation is to be made by ordinary resolution of the community corporation.

Amendment carried.

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

Page 9, lines 36 to 37 [clause 17, inserted section 78A(4)(c)]—Delete paragraph (c) and substitute:

(c) is—

(i) in a case where there is a contract relating to the delegation between the corporation and a body corporate manager—revoked on termination or expiry of the contract; or

(ii) in any other case—revocably by the corporation at any time by notice given in writing (notwithstanding any agreement to the contrary by the corporation).

Where there is a contract relating to a delegation between a community corporation and a body corporate manager, whether entered into before or after the commencement of this section, the delegation is revoked (a) in accordance with the provisions of the contract or (b) on termination or expiry of the contract.

Amendment carried.

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

Page 10, lines 39 and 40 [clause 17, inserted section 78B(3)(b)]—Delete:

(which must be not more than 2 years)

Amendment carried.

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

Page 10, line 43 [clause 17, inserted section 78B(3)(d)]—Delete 'and section 78A(4)(c)'

Amendment carried.

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

Page 11, lines 9 to 17 [clause 17, inserted section 78B(4)]—Delete subsection (4) and substitute:

(4) Where—

(a) there is a contract in force between a community corporation and a body corporate manager; and

(b) the community corporation has had relevant contractual arrangements with the body corporate manager for a continuous period of at least 12 months,

the community corporation may terminate the contract by written notice given to the body corporate manager at least 28 days (or a lesser period specified in the contract) before the termination of the contract is to come into effect.

(4a) The right of a community corporation to terminate a contract under subsection (4) is in addition to, and does not derogate from, any other right of the community corporation to terminate the contract.

Amendment carried.

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

Page 11, line 19 [clause 17, inserted section 78B(5)]—Delete 'may' and substitute:

is to

Amendment carried.

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

Page 11, after line 38 [clause 17, inserted section 78B]—After subsection (9) insert:

(10) In this section—

relevant contractual arrangements mean contractual arrangements relating to a delegation of functions or powers by a community corporation to a body corporate manager.

Amendment carried.

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

Page 13, lines 1 to 14 [clause 17, inserted section 78D(6)]—Delete subsection (6) and substitute:

(6) If all delegations by a community corporation to a delegate are revoked, the delegate must return to, or make available for collection by, the corporation—

(a) all records of the corporation held by the delegate; and

(b) all trust money held pursuant to the delegations,

in accordance with any requirements prescribed by the regulations.

Maximum penalty: $2,000.

Amendment carried; clause as amended passed.

Clauses 18 to 45 passed.

Clause 46.

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

Page 26, after line 28—After subclause (3) insert:

(3a) Section 3(1)—after the definition of *occupier* insert:

ordinary resolution of a strata corporation means a resolution passed at a properly convened meeting of the corporation by a simple majority of the votes of unit holders present and voting on the resolution;

Amendment carried; clause as amended passed.

Clauses 47 to 51 passed.

Clause 52.

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

Page 30, after line 1—Insert:

(1) Section 27(2)—delete 'resolution' and substitute:

ordinary resolution

Amendment carried; clause as amended passed.

Clause 53.

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

Page 30, after line 34 [clause 53, inserted section 27A]—After subsection (2) insert:

(2a) A delegation by a strata corporation is to be made by ordinary resolution of the strata corporation.

Amendment carried.

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

Page 31, lines 5 to 6 [clause 53, inserted section 27A(4)(c)]—Delete paragraph (c) and substitute:

(c) is—

(i) in a case where there is a contract relating to the delegation between the corporation and a body corporate manager—revoked on termination or expiry of the contract; or

(ii) in any other case—revocable by the corporation at any time by notice given in writing (notwithstanding any agreement to the contrary by the corporation).

Amendment carried.

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

Page 32, lines 1 and 2 [clause 53, inserted section 27B(3)(b)]—Delete:

'(which must be not more than 2 years)'

Amendment carried.

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

Page 32, line 5 [clause 53, inserted section 27B(3)(d)]—Delete 'and section 27A(4)(c)'

Amendment carried.

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

Page 32, lines 14 to 22 [clause 53, inserted section 27B(4)]—delete subsection (4) and substitute:

(4) Where—

(a) there is a contract in force between a strata corporation and a body corporate manager; and

(b) the strata corporation has had relevant contractual arrangements with the body corporate manager for a continuous period of at least 12 months,

the strata corporation may terminate the contract by written notice given to the body corporate manager at least 28 days (or a lesser period specified in the contract) before the termination of the contract is to come into effect.

(4a) The right of a strata corporation to terminate a contract under subsection (4) is in addition to, and does not derogate from, any other right of the strata corporation to terminate the contract.

Amendment carried.

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

Page 32, line 24 [clause 53, inserted section 27B(5)]—Delete 'may' and substitute 'is to'

Amendment carried.

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

Page 32, after line 42 [clause 53, inserted section 27B]—After subsection (9) insert:

(10) In this section—

relevant contractual arrangements mean contractual arrangements relating to a delegation of functions or powers by a strata corporation to a body corporate manager.

Amendment carried.

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

Page 34, lines 7 to 20 [clause 53, inserted section 27D(6)]—Delete subsection (6) and substitute:

(6) If all delegations by a strata corporation to a delegate are revoked, the delegate must return to, or make available for collection by, the corporation—

(a) all records of the corporation held by the delegate; and

(b) all trust money held pursuant to the delegations,

in accordance with any requirements prescribed by the regulations.

Penalty: Division 7 fine.

Amendment carried; clause as amended passed.

Clauses 54 to 59 passed.

Clause 60.

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

Page 38, after line 45—After subclause (2) insert:

(3) Section 34(8)—delete subsection (8) and substitute:

(8) Except where otherwise provided by this Act or by the articles of a strata corporation, the decisions of the corporation in general meeting will be made by ordinary resolutions.

Amendment carried; clause as amended passed.

Clause 61 passed.

New clause 61A.

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

Page 39, after line 36—Insert:

61A—Amendment of section 35—Management committee

Section 35(1) and (5)—delete 'resolution' wherever occurring and substitute in each case 'ordinary resolution'

New clause inserted.

Clauses 62 to 72 passed.

Schedule 1.

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

Page 43—Lines 23 and 24—Delete 'by the corporation at any time (notwithstanding any agreement to the contrary by the corporation)' and substitute:

as follows:

(a) in a case where there is a contract relating to the delegation between the corporation and a body corporate manager—the delegation is revoked on termination or expiry of the contract;

(b) in any other case—the delegation is revocable by the corporation at any time by notice given in writing (notwithstanding any agreement to the contrary by the corporation).

Amendment carried.

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

Page 43—After line 24—Insert:

(2) In this clause—

body corporate manager means a person who carries on a business, or is an employee in a business, that consists of, or includes, acting as a delegate of community corporations under the *Community Titles Act 1996* or of strata corporations under the *Strata Titles Act 1988*.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

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) (16:56): With some trepidation, I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 23 March 2011.)

Ms CHAPMAN (Bragg) (16:57): I rise to speak on the Statutes Amendment (Directors' Liability) Bill 2011 and indicate, as I am sure the Attorney will be pleased to hear, that the opposition will be supporting this bill without amendment. However, I will make a few brief statements in relation to it.

The origin of this bill is essentially a request through the Council of Australian Governments in November 2009 where the Ministerial Council for Corporations agreed on a set of principles for reform of directors' liability provisions against which all jurisdictions would audit and amend their legislative provisions that deal with personal liability on company directors.

This bill, as I understand it, has come subsequent to what I presume to be an exhaustive search of the South Australian statutes that identified some 25 laws in which there are impositions of personal liability on individual directors for corporate misconduct, and they are scheduled in the bill and have been referred to in the Attorney's second reading explanation.

There are, on my understanding, more than 700 state and territory laws, including 89 to 99 South Australian laws, where directors would be held liable simply because they are a director, even where they may not have any personal involvement in a breach. I am further informed that a November 2010 survey by the Australian Institute of Company Directors found that the burden of laws imposing personal liability on directors was stifling business decision-making.

Interesting data from that included, firstly, that more than 90 per cent of those surveyed said that the personal liability of directors had an impact on optimal business decision-making or outcomes; secondly, 65 per cent said that the risk of personal liability caused them or their board to take an overly cautious approach to business decision-making either frequently or occasionally; thirdly, almost a third said that they would personally decline an offer of a directorship primarily due to the risk of personal liability; and fourthly, more than 64 per cent said that they were seriously concerned about being subject to criminal and civil penalties as a director.

There is no question that in our community we want good people to stand to undertake directorships. Sometimes the attractiveness of these depends on the remuneration packages that go with them. However, as this survey suggests, if people are declining the taking up of leadership roles as directors of entities that are statutory boards, etc. in which they incur responsibility and are happy to receive, but which also attract significant penalties when the corporation itself has undertaken some act of misconduct, then if that is a deterrent, we do need to look at it.

This is an issue which I might say in 2004 and 2005 attracted quite a bit of attention when we debated the very significant amendments to the governance of our three universities in South Australia. The university councils, as it was proposed under a bill introduced by former minister for education the Hon. Jane Lomax-Smith, were to have very severe criminal penalties which would be attached to directors arising out of decisions that they might make or particular acts of misconduct, broader than simply being reckless.

We had a circumstance where, during the debate on that bill, I recall pointing out my very grave concern that good people would not come forward and undertake the responsibility of supporting and providing their advice and contribution to the governance of our universities if we were to impose such an obligation. In fact, I recall questioning the minister as to what act of misconduct had occurred preceding the introduction of the bill to amend the governance of our universities and impose what I saw as unwarranted and quite extensive penalties to those who would come forward. She was not able to cite one example of where there had been some act or

omission by a director, in her knowledge, that could justify attracting such a pernicious approach to how we might deal with directors and liability.

In the final determination and passing of that legislation, there was a significant backdown from the government in not pressing such an onerous and, I think, quite draconian approach to penalties for directors. On the other hand, we supported the government in ensuring that generally, if a person was carrying out their duties diligently as a director on the university boards and they were carrying out their normal duties, then there should be some covering of them of civil liability; but, if there had been deliberate or reckless misconduct on behalf of that director, then there would be capacity for the university to recover from that director.

I think that all those things are quite acceptable in the chain of events. If you are carrying out your ordinary duties, then you ought to be protected and the entity should take on the responsibility of that. In this case, the 25 organisations we are talking about are largely groups that are appointed by governments, or ministers in particular, and they need to take some of these deterrents away from good people standing for these positions.

I think that this is an important positive step and I hope it will ensure that good people will come forward and accept these responsibilities. Historically, in the private sector, there has been considerable advance, I think, in the development of duties of directors, and in particular the education of people who take up directors' roles, as to what their responsibilities are and a clear understanding of matters such as conflict of interest, the disclosure of any potential conflict of interest, and the like.

Whilst in the statutory world there has been some application of these principles, in the independent private sector this has been a matter which has been important not just for the integrity of the corporation but also for the public respect which those institutions and others wish to develop and maintain. They want their directors to act properly, diligently, with due care, and certainly not recklessly or in some way which is a breach of the criminal law. Much work is done in educating people in those roles.

Perhaps in a lesser, but since a liability situation, because of the small amounts of money they are supervised, but similarly we would say in the public sector that, when the introduction of governing councils in schools became the norm, it was important to provide educational assistance and support to new members of those councils to ensure that they properly understood their responsibilities and matters of disclosure and the like. Each of these areas has also been attracted to, not surprisingly, the obtaining of insurance to protect against liability of entities, and in particular any act of negligence that may occur on the part of one of the directors in some decision they may make or fail to make, or conduct which they carry out.

Just to place on the record an example of what is proposed to be remedied here, I turn to the ANZAC act. One of the bills to be amended is the ANZAC Day Commemoration Act 2005. In this instance the proposal is to delete subsection (8) of section 18 of the act. This paragraph is similar to a number of the others that have been deleted in other acts and it reads:

> If a body corporate is guilty of an offence against this section, each member of the governing body and the manager of the body corporate are guilty of an offence and liable to the same penalty as may be imposed for the principal offence, unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the offence by the body corporate.

In that instance it relates to actions by the body corporate in allowing for a public sporting or entertainment event to be held before 12 noon on ANZAC Day, which ordinarily is prohibited because of the sanctity of the importance of that day. There are significant penalties for a party or an organiser who carries out a function or an entertainment event that is in breach of that without having received permission. There are certain penalties surrounding contraventions of applications and that instance is where directors of the governing body take on this liability.

What this bill does in removing subsection (8) of that act, and similar provisions in these other 25 acts, is change a system from where there is a liability that simply translates to the director upon proof of the company having offended. The only way out of it is for the director to have a defence that there was some due diligence, and the onus is on the director to prove that, so that they have a defence to that liability.

Having got rid of that, in the new provisions, in line with the council's guideline, as I understand it, the following types of offences are applied: firstly, there is the accessory to the offence—a director should only be criminally liable if the director was an accessory to the offence,

even if the director failed in due diligence. In that case, the liability provision is removed from the act or is disapplied to the relevant offence and the general law of accessorial liability applies.

The second is a vicarious relationship: for more serious offences the director should be vigilant to prevent, the law holds directors criminally liable, subject to the defence of due diligence which the director must prove, as is the case now; to hold directors liable helps to deter offending by the company.

The third is that in a number of cases, however, a middle ground has been taken because the offence is moderately serious. In those cases, the directors will only be criminally liable if the prosecution can prove that the director knew or could reasonably have known that there was a significant risk that the offence of this type or kind might occur or was in a position to influence the company's action in relation to this type of behaviour and failed to exercise due diligence to stop the company from offending—all these matters to be proven by the prosecution.

Under the bill we are currently considering, 17 acts would only maintain liability where a director is an accessory to an offence. Eight acts provide three offences, and I am advised that, as agreed by the Council of Australian Governments, the following classes of acts containing directors' liability are not amended by this bill: 18 statutes under environmental protection, four statutes under occupational health and safety, 16 statutes subject to other reviews, and 26 statutes where the present standard of liability is justified.

Apparently, I am informed, the Law Society has not made any comment on this bill. There was general consultation by the Hon. Stephen Wade with the Australian Institute of Company Directors. They confirmed that there had been some frustration at the burden of directors' liability and their disappointment that harmonisation was not being pursued and at the lack of progress in the Mimico process. While it was clear that the AICD was urging the federal government to use its financial levers to drive reform, it did not reiterate its view in its press release earlier this year.

The institute, as I understand it, had not advanced any specific suggestions to enhance the bill but I think acknowledged some recognition of at least putting the issue on the agenda as the first legislating state. I assume that is still the case because this bill was introduced only relatively recently—a few months ago. With that, I indicate the opposition's support of the bill and I will not be seeking to go into committee.

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) (17:15): I thank the member for Bragg for her contribution in this matter. It is an important thing that was raised with me by the Institute of Company Directors shortly after I got this position. I agree wholly with the remarks that the honourable member has made about the importance of people being comfortable to be able to perform important public or civic duties, and duties in companies which are performing economic activities for our community, without being overly fearful of personal liability crippling their capacity to do anything.

This is quite a progressive piece of legislation, although some people, perhaps, who do not turn their minds to it properly may not appreciate that. Through the member for Bragg, I very much appreciate the opposition's support for this. I think, as obviously the opposition does, that this is a worthy measure.

Bill read a second time.

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) (17:18): I move:

That this bill be now read a third time.

I think we have a historic event where the long title of the bill is longer than the second reading contributions on both sides, which is a first.

Bill read a third time and passed.

EVIDENCE (DISCREDITABLE CONDUCT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April 2011.)

Ms CHAPMAN (Bragg) (17:21): I rise to speak on behalf of the opposition on the Evidence (Discreditable Conduct) Amendment Bill 2011, and again indicate the opposition will be supporting this bill.

At the 2010 election the Labor Party, via the Premier, announced and promised that it would amend the Evidence Act 1929 to 'codify and improve the law as it deals with similar fact evidence, propensity evidence and evidence of uncharged acts'. That was what was repeated in its serious crime policy of 2010. A media release on 7 March 2010, entitled 'Labor crime policy targets serious offenders', reads in part:

> Premier Mike Rann, in releasing Labor's Serious Crime Policy says that as part of the raft of reforms, the Government will overturn the notion that juries are not entitled to hear details of an offenders' past, prior to conviction.

Further:

> A re-elected Rann Labor Government will change the law to allow juries in appropriate cases to hear evidence of relevant prior criminal behaviour and offending by the accused.

It went on:

> This Government wants to simplify and improve this confusing and controversial area of criminal law.

In the *Sunday Mail* of 2 May 2010, the new and current Attorney-General suggested that it would be beneficial for the law of propensity evidence to be codified, as over the past 20 years it had become quite confusing and complex.

On 2 August 2010 the Attorney-General put out a press release announcing consultation amongst the legal stakeholders on the bill while restating, and almost quoting, elements of the Premier's March release. However, the Attorney-General's release read:

> The draft bill does not represent a dramatic 'shifting of the goalposts'. Rather it is an overdue effort at clarification of a notoriously difficult area of the law.

There are always occasions in parliaments where announcements are made, promises are proffered, and commitments are tabled by aspirants to office which are sometimes very good and sometimes absolutely absurd. I think this is one which, at the time of being announced by the Premier and I believe the then attorney-general (I am not sure whether or not he was present at the time of the serious crime policy launch), not surprisingly attracted considerable concern, mostly from the legal fraternity, which has the responsibility of representing people in the criminal area, where their rights or liberties might be at risk.

I think it is fair to say that, in a nutshell, the biggest area of concern was not only that a codification could further detract from providing a less confusing position on the law. Sometimes it is erroneous to assume that because you codify something you in some way simplify it and therefore it becomes less confusing and easier to implement. Often the reality is that to do so would be more dangerous and end up with something that leaves out the appropriate protections, and therefore all balance of interest, and so is not in the overall interest of either the successful prosecution of the guilty or the protection of the innocent.

In achieving that, simply to say that one is going to provide a process of codification is a concern. However, even more importantly, the biggest concern raised with me at the time was that, if there was a weakening or a lessening of the barriers against the introduction of prior conduct in the trial of an accused by the prosecution, it would open up the other side of the protections that we have and risk opening up the past of the witnesses for the prosecution.

The danger of this is most common and most vulnerable when we have, say, a victim in a rape case who is presenting his or her evidence as a victim (a prosecution witness) as to what had occurred, who had done it (if that could be identified), where it occurred and whether it was with or without consent, and the like. If the defendant was the subject of an opportunity for the prosecution to introduce evidence about his or her past, there is a rule in the evidence that puts at risk the victim in those circumstances (the prosecution witness) from having his or her past opened up.

If that occurs, that in itself can sometimes severely prejudice the successful prosecution in a case where it would be reasonable for that to occur. The classic example I think is probably the most common circumstance—for example, a victim in a rape trial is a woman who has a prior history of working in the sex industry. This is often used as an example in these cases because there is a fundamental principle here that, whatever the history of the sexual activity of a person, it does not mean that that should influence the decision of whether they were raped on a particular

occasion. It is in the principal translation of that, that just because someone may have worked in the prostitution industry it does not mean that the evidence should be used in some way to stain their character, to have an influence on a trial and deny them proper justice in bringing to account the person who may have raped them.

It was this issue that sounded some alarm bells in the legal profession. I do not know whether the current Attorney has received any concerns about it, but I certainly did. Even students wrote to me—students who were fresh to the law school and who were flush with all the high principles of legal ethics, and the like, and the rules of evidence they were studying. They were emailing me to say they were very concerned at the announcement on this matter.

Nevertheless, we have ended up with something a little different to what had been espoused by the Premier. Perhaps the Premier thought it was a good idea for which he might get some kudos during an election campaign, but potentially it is dangerous in implementation if we were, in fact, to go down the route that he proposed. Ultimately, what came into the parliament was something that the opposition considers does not cross the barrier and is a fair attempt, we think, to codify the principles currently outlined in the Evidence Act, particularly those which apply to similar fact evidence. They are never easy.

I suppose the case I always think of, which is probably familiar to the Attorney, is the famous Emily Perry poison case. Mrs Perry had two husbands who had died before and a third was healthy and alive but the prosecution felt sure he was at risk and, in fact, that there had been an attempt on his life. The prior evidence of the death of her other husbands suggested that poison was the weapon. Notwithstanding that, Mr Perry protested affection, love and enduring faith in his wife. I think he was even a witness for the prosecution under protest. The case was famous for that alone, but, of course, it was also famous for the introduction of similar fact evidence which ultimately resulted in her conviction.

I will place on the record some other aspects on some of the legal matters, which I am sure are familiar to the Attorney and possibly some of the other members of the house, and on which considerable work has been done to provide some education to our own party room on this matter. I will outline the background to what we are addressing here.

In a criminal trial, propensity evidence is any evidence that attempts to show that a person is the kind of person who would commit a particular crime or act in a certain way on the basis of events in the accused's past or his or her other criminal convictions. Historically, this kind of evidence has usually been ruled as inadmissible, both at common law and, later, in criminal codes and statutes around Australia. The reason for excluding this kind of evidence is that its purpose is to prejudice a jury against the accused on the basis of past crimes or acts rather than making an independent, objective decision as to the accused's guilt of the crime under their consideration.

There are a number of cases relating to that, but decisions of the High Court recently, notably in the case of R v HML (2008), have compounded rather than lifted the confusion. It has been asserted, and I have referred to this earlier, that the common law now lacks clarity with a number of sometimes conflicting common law propositions on the issue.

The statute law varies somewhat around the country. There have been other Australian evidence acts and criminal codes that have addressed the admissibility of propensity evidence; and the evidence acts of the commonwealth, New South Wales, Queensland and Tasmania basically restate the commonwealth propensity rule.

In Victoria, the Crimes Act 1958 makes propensity evidence admissible if it is relevant to the facts in issue of a case under consideration and if the court considers that it is just to admit the evidence despite its prejudicial effect. The provision is drafted very broadly and would allow in even evidence of past crimes and orders for discreditable conduct that were in no way similar to the current offence as long as the judge thought it was relevant and just to do so.

In Western Australia, the Evidence Act 1986 makes propensity and relationship evidence admissible if the court considers the significant probative value outweighs the risk of an unfair trial and fair-minded people would think that the public interest in adducing all relevant evidence of guilt must have priority over risk of an unfair trial. The evidence acts of South Australia, the Northern Territory and the ACT do not deal specifically with propensity or similar fact evidence.

There have been some high profile cases in South Australia. Probably the most highly publicised case of propensity evidence was the acquittal of Frank Mercuri in 1998 for the 1993 stabbing murder of Shirree Turner at the Oaklands Park reserve. After the acquittal, it was revealed

that Mercuri had previously been convicted for stabbing and attempted murder of a woman in Victoria in very similar circumstances to Ms Turner's murder.

Victims' advocates argued that this information should have been put before the jury at Mercuri's trial in South Australia. However, under South Australian propensity laws this evidence and the fact that Mercuri had been convicted on 48 prior occasions for other offences, including violent crimes with very similar facts, could not be used in his murder trial at all. Without the evidence of the prior offending, Frank Mercuri was acquitted of Shirree Turner's murder by a Supreme Court jury in 1998. After being acquitted, in 2007 he went on to kill another woman, Rosemary Deagan, before committing suicide himself.

I am sure many members have read of the pleas of Ken and Lesley Turner, Shirree's parents, in their book and in media reports of the tragic loss of their daughter, and they have spent some time advocating for change. It is also worth noting that in October 2009 the Hon. Dennis Hood introduced an Evidence (Propensity Evidence) Amendment Bill following approaches by the Turner family. He asserted that the bill used wording similar to the Victorian Crimes Act 1958 and would increase the prospect of propensity evidence being used. In any event, there can be some sad cases where we need to look at our law from time to time to be able to improve those circumstances.

This bill deals with three types of evidence of past discreditable conduct that can be presented in a criminal trial: first, propensity evidence, which I have given examples of—evidence that demonstrates the accused has a particular tendency to act in a certain criminal manner; secondly, similar fact evidence, which again I have given an example of—where evidence of multiple examples of similar conduct led to establish that the accused did a particular act; and, thirdly, evidence of uncharged acts—evidence of previous criminal or discreditable conduct for which the accused has not been charged.

We are yet to see how effective this reform will be with the addition of this part of the Evidence Act. It is fair to say, from the major features that have been outlined by the Attorney in his second reading explanation, that this bill is not a dramatic shifting of the goalposts in favour of the routine and unrestricted introduction of evidence of discreditable character. Rather, it is an overdue effort on clarification of a notoriously difficult area of the criminal law in favour of a workable and considered model.

To some degree, the jury is out—pardon the pun—on whether it will produce a workable and considered model, but we are prepared to support what is now really a clarification rather than a major shifting of the goalposts, as the Premier had offered, and we are yet to see that. If the Attorney-General becomes aware of cases in which he considers any aspect of this reform to be abused in the legal process or indeed inadequate in serving a justice outcome for any case, we hope that he would bring them to the attention of the parliament and that we would again attempt to produce a more just and equitable result. With that, I indicate that we will be supporting the bill and will not be seeking to go into committee.

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) (17:40): Can I close this debate by saying to the honourable member for Bragg how much I and the government appreciate the support the opposition is showing for this measure. I can understand why she ends her remarks with the caution that we need to be vigilant about these matters because, with even the best of intentions, it might be that this measure of itself does not do what we hope it might do.

In terms of legal matters of complexity, at the risk of doing something that is rather gauche—that is, quoting your own second reading explanation—there was a mention in there of Lord Palmerston, when he said:

> The Schleswig-Holstein question is so complicated, only three men in Europe have ever understood it. One was Prince Albert, who is dead. The second was a German professor who became mad [thinking about it]. I am the third and I have forgotten all about it.

I am none of those, but that does give you some idea of the peculiar state of this area of the law, and it touches on the important balance between the opportunity for an accused person to stand a fair trial and face the accusations in respect of the matter they are charged with on the one hand and, on the other hand, where a person obviously has demonstrated a certain capacity or propensity to do something, whether it is fair for the triers of fact —the jury—to be denied access to

that information. I hope and believe that this will be a substantial improvement and indeed I am comforted by the fact that the Joint Courts Criminal Legislation Committee concluded of the bill:

> The simplicity of the bill stands in stark contrast to the present mess. We think it has merit. There is nothing in the wording which requires further comment.

Aside from again thanking the member for Bragg and the opposition for their support of this bill, I reiterate my sincere thanks in particular, though not exclusively, to the members of the Attorney-General's Department who worked on this, particularly the people in the policy and legislation area; the Solicitor-General, who put in a lot of time on this and was very helpful; and two members of the profession who I think in a tremendous spirit of assistance to this parliament devoted a considerable amount of time to this because they thought it was an important matter. I speak in particular, though not exclusively, of Mr Malcolm Blue QC and Mr Jonathan Wells QC.

I would also like to thank the Joint Courts Criminal Legislation Committee and in particular recently retired Justice Kevin Duggan, who also made a contribution to this. If it gives any comfort to the member for Bragg that this might actually be a step in the direction, if all those people have put in as much effort as they have—

Ms Chapman interjecting:

The Hon. J.R. RAU: Well anyway, all these people did. They had a lot to do with it. They put in a lot of work and a lot of time, all of which was done gratis and for the purpose of getting it right. I am very confident that if all those minds working together came up with this as a solution, which to me reads as an elegantly simple solution to this very complex problem, then I think we have reason to be positive about the way it will work in practice. With those few words, I move the second reading.

Bill read a second time.

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) (17:44): I move:

> That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (BUDGET 2011) BILL

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

> No.1. Clause 18, page 9, lines 14 to 37 and page 10, lines 1 to 32—
>
> > Clause 18, inserted section 189A—Delete inserted section 189A

At 17:46 the house adjourned until Wednesday 27 July 2011 at 11:00.