HOUSE OF ASSEMBLY

Tuesday 30 April 2013

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:00 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.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 10 April 2013.)

Clause 37.

Mrs REDMOND: I wanted to ask, in particular, firstly about subclause (5), which deletes the existing subsection (4) and substitutes instead a new subsection (5), which seems to place a higher priority on spending the money for purposes other than what I believe is its intended purpose. If I can go back and historically explain that the fidelity fund used to be called the guarantee fund, and it came about simply because when people put money into solicitors' trust accounts they were not paid interest on their money in the trust account, for very cogent reasons.

Basically, if you put money into a solicitor's trust account—you might put $100 in there for a couple of days for some reason, there might be money coming in to pay the final payment on a conveyance, or there might be money coming in on an estate in dribs and drabs and then being paid out to various people at various times—it was too difficult to contemplate and figure out who would get how much money, so no interest was paid on that money.

The solicitors had the accounts and they could not earn the interest on trust money either, nor was it reasonable for the banks to have a windfall from the money that was placed into solicitors' trust accounts, which was after all held in banks. So, the system was developed whereby roughly two-thirds of the money that was held in each solicitor's trust account went down into the combined trust account, where it was still held in trust, but that then earned interest, and that interest became the guarantee fund.

I do not see that there is much difference between the name 'guarantee fund' and 'fidelity fund'. Indeed, if anything, I would have thought that fidelity fund would connote something much more reliable and trustworthy even than a guarantee fund. Over a period of time, because not enough claims were made against that fund, because it was there to guarantee the funds that people had placed in trust with solicitors, that fund built up quite a lot and so it began to be used for other purposes, including legal practitioners' education, funding legal aid and all those things.

I want the minister to confirm that in fact what we now have is basically a reversal of the situation so that, 'Subject to subsection (5), money in the Fidelity Fund may be applied for any of the following purposes:' and that includes legal practitioners' education, expenses incurred by the board of examiners, expenses incurred by the tribunal or members of the tribunal, expenses incurred by the commissioner, and costs incurred by the society in appointing a legal practitioner to appear in proceedings in which a person seeks admission. All sorts of other things, listed down to paragraph (q), seem to take priority over the fundamental thing that this fund, in my view, should be set up for, and was set up for originally, that is, that people who have their money in a solicitor's trust account should be entitled to know that, whilst they are not getting interest on the money, that interest is forming a fund that will guarantee the safety of those funds.

Of course, we have the famous case in this state of Magarey Farlam, which was a very substantial, well-known and good firm. They had what they thought was a trusted financial officer for some 15 years, and for a lot of those years he was going along to the bank and doing all sorts of dodgy things—taking the trust cheques to the bank himself and, because he was so trusted, for instance, saying at the bank, 'Oh, they have put the wrong name on this,' and changing in front of the tellers the name and having it paid in fact to his own private benefit. It was not until he had absconded with some $4½ million of clients' trust funds that this was discovered.

I have a very firm view that the first and foremost purpose of the guarantee fund, as it was then called, the fidelity fund as it is now to be called, given, as I said, that it is money that has been

placed into a solicitor's trust account—the word 'trust' is significant—and given that you are not going to earn interest on the money that is in that trust account, should be to guarantee (that is why it used to be called a guarantee fund) that if anything happens to that money there is a fund that is going to make it good, that you will get your restitution from.

My first question to the minister is: am I correct in my reading of subclause (5) that all these other things listed from A to Q in new subclause (4), as it is renumbered, will indeed take precedence over the payment to legitimately entitled people who have made the error of thinking that in putting their money into a solicitor's trust account their money will be safe?

The Hon. J.R. RAU: I think the minister has informed me of the member's question. I do not think there is any question that the fidelity fund's primary purpose is to meet any requirement for indemnities arising from poor behaviour on the part of lawyers. It is the fund of, in the government's view, last resort. That is its primary purpose. All we have provided for here is that there are subsidiary other particular purposes to which the fund might be put in the appropriate circumstances, and only to those additional purposes. The fund is not something there that is sort of at large and can be harvested for whatever purpose anyone wants. It is there for particular purposes, the primary purpose of which is to act as a fund of last resort in the event of an individual being defrauded, or whatever, by a lawyer and then not being able to recover the funds directly.

Mrs REDMOND: There seems to me to be an implicit contest between the two terms the minister has used: the primary purpose of the fund and it being a fund of last resort. I take it that the minister would agree—maybe my question should be: would the minister agree—that in the case of the Magarey Farlam litigants, where we have a clear example of people who have been ripped off by the malfeasance not of a practitioner in that case, but of an employee of a practitioner and $4.5 million is taken from the trust account and those people are left without recovery of that money for a considerable time. Many of them have to expend considerable amounts of money, which they do not have. Some people spent more than $100,000 trying to get their own money back from the trust account, notwithstanding the existence of the old guarantee fund.

What I want to clarify and have on the record is that, indeed, that is not going to improve under this system, because your intention is still that this will be a fund of last resort. The fund was depleted dramatically, not only by the eventual repayment of monies, but by the fact that more than double that amount—more than $4.5 million of the fund's money—was spent trying to resist the claimants. So, we doubled the cost to the guarantee fund. It went to more than $9 million ultimately. Can the minister clarify whether there will be: (a) any improvement in that situation under this new regime; and (b) whether or not the costs of $4.5 million expended by the guarantee fund in defeating people who were legitimately entitled to recover their money—all they had done was put money into a solicitor's trust account—whether those types of costs will still be coming out of this fund under these arrangements?

The Hon. J.R. RAU: I thank the member for her question. Can I supplement my last answer? It is probably important for us to have on the record that some of the monies going into this fund are not only the principal and the interest in the fund, but they are also the annual practising certificate fees which are coming in from legal practitioners. So, it is not just a matter of the principal and the interest. There is also an annual supplement that is coming in through the practising certificate payments.

Section 57 of the current act in fact articulates where all of those sources of monies might be coming from. As to the particular question that is being asked about Magarey Farlam, at the root of all of this is the fact that, whilst I respect the member for Heysen's sincerity about her point of view, and I also respect the absolute and total consistency of her point of view, I do not share her point of view. The difference is this: just as the nominal defendant in the case of a CTP claim is the defendant of last resort when you cannot find another defendant, and just as in very many other schemes you have what is ultimately a safety net sitting there in the event of all other systems failing, that is the purpose of the guarantee fund.

It is not intended to be a piggy bank anyone could put their hand into and then let the guarantee fund sort out whether it can recover the money in due course from whoever it is the tortfeasor might be. I have acknowledged, however, always and in this bill, that that should not mean that the person who is the person against whom the civil wrong has been committed should not be obliged to jump through ridiculous hoops endlessly in order to access the fund.

There are other funds of this type. For example, there is the land agent's fund, as I recall, which sits under either the real estate act or the Land Agents Act, one of those pieces of

legislation, in the event that if you provide a deposit to a land agent to buy block of land and the land agent skips off with your money to Argentina or somewhere and you have lost your money, there is a fund there. Again, it is entirely reasonable and proper that there is a fund where, in the end, if you cannot recover the money from the person who has stolen it from you or from their company of which they are a servant or agent—or whatever the case might be—then yes, there is a place where you can go to recover those funds. But that is not the place you go first; it is not the first door you go to.

I understand something of the Magarey Farlam litigation and I do believe that one of the major difficulties in the Magarey Farlam case was that, from my point of view, it is arguable that these people were required to go beyond reasonable efforts to recover the moneys by themselves, and, to that extent, I have attempted to rectify that problem by changing the gateway provisions here so that we have the gateway provision being defined by a reference to a prudent self-funding litigant.

That is not a test unknown to the law. It is a test that has been applied by the Legal Services Commission forever and it is pretty simple: if you as a prudent self-funding litigant would pursue an individual for that money in the expectation of recovery, then that is exactly what you should do. If the chance of recovery is so remote, or the degree of difficulty involved in pursuing a person is so remote that no prudent self-funding litigant would, in effect, go to the casino and put all their money on 24 red, or whatever it is—red or black, I am not sure, but anyway I will say red—

Ms Chapman: Fifteen red.

The Hon. J.R. RAU: Fifteen red is it, rightio. Nobody is asking anybody to do that—certainly not me. I understand the member for Heysen has been concerned about the way these people had to battle the system, but I am confident that by changing the gateway provision there will be no repetition of that type of thing.

The other thing I should say is that it has been suggested to me—and I do not convey this information to the chamber on the basis that I verify this to be true, I just say that I have heard it said and I put it no higher than that—that it may have been that some of the decisions made by some of those litigants, for reasons disconnected with the litigation, did not help their cause either. But that is really not, ultimately, to the point. The main point is this: I believe that the adjustment of the gateway provision will mean that any person who has a reasonable expectation of recovery from a third party who has done them a civil wrong will be able to pursue that and recover.

To the extent that they are not able to do that, or to the extent that recovery is so difficult, whether by reason of the fact that the third party is impecunious, or by reason of the fact that the action is so difficult, or by reason that the person has disappeared—whatever the case might be—that person would have reasonable access to the fund. That was the intention of the change. That is what I think, in plain English, the change represents.

Mrs REDMOND: Would the minister concede that everyone would have been better off—the guaranteed fund as well as all the litigants—if, as soon as the defalcation in Magarey Farlam had been made public and calculated, the reinstatement of $4½ million to that trust fund occurred so that everyone's money was safe, and the guarantee fund simply then pursued whoever they might say?

One of the arguments that kept the thing going for so long—and I think Justice Debelle, as he then was, made comment about it in some of his judgements because there was an argument amongst various people as to whether you would have the tracing clients and the pooling clients—was whether you traced the individual amounts that had been stolen from individual trust account amounts or whether you looked at the trust fund as a whole and that took up a lot of time and a lot of legal expertise.

As I say, $4½ million was stolen and more than $4½ million was then spent in the arguments. So, the first question I have is: does the minister concede that indeed everyone, including the guarantee fund as it then was, would have been better off had they simply paid back the $4½ million in the first place and then, under subrogated rights, on behalf of everyone who was a potential claimant (because they could not have a conflict of interest within their own guarantee fund themselves) simply pursued whoever was available to pursue?

The Hon. J.R. RAU: There is a number of answers to that. The first one is that it is really impossible to step into the time tunnel and go back there and re-create events and predict exactly how they would have tumbled out. The second point is that if, with the benefit of hindsight, one

were able to foresee that $4½ million in legal fees were expended and, if the question is simply, had one been able to foresee this would it have been cheaper just to pay out the thing in the first place and be done with it, I guess that is an arguable point.

But the honourable member then goes to say, 'Well, assume you've just paid out the $4½ million and it's pooled funds, and you've paid $4½ million to reinstate the pool, and then the rights are subrogated.' Therein lies the problem because there is nothing to suggest that, had that been the course of action that was adopted, the fund itself would not have had to expend about $4½ million in pursuing the subrogated rights. So, it is very possible that we would have had a zero sum gain even if the suggestion that has been made by the honourable member had been taken up.

So, no, I do not necessarily accept that the fund would ultimately have been any better off. It might have been that in these particular circumstances some of the claimants might have had to go through less waiting and concern, and that is not a trivial matter, obviously. It is something again which I emphasise we have tried to acknowledge and take into consideration, because the gateway provision has been changed in order to make it unlikely that people who are finding themselves in the same position as the litigants in the Magarey Farlam case would need to be put through the degree of litigation process before there was some ultimate resolution of their problem.

Mrs REDMOND: In relation to the gateway provision, which the minister says has been changed, can he inform the house who makes the decision as to what a reasonable self-funded litigant would do? It seems to me that if you are in your 70s or 80s and you have your entire life savings in a solicitor's trust account where you believe it is safe and suddenly it is gone, you are not really in a position, in my view, to pursue anyone. Certainly you would have no faith in going to any solicitor.

What I want to know is who makes the decision about what a reasonable self-funded litigant would do. And, if someone is determined by whoever it is that they are to be classified as a reasonable self-funded litigant, where does that leave that person in their seventies or eighties who has no money because it has all been stolen from a solicitor's trust account? Where does that leave them in terms of actually beginning, let alone completing, an action for the recovery of the funds that were held in a solicitor's trust account?

The Hon. J.R. RAU: A couple of points here: I guess what the member for Heysen is asking me is whether or not there is some definition in the legislation as to whether the reasonable self-funded litigant is an objective or subjective test. I do not think the legislation is that particular about that, but I do note that the Legal Practitioners Act in section 64 (1) provides:

> The Society—

meaning the Law Society—

> must satisfy any valid claim under this Part, to the extent determined by the Society or the Supreme Court, out of the guarantee fund.

So, my understanding of that provision is that that the claimant would at the initial port of call go to the Law Society and say, 'Look, here it is. You're the gatekeepers of the fund. I've suffered this loss. I, by reason of whatever circumstances, don't think it is reasonable that I should be required to pursue this matter myself,' and the society would be then in a position to consider and make a determination about that matter. By my reading of 64(1) I would assume that, in the event of the individual being dissatisfied with the determination of the society, there would be the opportunity to have that reviewed by the Supreme Court.

Mrs REDMOND: I understand that, but you are saying that it is the society who is the arbiter—the society who actually holds the fund—and the society is then the arbiter of who is going to get access to it on the basis of who is a reasonable self-funded litigant and who does not have to go through that provision.

The Hon. J.R. RAU: I am suggesting that, whether stated explicitly or not, the society finds itself in the de facto position of a trustee for a declared trust, being the holding of these funds for these particular purposes under the act, and they have a fiduciary duty to behave in a way that is entirely consistent with the terms of the trust. If they do not behave in a fashion then they are in breach of trust, and that would be an extremely serious matter.

Mrs REDMOND: Well, I am puzzled as to the use of the term 'whether it is stated specifically or not'. Does the act say who makes the decision about whether someone is a

reasonable self-funded litigant? Who makes that decision and where does it say in the act who makes the decision?

The Hon. J.R. RAU: Section 64(1); it is the Law Society. They are the trustees, and if you do not like their outcome you go to the Supreme Court.

Ms CHAPMAN: I indicate firstly that in the previous debate I raised some questions about the current guarantee fund and brought to the attention of the Attorney that the annual report for 2010-11 had not been tabled, although 2011-12 had been tabled. I just confirm that the Attorney provided a copy of that to me last night, electronically. I think while we were in Tango at the Norwood Town Hall it was coming through. I thank him for that and note that he intends to remedy that error, in that it had not been tabled, and he will be attending to that, I assume, today. With that material the Attorney also provided some collated material, in particular the claims on this fund over the last 10 years.

Perhaps I will just indicate a couple of things. I am happy to table the whole document; it may assist anyone looking at this in due course. The net assets of the fund, as at 30 June 2012, were $26,594,367. In 2002-03, they were $18,826,732. Essentially, it has had an income over that period of the last 10 years which reflects, as has been pointed out in the debate, significant proceeds from interest on trust account funds but also a very significant contribution from the practising certificate fees of solicitors.

For the record, I referred to one of these figures before, but I think it is important in light of the committee questioning that the $4,829,443 received last year into the fund—that is, 2011-12—was comprised of, from the statutory interest account, $805,982; from the special interest account, $1,778,139; and from the investment account—bearing in mind that this fund, as at 30 June, had net assets of $26,594,367—$1,168,079. The legal practitioners fees were $873,488 and then there were various recoveries of funds of around about the $200,000 mark, which make up that income.

Of the expenses, I think it is important to note that the Legal Practitioners Conduct Board took $2,828,972. The professional standards general expenses was $877,740. Other major expenditure included the disciplinary proceedings expenditure of $141,589. Whilst, last year, there was actually a net deficit in the annual income/expenditure of just under $0.5 million, it is noted that there was a substantial revaluation of assets. There had been the sale of a particular asset during the year and I am assuming, without going into it today—I do not think that is necessary—that at least one particular investment was sold. It came back in as a capital payment and that has been reflected in these accounts.

I think the point is well made by the member for Heysen that the significant portion of the funds and the interest on the accumulated funds have their origin with clients' money that sits in trust accounts. It is fair to say, as the Attorney points out, that, on average, about a quarter of the funds comes from legal practitioners, in one way or the other, particularly from the share of their practising certificates, but I think it is important that we have that on the record.

My questions, however, relate to the claims because, whilst the Attorney indicates and confirms that the Law Society will have and continue to have the management of the assessment and the distribution of funds, the law also requires that nothing can be paid out by the Law Society without the Attorney-General's approval. Whilst the Attorney has not been the Attorney over the whole of the period that is reflected in this information, I note, as follows, that, in the 2002-03 year, $6,000 was paid out to claims; nothing in 2003-04; in 2004-05, $6,866; in 2005-06, $121,000; in 2006-07, $347,704; nothing in 2007-08; nothing in 2008-09; nothing in 2009-10; nothing in 2010-11; and then $3,000 in 2011-12. Firstly, Attorney, have you received any request for consent to distribution from this account which you have rejected in the time that you have been Attorney-General?

The Hon. J.R. RAU: I certainly do not recall having—hang on, let me break this down: given the fact that, under whatever section it is, this account can be applied to a great many different purposes and that your question was directed to any expenditure out of this fund rather than expenditure in respect of claims—

Ms Chapman: No, claims.

The Hon. J.R. RAU: You are narrowing it to claims?

Ms Chapman: I meant claims.

The Hon. J.R. RAU: Okay. If it is only claims, without checking, I cannot be absolutely certain, but I am 99 per cent certain that I have not.

Ms CHAPMAN: I refer now to the 2011-12 report from the Law Society which refers to the claim for $3,000 which was paid out in that financial year and was reported on in detail on page 4 of their annual report on the fund. Attorney, you would recall that this was an occasion where there was a relationship between a client and a practitioner (Mr Wharff) in 2002 that was terminated, where there was a dispute in respect of legal costs.

The legal practitioner was later declared bankrupt. Essentially, there was a negotiated settlement of $30,000 from the insurers, but exclusive of a deductable amount of $3,000. The aggrieved party (the former client) had made a claim on the guarantee fund, which is the subject of this discussion, and ultimately the Professional Standards Committee of the Law Society determined that the deductable amount of $3,000 was a valid claim against the fund.

I am not sure how much of this information is given to you before we all read it here in the parliament but, in any event, they determined that that was acceptable. Interestingly, the Solicitor-General had provided an opinion—we do not actually get to see his opinions, but they are quoted here, which is helpful—in which he stated that the payment should be made. He stated:

> ...in my view, the Deed makes clear that the compromise reached does not include the amount now the subject of the claim against the Guarantee Fund.

It then goes on to explain in the report that the payment would be made. We understand that legally you are obliged to sign off on this to enable the payment, and we are assuming by the material provided to us that that has occurred. Are you aware, Attorney—because this is not reported on—whether any applications have been made against the fund in the time that you have been Attorney-General which the Law Society's Professional Standards Committee has rejected?

The Hon. J.R. RAU: No, I am not aware of any such matter.

Ms CHAPMAN: In the absence of there being any information, to your knowledge, of claimants who have felt that they have been unfairly represented by the committee's determination, (that is, adversely), are you satisfied, Attorney, that the threshold gateway you are introducing here will be satisfactory? Is there any aspect in relation to the committee's current processing of these claims that you find has been inadequate, unacceptable or unreasonable in its dealings with the claims?

The Hon. J.R. RAU: In answer to that question, I have had no evidence or even intelligence to the effect that the Law Society is improperly dealing with these matters, and therefore I think it is not an unreasonable assumption to make that, because there has been no complaint to me and nothing has come to my attention, indeed there is no outstanding grievance by a member of the public with the Law Society in this particular context. However, if there were, I can assure the honourable member that members of the public routinely write to me about all manner of things that they are displeased about, and the member for Bragg might be fascinated by the range of displeasures that are out there.

Almost every single thing that goes on can in some quarters arouse displeasure. So, if somebody was grossly aggrieved by a refusal by the Law Society to cooperate with their request for indemnity out of the fund, I confidently anticipate that I would have heard about it, because the aggrieved person would no doubt consider that writing to me would be, if not the next port of call, certainly one of their ports of call. They might have even written to the honourable member or Mr Wade in another place, but none of these things have happened, so I have no reason to lack confidence in the society's capacity to properly deal with the matter.

Ms CHAPMAN: The Attorney can be assured that usually the level of upset, anger or extreme displeasure that constituents write about—often people who are languishing at Her Majesty's pleasure, of course—very often copies of those letters arrive on my desk (and I am sure the member for Heysen has had a good number of them in her time here in the parliament). It is of some comfort to know that there has not been any complaint in this area. I think I accept, from the government's viewpoint, that people are dealt with and continue to be dealt with fairly.

I ask in relation to the current financial year whether the Attorney is able to tell us whether any other funds have been paid out this financial year that he has approved (obviously he would not know if they had not been approved), and give a quick summary as to nature of the application and/or whether any complaints have been presented and rejected?

The Hon. J.R. RAU: I have no specific recollection of either of those things, but my very strong feeling is that there has been no claim (and I am very confident that is the case, although without doing a check I cannot be 100 per cent certain), and I am even more confident—to the point of almost absolute certainty (although I would not go quite that far without a check)—that there has been no issue where I have refused to sign off on anything.

Clause passed.

Clause 38.

Mrs REDMOND: Attorney, I have a question on clause 38(2), and I am really just looking for an explanation because I cannot find the relevant section. It states that:

(a) a claim can only be made in relation to a fiduciary or professional default by—

(i) an interstate legal practitioner; or

(ii) an incorporated legal practice that is not required to be insured...

in circumstances provided for by an agreement or arrangement made by the Society with the approval of the Attorney-General under section 95AA;

I assume there is to be some sort of standard arrangement or agreement entered into. Can the Attorney explain the intention of that section?

The Hon. J.R. RAU: This section is one to which, I must say, I have not given my total and undivided attention up until this moment.

Mrs Redmond: Others have.

The Hon. J.R. RAU: Others may have, and I am just looking at others presently to see whether their total and undivided attention has come up with anything. I suspect that it means that there will be some standard agreement or arrangement and that would be something that would be promulgated by the Attorney of the day. Can I get back to the honourable member about that, because we will be dealing with this matter beyond the luncheon adjournment, I expect?

Mrs REDMOND: The point I am trying to get at is that, if an interstate legal practitioner is practising in this state, what will be the basis of allowing or disallowing claims, and similarly if there is an incorporated legal practice, what is to be the basis of allowing or disallowing claims with respect to those practitioners?

The Hon. J.R. RAU: Very good question, member for Heysen. I will ask those who assist me to help me to recall what I had in mind when this particular provision was drafted.

Clause passed.

Clauses 39 and 40 passed.

Clause 41.

Mrs REDMOND: There are a couple of issues I want to raise here. Clause 41 deals with unsatisfactory professional conduct and professional misconduct. It does not seem to deal with whether someone is a fit and proper person. I just want to confirm first of all that my understanding is correct, that is, these provisions in clause 41 simply relate to behaviour as a legal practitioner. Can unsatisfactory professional misconduct ever occur when someone is simply behaving badly in areas beyond their legal practice or is it always going to relate to their practice of the law and be on a sliding scale of unsatisfactory professional conduct where they may have been too slow in responding to a client's request or something but they have not actually done something wrong or, at a higher level, actual professional misconduct where they have behaved so badly that there is some sort of reprimand?

The Hon. J.R. RAU: The answer to that question is that section 69A is the first limb, which is talking about your behaviour as in the Latin 'qua' legal practitioner—is that right? I do not know; I cannot remember—but as a legal practitioner. Section 69B is a more general catch-all provision and these are, the honourable member might be interested to know, what are now the national standard formulations for these type of things, which brings us into line with the other states. As I mentioned last time we were here, it is probably unfortunate that we were not in this position many years ago, back in 2007. Nevertheless, this picks up conduct which is completely disassociated from one's practice as a legal practitioner.

Mrs REDMOND: Thank you; that is just what I wanted to hear. Will it be possible for the new legal profession conduct commission (that is then set up under this clause in the new section 71) to look at Eugene McGee and under section 69B say, 'I am aware of this person's conduct and I find this person not to be a fit and proper person to be allowed to practise the law'?

The Hon. J.R. RAU: It is not possible for me to answer that question for a number of reasons but let's look at it from this point of view. The test is different—we have just established that under, as it would be, section 69—and it is probably going to fall to some question as to whether this is a substantive or procedural matter. I recall, if I am correct, that there is an old case of Maxwell v Murphy about that.

Mrs Redmond: Your advisers are looking nonplussed.

The Hon. J.R. RAU: They would be because it is a very old case and they are up to date. They would not know about this case because they are current and I am delving into the leather-bound volumes with dust on them. The point is that there is, as the honourable member knows, a presumption against a retrospective application of penalty. However, that starts to get more complex when one starts talking about statutes of limitation and various other things. The only answer I can give to the honourable member is that that is a matter which the commissioner, in due course, may well turn his or her mind to, and the commissioner may or may not determine that it is appropriate to proceed.

I am confident that the honourable member and/or other people will, in due course, be inviting the commissioner to consider that course of action and it will then be a matter of what the commissioner chooses to do about it. So, I am not able to give some undertaking or assurance; I think that would be misleading. It is a matter that will be determined in due course, once the commissioner is appointed.

Mrs REDMOND: I thank the Attorney for that. I was not asking for the Attorney's undertaking or assurance, but merely an indication as to whether it will be within the scope for the commissioner under these terms given, as the Attorney referred to, the statutory presumption against retrospectivity. I assume that that will not mean that every practitioner in the state is free to behave as badly as they want to until this legislation comes in and then, as long as they are fit and proper from that day forward, they cannot be touched.

The Hon. J.R. RAU: I can give the honourable member some comfort about that because there are transitional provisions that apply. Let us say, for example, there is a person who is out there presently who has failed to meet the current standard, and the new legislation comes into place. The transitional provisions would make it absolutely clear that that person would still be capable of being pursued under the new regime, and that would be something that the commissioner would do.

The difficulty about the proposition that the honourable member has raised is not the people who are in breach of the current laws and are either about to be prosecuted or perhaps even are yet to be considered for prosecution. Prosecution is the wrong word: I should say 'disciplinary action'. Those people are clearly going to be captured by the transitional provisions. The difficulty with the person who presently would only be captured by limb (b) of section 69 is that there is currently no analogue to limb (b). That is the difficulty. Anybody who is captured by the existing provisions will be swept into the new regime by reason of transitional provisions.

Mrs REDMOND: I have another question on another part of the legislation under this clause. I notice that the new section 71—if I can refer to the section, rather than the total clause—sets up the office of the new legal profession conduct commissioner, and subsection (3) provides that a person is only eligible for appointment if the person is a legal practitioner of at least seven years' standing. I can understand why you would want that.

What puzzled me was that, under the subsequent new section 74 relating to the acting commissioner, there is a provision that the minister may appoint a person who may be a Public Service employee to act as commissioner under terms and conditions according to the determination of the minister. I am curious why, if it is necessary for the commissioner to be a legal practitioner, you can then have an acting commissioner to whom the same provision does not apply.

The Hon. J.R. RAU: It is a fair enough question. I do not think it was ever intended that we would have an acting commissioner for this role other than as a caretaker. The provision, whilst it would probably in practice always involve the appointment of a legal practitioner, may for reasons

of administrative convenience temporarily not involve such a person, but it was always my comprehension that the acting commissioner's role was not intended to be a permanent feature of the commission.

In the event, for example, of a sudden resignation or a death or some sort of hiatus between the termination of one commissioner and the appointment of another, it would be necessary for somebody to be able to discharge those functions. I did not see much merit in being so prescriptive as to put that amount of prescription into it. In practice, it would likely be an officer of the crown law department, but I do not see any particular hazard to anybody in that provision.

Mrs REDMOND: The reason for my question is a historical one and that is that once upon a time I would have absolutely accepted the Attorney's assurance in that regard. However, the Attorney may recall that we had a little problem here with the ombudsman's retirement. Eugene Biganovsky left the Office of the Ombudsman and the Ombudsman's Act specifically provided that there could be an appointment of an acting ombudsman, and Ken MacPherson was appointed as the acting ombudsman. Indeed, the legislation actually said that you could have someone appointed to be the acting ombudsman, and he was there for 18 months as the acting ombudsman.

I might also point out that the legislation specifically said that the ombudsman could not be over the age of 65 and at the time of his appointment, Ken MacPherson, you will recall, was already well and truly over the age of 65, because this government had attempted to pass in the other place legislation to allow Ken MacPherson to continue as the auditor-general of this state, not other auditors-general and not other people in other offices, but specifically just Ken MacPherson.

The government attempted to bring in legislation to allow just him to continue as the auditor-general of this state, notwithstanding that the act under which he was appointed specifically said he could not be over the age of 65 and so they attempted to bring in legislation to say, 'Oh, but we will make an exception for Ken MacPherson.' That got dropped and Ken MacPherson was forced to retire as the auditor-general and then, notwithstanding that the ombudsman legislation said he could not be appointed as the ombudsman because he was over the age of 65, he was appointed as the acting ombudsman and stayed in that position for 18 months.

So, the Attorney will appreciate my concern about whether or not you are going to have a situation where, notwithstanding that the legislation says that the legal professional conduct commissioner has to be a legal practitioner, the government is then likely to turn around and find some useful fop for them to appoint as a public servant who has no legal qualifications to be in the role of the legal professional conduct commission.

The Hon. J.R. RAU: I have got a couple of responses to that. The first one is that I stand by my statement about what my intention would be. I cannot speak for others, but I can speak for myself and I can assure the honourable member that what I said a moment ago is exactly what I would be doing.

Secondly, I do not actually have any big issue about this, because the honourable member is suggesting something which is of no trouble to me, in the sense that I do not have a problem with the person being a legal practitioner; indeed, that would be my intention. I must say, if one attributes mala fides to every minister in relation to every provision in every act on the basis of one or two events (which I know the honourable member has deep feelings about), one would be amending every act of parliament to the nth degree and would not be serving the public interest. I think that is about as far as I can take it.

Mrs REDMOND: I have one more question on this clause, but it is way over on page 37 in relation to investigations by the commissioner at the top of page 37—Investigations by the commissioner, section 77B. Basically, subsection (2) provides that the commissioner must make an investigation into the conduct of a legal practitioner or former legal practitioner if he has been directed to do so by the Attorney-General or the Law Society or a complaint has been received in relation to the conduct of the legal practitioner.

I just wonder whether the Attorney would be minded to consider including a provision or an amendment to suggest that we add something like the words, 'unless the commissioner considers the complaint to be vexatious or frivolous' or whatever. I have come across situations where you can get vexatious complainants who make complaints about practitioners which do require under the current legislation, as well as under this legislation, the investigation by the commissioner or the current equivalent—the conduct board—and they take up a lot of time and energy unnecessarily both by the current board or, in the new case, the commissioner, and the practitioner, and I can guarantee that as a sole practitioner it is a time consuming exercise.

The Hon. J.R. RAU: I am delighted to say that I am in furious agreement with the member for Heysen on this point; there are very vexatious people out there. There are some whose names I will not mention in this place, but I know the member for Heysen knows who I am talking about, and the member for Bragg would know as well.

These people have been litigating uphill and down dale in every single court and now, you will be pleased to know, because they are deemed to be vexatious in some places, they have moved their attention to none other than the conduct board, where they have a cascading series of complaints about solicitors—they went to the first solicitor, they did not get what they wanted and they complained about them; they got another solicitor to help them with the complaint, they complained about them, etc.

The good news is that, if you go to 77C, you will see that we had anticipated this problem. What we have said is that they have only to turn their mind to it and, once having turned their mind to it, if they come to the view that it does not have merit or it is frivolous or silly or whatever, they then throw it away—a very important power for the commissioner to have.

Ms CHAPMAN: My questions are on clause 41, as it covers the definitions of misconduct and unprofessional conduct, the appointment of the commissioner and essentially the powers of the commissioner. They are the three areas I indicate I will be asking about.

May I say, firstly, Attorney, in relation to the concept of having legal costs, in particular, the overcharging as part of the definition of unprofessional conduct, the opposition notes that, around Australia, various jurisdictions have adopted the excessive legal costs as being the sufficient threshold. But I do note that, under the national model (and we know the whole process has effectively gone a bit pear-shaped), there seems to still be a push for a lower threshold; I think it is charging more than 'a fair and reasonable amount for legal costs' in connection with the practice of law.

Obviously, the Attorney goes off to these meetings, and we want to monitor whether there is some validity in this and maybe it is something we will review in due course. Can I say that we are not moving to object to the definition that has been adopted—it is consistent with other jurisdictions—but is there still some push for this lower threshold and, if so, from where is this coming, that is, the basis of the model law?

The Hon. J.R. RAU: I am pleased that the opposition is indicating that there will not be an attempt to change this because, as you quite rightly say, it is part of a national model. I think that the answer to that question goes back into the mists of time when this national project was first hatched; it was a coalition of interest that gave rise to this so-called national idea.

As best as I can determine it, because it predates my time as Attorney (I came into it as it was really hitting its straps), it was a sort of witches' brew which had several ingredients. One was the commonwealth Attorney-General's Department wanting to create some enormous edifice, à la most commonwealth things. The second thing was the large law firms group wanting to make things really easy for themselves and to have everyone else pay for it. The third thing was a drive, particularly from Victoria, at the time to take what was certainly an 'out there' view about how far consumer protection laws should be incorporated into and be guiding principles of the management of legal practices.

To be fair, I have to say to the member for Bragg that there are some people out there in the universe who would like to have the whole practice of law in Australia managed by *CHOICE Magazine* and have no legal involvement at all. So there has been a bit of tension in the system for a while. I think those tensions—and this is only my impression—go back to a very early phase when it was actually being nutted out between the jurisdictions, and those have, I think wisely, come back to a more sensible level of national standards which I think we should be part of, and I am very happy that we are going to be part of them. I do not perceive there to be any active push currently in relation to the matter the member for Bragg has talked about.

Ms CHAPMAN: On the question of professional conduct oversight, as we know, part of the two-tiered system that we have currently, with a board and a tribunal, is to be replaced with the legal practitioner conduct commissioner and, under this section, the appointment provisions with their powers. What seems to be an ingredient—which the opposition remains concerned about; we are still consulting with others on this matter—is that whilst the government has been consistent with other jurisdictions, in this area, it seems to be very happy to be different and to effectively exclude lay contribution.

It is, of course, the prerogative of governments to cherrypick out the bits they like and reject the bits they do not like but, of course, it is for the parliament to make the final decision. So, we will give this matter some further consideration. It seems that other jurisdictions have been sufficiently revered and respected by this state adopting parts of their wise recommendations to, in this instance, as I say, reject it.

New South Wales, Victoria and Queensland allow for non-lawyers to be appointed as the commissioner and all have done so. Various other models could be looked at as to how there could be lay contribution but, as I say, there seems to be a wholesale rejection of this concept here. There have been other areas where this government—headed in the legal world by the predecessor, the member for Croydon, but nevertheless under this government—has recognised the importance of laypeople having a role, whether it is victims of crime or other sentencing aspects where a contribution could be made.

The opposition remains a little puzzled as to why there seems to be a wholesale rejection of the ordinary man, as they say, being represented in some way, if for no other reason than to support the concept of there being a structure of integrity to ensure that that independence is recognised. Can the Attorney perhaps enlighten us as to why that has been so utterly rejected?

The Hon. J.R. RAU: I can, and I have to say that I have some quite strong views about this. My views are informed by my experience, and I want to point to a couple of matters. First of all, no rational person would suggest that the Director of Public Prosecutions should have his or her prosecutorial discretion filtered or in some way seeking the approval of a layperson. That would be a transparent absurdity. There is some analogy between the prosecutorial discretion exercised by the Director of Public Prosecutions and the laying of a complaint, albeit in the context of this as a disciplinary complaint, against a legal practitioner. That is point number one.

Point number two is the current legal professional conduct board does have lay people on the board. I can tell the member for Bragg that of all of the frustrations I have had in the period I have had the privilege of having this job none or few compare with my frustration in dealing with the Legal Practitioners Conduct Board. If I had the time, I would go chapter and verse into all the difficulties but suffice it to say, something as simple and rudimentary as finding out why the board does anything is impossible.

To that simple question, 'Why; why did you do that?' they do not provide reasons. The member for Bragg might be interested to know that the reasons are held in the minds of the people on the board. Each one of them could be making their decision for any number of reasons—for example, 'I don't like that person's haircut', 'That person's name is similar to a chap I went to school with who I didn't like'. I have no idea and nor does anybody else.

So, the idea that we have somebody who has legal training and has some rigour and is going to be capable of providing a definitive answer to the question, 'Why have you done this?' or 'Why have you not done this?', is very important for transparency because I can assure the member for Bragg the present arrangements are so opaque that even the attorney-general of the day cannot by repeatedly asking questions in writing get any answers of any benefit at all.

I made a decision some time ago, because of my personal experience in dealing with this organisation, that it was absolutely critical for the proper disciplinary arrangements to be actually applied to legal practitioners and applied in a way that was effective and transparent that there had to be a removal of this present horribly encumbered system. It is an experiment which was well meant but unfortunately has miserably failed, and the sooner it is committed to history the better.

The third point I would like to make is—and the members for Bragg and Heysen know this better than most—since when have legal practitioners, and in particular the Supreme Court that sits on top of this, been old softies when it comes to one of their own going off the rails? Since when?

Mrs Redmond: Eugene McGee.

The Hon. J.R. RAU: What a cheap, inappropriate and inaccurate remark! The member for Bragg would be aware that during our time as practitioners there have been some of our brethren who have slipped off the path of righteousness and some of those people have wound up being before the court. I remember when chief justice King had a few of our colleagues come before the court about what should happen to them, about whether they should be able to practise and so forth. I do not want to mention any names, because that is not helpful, but the member for Bragg knows what I am talking about.

Some of those people are still not able to practise because of offences they committed, whether criminal or otherwise, years and years ago, because the legal profession is actually quite unforgiving, and quite properly so, of members of the legal profession who transgress important rules about appropriate conduct, because every one of those people who is allowed to continue is a person who makes it more difficult for the others to continue properly.

Never let it be said that the courts in particular have been old softies on lawyers. They are not. It is for those reasons—and more importantly by reason of the fact that this has been a subject of extensive consultation with the Law Society, which has endorsed this proposal holus bolus. When I say that, I mean the whole bill. I am very strongly of the view that this is the way to go, because it will mean we will have a professional person doing the job. The person will be able to provide reasons, which will actually add to the transparency of the process.

There is absolutely no evidence to suggest that having laypeople involved in this is anything other than putting parsley around the main course. In the case of the present arrangements—I cannot emphasise this enough—it means it is totally impossible for the attorney-general of the day, whoever that might be, to find out why that board has done anything. It is totally impossible.

To hark back to the matter the member for Heysen has been raising repeatedly (and, indeed, I think the member for Bragg has done it several times as well), that is, the question of a certain practitioner involved in a motor vehicle accident and a death some years ago, when the Legal Practitioners Conduct Board made its decision about that matter, I wrote to them and said, 'You've made a decision. Why?' I effectively got a letter back which said, 'You can read. Work it out for yourself.' I wrote back and said, 'That's actually not very helpful. Can I have a bit more information?'

In the end, after this ping pong of correspondence, I wound up having to say to them, 'Righto, just give me everything you've got,' and I then gave that to the Crown Solicitor and asked for advice from that quarter. I have had it up to the eyeballs with dealing with that particular organisation, and whoever wants to be attorney-general would not, in their worst nightmare, want to have to continue to deal with this outfit.

Mrs REDMOND: I fail to see in the Attorney's response on that matter why it is the layperson who is tarred with the brush of the problem. I just want to comment on a couple of things that the Attorney said. First, in relation to the idea of a layperson directing the DPP in the discretion, can I remind the Attorney that someone who never practised law in this state did indeed direct the DPP to appeal in a decision and that became the subject of a matter that went to the Full Court. I would say, first, that that is not necessarily a good argument.

Secondly, the Attorney referred to how hard we are on ourselves. Strangely enough, I had a late-night phone call last night from a former practitioner who informed me that he had occasion to deal with someone who was at the time a practitioner of the court who was found guilty of some offence and fined $50,000, subsequently committed another offence and was fined another $25,000, so became an adviser to this government and has now been put on the magistracy bench.

Ms CHAPMAN: I thank the Attorney for indicating why he should reject a layperson as commissioner, which is, I think, in essence, that unless they are legally trained and have the obligation to publish reasons, for the reasons you have indicated as necessary for any review of the matter by you as Attorney or any other superior board or court, there should be, from your perspective, no possibility of them being commissioners. It does not seem to explain why they should be removed altogether, given that we have a number of disciplinary procedures for other professions which allow for consumers/laypersons to be involved. In any event, that is a matter that we will review over the next while as we complete this matter.

I turn to the investigative powers of the commissioner. This, as the Attorney knows, provides for the removal of the privilege against self-incrimination and is a matter of very significant principle from our side of politics, one of which we remain concerned about. Unfortunately, we have to repeatedly deal with bills in which the government is insistent upon pressing that direction.

The Hon. J.R. RAU: Can you tell me where that is?

Ms CHAPMAN: Schedule 4 of the bill. I have moved to that because it is referred to in this section, Mr Chairman.

The CHAIR: That is in clause 56, isn't it, schedule 4?

Ms CHAPMAN: I have schedule 4 on page 127.

The Hon. J.R. RAU: Where does it say that?

Ms CHAPMAN: It states, 'A failure by a legal practitioner to comply with the requirement is capable of constituting unsatisfactory professional conduct or professional misconduct.' I am reading from subclause (6). This is in relation to the provisions relating to requirements.

The Hon. J.R. RAU: I think it is in clause 5.

Ms CHAPMAN: 'The investigator imposing,' yes, under subclause (4).

The Hon. J.R. RAU: Clause 5(3).

Ms CHAPMAN: That is the fairly standard approach of the government. I do not want to get into a big battle about this, but it seems that, again, there is removal of privilege against self-incrimination. I indicate that is a matter of concern for our side of politics. I wonder at the origin of this. Is it because it is the usual practice of the government, or is there some other basis where this is necessary in this legislation?

The Hon. J.R. RAU: I am advised that it is already in the act anyway and that this is just to do with the investigative powers of the commissioner, so we are not adding any value. So that it is very clear to other members who might not be aware of this, if you are talking about a police officer, police officers under the Police Act and under general orders are required to answer questions even if they incriminate themselves, and failure to answer them is a disciplinary offence in and of itself. The saving thing for the police officer is that the answers given to the commissioner might only be used in respect of a disciplinary matter and not for other proceedings, which is what this says.

Clause passed.

Clauses 42 to 55 passed.

Clause 56.

Ms CHAPMAN: My question is: would compliance with the cost disclosure requirements under clause 56, schedule 3, part 3 prevent a practitioner from being able to be found liable for excessive charging under clause 41, which is the section 70 clause that we referred to before?

The Hon. J.R. RAU: What page is that?

Ms CHAPMAN: I will just find it again for you. Costs disclosure—103. Is that it?

The Hon. J.R. RAU: Yes. What is the question again?

Ms CHAPMAN: The question is: would the compliance with the cost disclosure requirements under this clause prevent a practitioner from being able to be found liable for excessive charging under clause 41, which is the section 70 provision?

The Hon. J.R. RAU: I think there is a distinction between disclosure and overcharging. If one has negotiated a costs agreement with the law practice, received a bill from the law practice upon request and so forth, and there is compliance with all of this, then there is compliance with the disclosure rules, but the disclosure rules and the overcharging proposition are not the same.

Ms CHAPMAN: Can you just make that clear: that would not exclude potential excessive charging or unprofessional conduct?

The Hon. J.R. RAU: No, it would not. Mere disclosure does not render something okay if it is not.

Mrs REDMOND: On page 62—I will use the page reference for ease of locating it—at the top of the page is section 2 of schedule 1: Prohibition of non-legal services and businesses. My understanding is that, notwithstanding you are now going to be able to have an incorporated practice, rather than a partnership, it is to be strictly legal services that are provided. They cannot have, for instance, a combined legal and accounting firm.

Equally, I know that it has not been the practice in this state, but in other states lawyers have commonly entered into the provision of mortgage and finance broking on behalf of clients, and matched up clients. Some clients have money that they want to put into businesses and so on. I just want to confirm that those things, under this now national scheme, will indeed be outlawed by that provision.

The Hon. J.R. RAU: My reading of it is that an incorporated legal practice may not provide any service or conduct any business that does not involve engaging in legal practice, so I think the answer to the honourable member's question is that that is quite correct.

The CHAIR: Any more questions on clause 56?

Mrs REDMOND: Yes, still on that. Clause 56 goes for a long time, I am afraid.

The Hon. J.R. RAU: Can I point it out, to make it even clearer, that section 95BA of the existing act provides:

> On and from the commencement of this section, mortgage financing is not to be regarded as part of the practice of the profession of the law.

That is in the current act.

Mrs REDMOND: I am pleased to know from the Attorney's answer that in fact the rest of the states will be coming along to our view of the world, because it has not been the common practice here, but it certainly has been in other states. Can I turn to page 65, at the very bottom of that page: Incorporated legal practice without legal practitioner director. Whilst that seems quite straightforward, there is a difference between having someone who is a director and someone who is actually present running the practice.

Can the Attorney confirm whether in fact it will nevertheless be possible for an incorporated legal practice to exist with a director who is technically a director but who does not actually attend the office? Is it going to be possible to have someone who can be technically a director and therefore not breach the provisions of that clause but nevertheless not be present and therefore have a practice that is running without actually having a lawyer around?

The Hon. J.R. RAU: The answer to that is yes. The incorporated practice, provided it is compliant with having one legal practitioner director at least, could have, for example, an office manager who is the day-to-day manager of things in the office, but bear in mind that the actual delivery of legal services by that incorporated practice would still have to be performed by legal practitioners. So, if you went into this incorporated practice, it would not be the case that you would be seen by a clerk or an office manager in connection with your legal problem. You would have to be seen by a lawyer, because a person who receives reward for offering legal advice must be a person who holds a current practising certificate.

The public would be insulated in the sense that the person to whom they would be speaking would be a lawyer and the services would be performed, as always, by a lawyer, but if the honourable member's question is about whether the day-to-day management of the practice at that sort of higher level would necessarily be done by a person with a practising certificate, the answer to that is not necessarily. There would simply be, on the board of that body, a legal practitioner.

I have to emphasise, and I did mention it before, that this bill represents a compromise between various views around the place. This is not something I personally would have wished to insert into the legislation, this whole business about incorporated legal practices. This is something the Law Society has been on about for a very long time. Whilst I was not prepared to go as far as perhaps in their ideal world I might have gone, I have decided that, in the interests of listening to them and providing them with the opportunity of becoming more involved in a national profession, I would accept some degree of this incorporated legal practice process, which has been a phenomenon in other states for some years.

As I have said to them, and I think I said in the parliament before, I wonder about their wisdom in wishing this upon themselves. I think I even did suggest at one stage that they might be like the turkey that cannot wait for Christmas, but it is a matter for them. They think it is a good idea. I have been up and down with them and, as I said, this bill represents a series of well-discussed, lengthily discussed, positions, which in the end represent a consensus position rather than just my view or just their view.

Mrs REDMOND: Thank you, and I take on board the Attorney's comments. I have more than once expressed in this place my concern about what they are wishing for, but like the Attorney, I accept that the Law Society says they want this. I have no fundamental objection to the idea that we move from the somewhat antiquated idea that we all have to be in these huge partnerships to a modern construct of an incorporated legal practice, but I will just go back to the original part of the Attorney's answer, which was really where my question was directed.

The Attorney would be aware that, in many of the larger firms, it is commonplace for people to perhaps, in the first instance, see a partner of a firm, maybe even a senior associate, and then a lot of the work is actually done by the fifth lackey down the line and further down and further down, so that there is the potential for much of the work to be done face to face with someone other than a lawyer. So, commonly, in some of the larger firms, at one point they were employing, for instance, investigators who would go out and take statements from witnesses, they would employ legal clerks—all sorts of people.

My concern is to address the possibility, and I believe it is a real possibility, that we can end up with a Woolworths law, with a director in New South Wales and all these other people who are not in fact legal practitioners, who are nevertheless able to provide services, provided there is someone at the top of the heap who says, 'Yes, I am the person who is responsible for and overseeing this work.' I want to know what the provisions are in this legislation that will prevent that, somewhat extreme, example from occurring.

The Hon. J.R. RAU: We are not disturbing the law about the fact that legal services can only be provided by a legally qualified legal practitioner. One of the things that does come across my desk from time to time—and it is usually disbarred practitioners, or sometimes it can be people who have got that sort of Walter Mitty thing where they think they are a doctor or a lawyer or something and they are out there sort of pretending to be something. Now, they come to people's attention very quickly—

Mrs Redmond: But sometimes not.

The Hon. J.R. RAU: I can assure you that people are pretty vigilant about pursuing those people, and I can promise you nothing that we are doing here is intended to water that down in any fashion. If you have people who are non lawyers for reward performing what amount to legal services, I do not care who is running it—Woolworths, Coles or somebody down the street—they are breaching the Legal Practitioners Act and they should be prosecuted.

Mrs REDMOND: Can I remind the Attorney that not so very long ago, I am sure since I have been in here, there was a case—not in this state—of a young woman who not only held herself out but set up her practice as a solicitor and did not get found out until she in fact decided to move to the bar, and that was the trigger that led to her downfall. But she had actually been in practice for a number of years as a solicitor, because, quite frankly, you are not required—well, you have to have your name and theoretically should have your practising certificate. But people do not, as they would look for a builder's licence, for instance, go and check on practitioners.

I do still have this concern, and I just want to put it on the record, that under the incorporated practitioners' system, it will be more than possible for legal services to be provided with someone interstate overseeing the conduct of a legal practice in this state and it concerns me. On page 67 at the very bottom of the page is a provision relating to conflicts of interest. It states:

> ...the conduct of a legal practitioner who is a legal practitioner director of an incorporated legal practice; or...an employee of an incorporated legal practice, the interests of the incorporated legal practice or any related body corporate are also taken to be those of the practitioner.

My question is—I hope a simple one—is the intention of that clause to prohibit the creation of Chinese walls within legal practices, whether they be incorporated or not, because there have been in this state (that I am aware of) cases where practitioners within different parts of the same large firm have said, 'No, we don't have a conflict of interest, we can act for this client and that client'—even though they may obviously have a conflict of interest. They have said, 'Because we have established Chinese walls within our own organisation, we are both able to act for these different practitioners.' Is that the intention, and will it be banned?

The Hon. J.R. RAU: That is certainly the way I read it. There is a deemed knowledge, which is a corporate knowledge, and I cannot, for the life of me, see how you can divide that up between individual people who are employees. So my reading of it leads me to the same conclusion.

Mrs REDMOND: I refer to schedule 3 on page 119, which talks about the adjudication of costs and application by clients or third party payers for adjudication of costs and so on, and they are talking about a 'sophisticated client', and I could not find any definition in the schedule anywhere as to what specifically is meant by 'sophisticated client'. Is that going to be a subjective assessment in each case and, if it is, whose subjective assessment?

The Hon. J.R. RAU: I am told that if we look to page 99, we have a definition of 'sophisticated client'.

Mrs REDMOND: It is a bit far back. I could not find it.

The Hon. J.R. RAU: Yes, it is on the bottom of page 99. It ties back into other disclosure provisions there. Isn't that handy?

Mrs REDMOND: It is really helpful.

The Hon. J.R. RAU: Yes, it is defined, and it is not at large.

Clause passed.

Schedules 1 and 2 and title passed.

Bill reported without amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:47): I move:

That this bill be now read a third time.

I will not traverse any of the material that we have covered in relation to the actual bill itself. I would like to thank the member for Heysen and the member for Bragg for their hard work in having a look at this piece of legislation, and I very much appreciate the effort they have put in. I hope that, ultimately, both houses will be able to pass this unamended because it has been, as I mentioned earlier, the product of an enormous amount of work by members of the Law Society, members of the Attorney-General's department, the advisors that I am fortunate enough to have working for me and parliamentary counsel.

I would like to take the opportunity to thank all of those people who have been involved in this mammoth project that has gone on for years—literally—and I can say that I would not have been able to get anywhere near where we are now without the help of all you people. You have done a fantastic job and, even though I am a little bit impatient sometimes, ultimately it has all been worth it—at least from my point of view, and I hope from everyone else's point of view, because this has been a huge job.

I know the work is not yet over because my advisors and the Attorney-General's department staff who have been helping us in here will no doubt help members in the upper house before we are done, and that is a joy that awaits you over the next few weeks I guess. I do want to sincerely say my great thanks because this is a very important piece of work, and it is very important for the profession in South Australia that we bring ourselves into the 21st century, so thank you to all concerned.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:49): I wish to join with the Attorney in thanking those who have been providing advice to the parliament as this bill has gone through its gestation. It has been a long pregnancy and it has been fraught with difficulty in its early period, but there are aspects now which are coming to final landing, which I think will serve the legal profession and, most importantly, the general community well. I do not share the Attorney's or even the member for Heysen's reticence on incorporation. I think this is an important corporate advance for the profession. It is not alien to almost every other profession, except prostitution. In any event, I make the point that in the modern world it is important that as professional service providers we have the opportunity to function and that consumers have the protection of incorporated practices; so I welcome that.

There are a couple of things I wish to place on the record. One is that lawyers, like any other body or group (whether it is a profession, making a product or growing crop) have the right to associate in various groupings and to have representation. That may be through a society, a body, an association, or a union. These are important alliances and groupings, which on our side of politics we cherish as being a matter of choice, not only to join it, if it exists as a representative body, but if other representative bodies develop they are also available not only to receive members who wish to be in their association but also to be represented by them.

During the course of the development of this bill I think most members and I strongly appreciated the advice of the Law Society of South Australia as a peak body of representation for legal practitioners. I recognise the development and maturity of the Bar Association of South Australia (of which I previously acknowledged I am a member and whose origins predate my birth).

It has strengthened in number, as have its public statements on important issues. It has been an effective body in presenting sometimes different views from the Law Society and, importantly, those who are at the independent bar.

It should be remembered that these are not just barristers who sit around in chambers, like on some television program, but barristers who are now represented in the DPP's office and other government offices who have been historically prohibited from joining the Bar Association, but we changed the rules a few years ago. Although they previously were excluded on the basis that they were not able to be independent because they were employed by a government, those rules have been relaxed and they are now fully functioning and valuable members of the association.

These bodies represent very significant and sometimes different aspirations, and they do a terrific job and I wish to thank them. I wish to say that from our side of politics we respect that diversity, that choice, and we will keep an eye on how we might best utilise the representative bodies in future consultation and, in particular, the operation of the act and its management.

The other aspect, which is not in this act to any great degree, is the way in which we avoid all of the disciplinary process, that is, the education of legal practitioners. Unlike nurses, who, after 10 years, have to redo their whole training, lawyers, amongst many other professions, have the privilege that once they attain their degree and practising certificate it is a recognisable academic achievement and it gives them the right of entry to practise.

However, with the development of continuing legal training, and now the compulsory obligations for that to occur, legal practitioners must undertake a certain amount of study in the form of tuition and attendance at lectures throughout the year in order to be eligible to renew their practising certificate. I think this is an important initiative. I am not big on compulsory things, but I think that in relation to the obligations they have it is important.

I wish to place on the record my plea that whoever—whether it is the Law Society or other representative bodies—works with governments on the standard of the continuing legal education, it should be a matter that is uppermost in their minds, not just the legal ethics (much of which has been attempted to be legislated in this act) but maintaining a high standard of continuing legal education.

I just note, from my own experience in recent times, that it may be that legal practitioners in South Australia shy away from providing training to others. Are they too busy? I do not know what the answer is, but we seem to have in this state an extraordinary number of interstate people who come here to provide continuing legal education without actually having a working knowledge of the state jurisdiction.

I for one support and respect the diversity of our jurisdictions. Some want to harmonise everything, but that, in my view, is not the best opportunity for South Australia. We need to maintain some distinctive independence, and that means ensuring that the legal practitioners who work in this field maintain a standard that takes that into account. This is no reflection on those who come from interstate. Clearly, they are experienced and very capable, particularly on the ground in their own jurisdictions. But I would ask that that be at least noted by those who might read this debate. We support the passing of the bill.

Mrs REDMOND (Heysen) (12:55): I just want to make a few closing comments in relation to this bill on the third reading and, in particular, re-express the concerns I addressed when I made my contribution on the second reading. Contrary to what the member for Bragg suggested, I do not object to the idea of incorporated legal practices. I simply question whether the outcome will be as desirous as the Law Society seems to think and whether there may not be some hidden difficulties, given the concurrent nationalisation, effectively, of the practice. Indeed, the member for Bragg just referred to the fact that members come here from interstate and do not really have a familiarity with the local jurisdiction.

The more important aspects of the bill, however, remain, for me, whether or not this bill will result in Eugene McGee facing the consequences which I believe he should have faced for the despicable act he committed. I believe that makes him not ever a fit and proper person to practise the law in this state. I am hopeful that whoever becomes the legal conduct commissioner will, indeed, take on that issue as part of their brief in making sure that only fit and proper people are engaged in the practice of the law in this state. I am glad to see that all the ladies got the memo about wearing something orange today—it is just remarkable.

However, more importantly, it saddens me unbelievably that I will now have to tell everyone that the least safe place to put your money is in a solicitor's trust account and that you will have no guarantee whatsoever of money placed with a solicitor, in a trust account, being safe and, if it is stolen, being returned to you. I think that that makes the practice of the law in this state less than it should be. I think we should hang our heads in shame for passing legislation which does not make it compulsory for the guarantee fund to replenish funds when they are stolen from innocent clients.

I think that we had an opportunity in this legislation to correct what has clearly been something that is very wrong. It has been evidenced by a massive case in this state, and we should have taken the opportunity to address it, but, sadly, we are not doing so. I think that particularly the Law Society, in supporting the current and proposed mechanism, should hang its head in shame for diminishing the practice of the law in this state.

Bill read a third time and passed.

[Sitting suspended from 12:59 to 14:00]

SECURITY AND INVESTIGATION AGENTS (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor's Deputy assented to the bill.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 2) BILL

His Excellency the Governor's Deputy assented to the bill.

ADVANCE CARE DIRECTIVES BILL

His Excellency the Governor's Deputy assented to the bill.

CALLINGTON WASTEWATER TREATMENT PLANT

Mr GOLDSWORTHY (Kavel): Presented a petition signed by 565 residents of Callington and greater South Australia requesting the house to urge the government to take immediate action to dismiss the proposal by Alano Water Pty Ltd for a wastewater treatment plant near Callington until a more suitable site can be found following community consultation.

CITY FRINGE DEVELOPMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 27 residents of Dulwich, Rose Park and greater South Australia requesting the house to urge the government to consult with affected residents concerning mixed-use, medium-to-high density multi-storey buildings on Fullarton Road, Greenhill Road and Tudor Street.

DISABILITY SERVICES

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:08): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: On 18 April, I announced that South Australia had agreed to fully participate in the National Disability Insurance Scheme or Disability Care Australia. This is a historic Labor reform in human services on a scale not seen since the introduction of Medicare in the early 1970s. It will provide more traditional supports such as therapy, respite, equipment and supported accommodation, but it will do so in a way that works best for the person and their individual circumstances.

South Australia was the first state to secure a launch site and, reflecting this government's commitment to give Every Chance to Every Child, from July this year it will begin with a focus on children up to the age of 14 years. Then from mid-2016, we will start to include all eligible people with a disability with everybody in by 2018, supporting approximately 33,000 South Australians with a disability. This announcement represents a significant expansion in disability funding to complement the already record funding increases made by the government in recent years.

When this government was elected, funding for disability services was just $123 million per annum. In last year's budget we made the most significant investment in disability services in this state's history, taking funding to $345 million per annum in 2012-13. Upon full implementation

of the NDIS in 2018, this will rise to $723 million per annum. Together with federal funding, this will take the annual investment to $1.4 billion by 2018.

Importantly, this deal will ensure the medium and long-term sustainability of our disability budget by securing significant increases in commonwealth funding to support people with a disability in South Australia. Also, to the extent that there may be a larger than expected number of people becoming eligible for support, the commonwealth has committed to funding 100 per cent of any shortfall for the launch and 75 per cent for the full scheme.

As big as these numbers are, and as much as they provide an indication of this government's commitment to support people with a disability, what is most important about this reform is the impact it will have on the life of people with a disability. At their core, these changes give people with a disability the ability to have greater control over their own life and greater choices about the services they receive.

I had the opportunity to talk to a range of people with a disability, their families, carers and representatives earlier at a morning tea I hosted. There I was able to thank them for their efforts in making this announcement possible, to discuss how we can work together to make these reforms as successful as possible but also to hear about what this new agreement will mean for them. There I heard that there are people who go to bed at the same time every night and how these changes will allow them to have more flexibility in the care they receive so that they can attend important family events, such as birthdays, on which they had previously missed out.

Through Disability Care Australia, the investments the South Australian and commonwealth governments are making, and the reforms we are delivering, will make a massive difference to the life of people with a disability in South Australia.

CHINA DELEGATION

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:12): I seek leave to make a second ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Yesterday, I returned from a week-long trip to China, focussing on the Shandong Province, with stops at Hong Kong and Beijing. Shandong Province has the third largest economy in China, with a population of over 96 million people and a gross state product of over $660 billion. Shandong is outpacing China's rapid growth, expanding at 9.2 per cent, and South Australia is fortunate to have enjoyed a sister-state relationship with Shandong for 27 years.

Despite this trip, we made a strategic decision to place special emphasis on upgrading our longstanding relationship to one that will generate more substantial and long-term benefits for both states. This strategy began with the development of our China Engagement Strategy, which was well received wherever we went in China. The 60-strong delegation that I led, made up of business owners, industry and institutional representatives and government heads of department, was evidence of our commitment to deepen this relationship.

The Shandong government acknowledged this extra effort with a heightened response, including providing their most senior government officials to develop ways of matching their province's needs with what South Australia can offer. For instance, Shandong requires clean energy technologies and natural resources to continue its massive urbanisation and industrialisation and to underpin its rapid development. South Australia has these resources and clean energy expertise in abundance.

Shandong wants to develop its capability in sustainable food production. Our state has a world-class reputation in sustainable food production. In turn, South Australia requires investment and infrastructure to unlock our natural resources. We need partners to buy our produce, technologies to expand our companies and to grow our economy. South Australia is also seeking to expand its tourism flow from China and to bring increasingly higher numbers of international students to our state. In all of these areas South Australia and Shandong share the same aspirations. We have what each other needs to be prosperous into the future.

I first discussed the possibility of establishing a South Australia Shandong Development and Cooperation Forum when I visited Shandong in July 2012. The idea was then further developed when the Vice Governor, Xia Geng, visited Adelaide in September last year. Last week,

the South Australian government entered into a memorandum of understanding with the Shandong government, making the South Australia Shandong Development and Cooperation Forum a regular event.

The MOU stipulates that South Australia and Shandong will establish a working group, to be led by the Shandong Foreign Affairs Office and the South Australian Department of the Premier and Cabinet. It will be co-chaired by me and the Acting Governor of Shandong, the Honourable Guo Shuqing, who will soon be formally appointed Governor of the province. This was a significant diplomatic coup and showed that the Shandong government is willing to deepen this long-term relationship.

The MOU provides a framework for greater ongoing engagement and a means to further focus and pursue our mutual priorities in four key areas. Importantly, this includes facilitating contact between South Australia and Shandong businesses interested in investment, trade and other collaborative arrangements. We have already begun building new partnerships, and that is evidenced by a further three MOUs signed during the forum.

The first, between the Adelaide Festival Centre and the Shandong government's Department of Culture, establishes a collaborative program for the 2014 OzAsia Festival. The second, between the Shandong Foreign Affairs Office, the Shandong Film and TV Media Group and AMPCO Films Pty Ltd, will bring together creative and technical talent to collaborate on an international film project, *Gold Road*. The third marked a joint venture between Basetec Services and Sinoma Jinling to develop the marketing, design, supply, installation and project management of high pressure parts for the global market.

These MOUs, signed at the inaugural Shandong South Australia Development and Cooperation Forum, were complemented by a number of additional agreements formalised during the course of the trip. A memorandum of understanding on tourism cooperation was signed in Hong Kong by the South Australian Minister for Tourism and the Hong Kong Financial Secretary. This agreement involves the provision of eight koalas to Hong Kong's Ocean Park, for which the park will develop a $5 million themed enclosure highlighting South Australia. The park receives over 7 million visitors a year and will be a very helpful addition to South Australia's tourism promotions.

In Shandong's capital city of Jinan, I took part in the official opening of the China-Australia Centre for Health Services, a joint research and education centre between the University of South Australia and Shandong University. The centre is a direct outcome of my previous July trip when discussions between the two universities occurred. Flinders University, a world leader in marine research, also unveiled a joint laboratory with a high technology seaweed processing business headquartered in Qingdao. The Qingdao Great Gather Ocean Seaweed Industry is one of China's national seaweed processing industry R&D subcentres and one of the fastest growing private companies in Qingdao. This cooperative research venture may also provide the basis for commercial developments in South Australia.

Members of the business delegation noted that the government-to-government relationship on this trip fast-tracked their ability to make business-to-business connections and pursue quicker outcomes. What could have taken five to six trips over several years was facilitated through one trip. This was partly due to a concerted effort to match prospective Chinese investors and clients with the right South Australian companies and projects. It was also due to the calibre of clients that the Chinese government included in the cooperation and development forum and investment seminar, both held during the trip. High calibre Chinese organisations interested particularly in resources, energy and agribusiness connections were well represented.

The ties that have been built through our sister-state relationship over the past 27 years have offered a good foundation to grow this relationship. These positive outcomes came with a clear indication from Shandong that our presence in their province mattered. A second trip in less than a year and the strength of our delegation created a shift that brought heightened interest both in the relationship and in further investment, trade, business, education and cultural collaborations. This is a connection worth ongoing effort.

PAPERS

The following papers were laid on the table:

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

Claims Against the Legal Practitioners Guarantee Fund—Annual Report 2010-11

Criminal Law (Forensic Procedures) Act 2007—Report on Annual Compliance February 2012 to January 2013
Rules made under the following Acts—
District Court—
Civil—Amendment No 22
Criminal—Amendment No 1
Magistrates—Civil—Amendment No 44
Supreme Court—
Civil—Amendment No 21
Listening and Surveillance Devices Rules—Amendment No. 1

By the Minister for Planning (Hon. J.R. Rau)—

Regulations made under the following Acts—
Development—
Private Certification
Schedule 8—Referrals and Concurrences

By the Minister for Industrial Relations (Hon. J.R. Rau)—

Rules made under the following Acts—
Fair Work—Industrial Proceedings Rules—Training Contract Disputes

By the Minister for Business Services and Consumers (Hon. J.R. Rau)—

Regulations made under the following Acts—
Liquor Licensing—General—Small Venue Licences

By the Minister for Manufacturing, Innovation and Trade (Hon. T.R. Kenyon)—

Regulations made under the following Acts—
Primary Industry Funding Schemes—Pig Industry Fund—Exchange of Information

By the Minister for Tourism (Hon. L.W.K. Bignell)—

Water Industry Act 2012—Plumbing Standard by the Technical Regulator

QUESTION TIME

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:21): My question is to the Premier. Why is the Premier introducing a new car park tax after earlier saying that there would not be higher taxes following the Olympic Dam expansion being postponed?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:21): I thank the honourable member for his question. The transport development levy is proposed to be introduced—

Members interjecting:

The Hon. J.W. WEATHERILL: Car park levy, transport development levy, as you please—is proposed to be introduced from 1 July. It has three principal virtues: one is that it does raise much-needed revenue to assist us to provide the sorts of services the community expects of us, because we believe in running the economy for the benefit of the broader cross-section of the South Australian community.

Members interjecting:

The SPEAKER: I call the member for Adelaide and the member for Heysen to order.

The Hon. J.W. WEATHERILL: We believe that our role in managing the economy is about doing it for the benefit of ordinary working men and women of South Australia, and that is why we need to have a revenue base to provide those services. It is worth noting I think in this regard that in 2002 our share of revenue of the state economy was fixed at a certain amount; it is

now lower than that. So, we are taking less of a share of the state economy in revenue into the state government than we were in 2002.

Now, that is largely a consequence of the fact that the parts of the economy where we draw our revenue have experienced some of the weaker economic conditions, but generally the economy remains a strong economy. The parts of the economy from which we raise our taxation revenue have been in a relative sense more depressed than the other parts of the economy. Also, a very substantial part of that is retail spending, which is where our GST funding comes from.

If you are to sustain your level of services then you have to look to other revenue measures, especially in the context of us raising no more as a proportion of the economy than we did back in 2002. We believe in government services. We believe in public transport investment to ensure that we actually maintain that level of public services. The other virtue of course is that every major capital city has an arrangement of this sort because it encourages people to take public transport and reduces congestion. It is a sensible measure.

Mrs Redmond interjecting:

Ms Chapman: Except you can't get a bus on time.

The SPEAKER: I call the member for Bragg to order and I warn the member for Heysen for the first time.

The Hon. J.W. WEATHERILL: I notice the member for Bragg spouts up about the public transport system. We did find a public transport system in need of investment. That is why we are putting $2 billion of investment into public transport, because we saw a system that had a serious underinvestment problem, when we are building the quality of our public investment. We believe that a modern city requires a high quality public transport system. That is why we want to make sure that there aren't all these cars coming into the city, which is certainly not something which is sustainable in the long term.

We can't have cars coming in with one or two people in them and buses coming in with 40 people. The obvious sense is we need to encourage more public transport and reduce the congestion that comes from moving large numbers of people in a very inefficient way. That is the other principal virtue of this policy, and I note that the opposition has teamed up with the big end of town and hold the process—are we to be surprised? Once lining up with the AHA against us, now lining up with the big property developers against us. Are we to be surprised?

Mr Venning: Close it down!

Ms Chapman: Are you surprised?

Mr Marshall: He is asking you a question, Mr Speaker.

The SPEAKER: I am not sure that he is. I call the member for Schubert to order.

NATIONAL RENTAL AFFORDABILITY SCHEME

Mr ODENWALDER (Little Para) (14:25): My question is for the Minister for Social Housing. Can the minister inform the house about South Australia's participation in the National Rental Affordability Scheme?

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:26): I thank the member for his important question, as affordable housing is a key plank of this government. Mr Speaker, the National Rental Affordability Scheme (NRAS) is a long-term commitment between the commonwealth and the state governments to increase investment in affordable rental housing and reduce the rental stress on low to moderate income households.

I was pleased to be alongside the Premier today when he announced South Australia's continued participation in this important scheme. The upcoming round of NRAS incentives is split into two parts and includes properties which are 'shovel ready', which means construction will begin soon and will be aiming to have properties ready for rent before December 2014. The second part, which is round five of the current rounds, aims to have properties built and ready to rent in 2015-16.

The state government has participated in all of the previous rounds of NRAS and will continue its commitment in upcoming rounds which will see a further 500 new homes constructed across South Australia. Two hundred properties are planned to be constructed under the 'shovel ready' scheme and a further 300 under the second part of this upcoming round. Included in the first

round will be 90 properties designed and built specifically for people with a disability. The construction of these properties will assist in stimulating the South Australian construction industry with these 'shovel ready' projects beginning in the next few months.

To date, more than 1,500 properties have been built and tenanted in South Australia which provide more than 2,000 people on low to moderate incomes with a rental which is at least 20 per cent below the current market rate of rental for the property. Those 2,000-plus South Australians on low incomes renting properties under the NRAS scheme are saving between $3,000 to $4,000 each year on their rent under this scheme, which reduces their cost of living pressures.

Prior to this round, South Australia has received a total of 3,791 incentives, meaning that another 2,000-plus houses are currently being built which are expected to be ready for rental before the end of June 2014. This is important because the recently conducted rental affordability snapshot conducted by Anglicare, which surveyed more than 56,400 private rental properties nationally, found that less than 1 per cent were affordable for people on Newstart allowances, parenting payments, and disability and aged pensions.

By providing incentives for investors, not-for-profit organisations and non-government agencies build new affordable rental properties that will help correct the balance of affordable private rental properties for those households experiencing housing stress. This government's participation in this scheme demonstrates our firm commitment to making South Australia a more affordable place to live.

Ms Chapman interjecting:

The SPEAKER: I warn the deputy leader for the first time and alert her to my not being receptive to a Chris Huhne-style transfer of demerit points or warnings in this question time, and I also warn the member for Schubert. Now I call the leader.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:29): My question is again to the Premier. As the Premier has had 12 weeks to get an answer, can he now explain what impact Labor's new CBD car park tax will have on business? Will it increase the payroll tax liabilities and WorkCover levies and, if so, by how much?

Mr Venning: CBD, close business down.

The SPEAKER: I warn the member for Schubert for the second time. There will be no further warnings. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:29): The answer remains the same. We are presently consulting on the shape and form of the tax. It largely depends, though, whether it is borne by the property owner or whether it is provided by way of a benefit for the particular employee. If it is provided as a benefit to the employee, it will presumably sound in a fringe benefits tax liability which then amounts to a liability.

It really depends on a range of factors. One is the shape and form of the tax which we are presently consulting about and, two, individual decisions that particular companies make about how they treat their employees, whether or not they pick up the cost of this and, therefore, incur a liability, or whether the incidence of the tax falls on the property owner. Because we're hearing some squeals from the property owners, I suspect that some of the incidence of the tax is likely to fall on the property owners.

That does sound as though that could be the case, because they are certainly raising their voices; they've got common purpose with the Liberal Party, and now they're involved in an ad campaign. So, good luck to them on that campaign, but we'll be working our way methodically through the consultation process and arriving at sensible decisions. I might just add that the Victorian parliament has just increased their car parking levy from about $850 per annum to $1,300 per annum, citing the very reasons this government cites for introducing it in the first place.

The Hon. A. Koutsantonis: Michael O'Brien makes a lot of sense.

The Hon. J.W. WEATHERILL: That's right. As Michael O'Brien, the minister, often is heard to quote—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: I call the member for West Torrens to order.

The Hon. J.W. WEATHERILL: Of course, the Treasurer of the Victorian parliament is none other than Mr Michael O'Brien and, as our Minister for Finance often notes, he makes an enormous amount of sense.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:31): A supplementary, Mr Speaker.

The SPEAKER: Yes.

Mr MARSHALL: The Premier specifically said that the car park tax may go directly to landlords, many of whom would not have the ability to pass that on in any way, shape or form to the operators of the car park. Can you therefore explain to us what price signal this could possibly send to commuters to reduce traffic if it can't be passed on by the landlords to the operators of their car parks?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:32): No, that is not the point I was making. That is a separate issue about the way in which the car park operates in those circumstances where the operator is a separate entity from the owner of the particular car park. It is a separate matter, and that will be dealt with in the course of consultation on the legislation.

One of the issues is a mechanism to ensure that those particular entities where there is a separation between the owner of the business and the operator of the business can have the capacity to pass that particular car parking levy on. So, that is a separate matter which will receive attention in the drafting of the legislation. What I was talking about was the incidence of this tax, and the way in which a particular company may choose to structure its affairs means that the incidence of the tax may not fall entirely upon the consumer.

It is likely there would be a substantial part of the taxation arrangements that will fall on the user of the car park, but the way in which the market operates and how people compete in that market may mean that some of the incidence of that tax, depending on their own judgements about their business model, may be borne by the particular owner and/or operator of the business. That's the point that I was making. It is a separate point about the ownership and the separate ownership and operation of the car park.

CAR PARKING LEVY

The Hon. I.F. EVANS (Davenport) (14:33): A supplementary if I could, Mr Speaker.

The SPEAKER: A supplementary.

The Hon. I.F. EVANS: Premier, given your answer about the separate ownership of the car park and then that owner leasing it to an operator, will the government rule out legislating to override any contract between an owner and an operator of a car park that prevents the car park tax from being passed on from the owner to the operator if the owner is taxed under your proposal?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:34): I thank the member for his question. We'll certainly, in the consultation process, hear all of the arguments advanced by any of the interested players, if you like, in that sector. If that's a proposition they advance to us, that that is necessary to overcome contractual arrangements they have to ensure that the taxation arrangements can be equitably implemented, then that's something that we will consider, but I'm not ruling anything in or out yet. One, I haven't had that proposition advanced to me yet and, secondly, I don't know what the attitude of the government would be upon consideration.

VISITORS

The SPEAKER: I welcome to parliament the members of the South Australian Sport and Recreation Association for People with Integration Difficulties, who are guests of the member for Adelaide.

QUESTION TIME

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:35): My question is again to the Premier. As the Premier has now had six weeks to get an answer, how much will fringe benefits tax add to the government's car park tax for the car parking that the government provides for its own employees?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:36): All of those matters will be revealed once we present the final form of the arrangements to the parliament. They largely depend on the final form of the arrangements, which we are presently consulting upon. I think it would be a fair assumption that the South Australian government would pick up the effect of a fringe benefits tax liability if we were to continue to provide the car parking on behalf of our own employees. I think that is a fair enough assumption, but the precise effect of that and how that will operate will abide the conclusion of the arrangements.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:36): Supplementary: given that this issue was covered in the Mid-Year Budget Review, which I presume went through cabinet, can the Premier confirm that no modelling was actually provided to the cabinet on how much it would actually cost the government of South Australia in terms of the imposition of this car park tax?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:37): As I said before, all of these matters will be revealed once we have settled the precise form of the car parking arrangements. All of this has been taken into account when we have assessed the budget impact of this measure—the positive budget impact—that's all been accounted for in the way in which this measure has been put forward, and this will be revealed once it's settled.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:37): My question is again to the Premier. What does the government's car park tax modelling indicate will be the average daily burden on users of CBD car parks given that not all CBD car parks are used 24 hours a day?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:37): I thank the honourable member for his question. I might be able to assist him with the previous question. If I understand, the burden of what he is suggesting is: why haven't we accounted for the fringe benefits tax associated with car parks? We already provide car parks to our employees, so any fringe benefit tax liability presumably will be consequently provided for. What we are talking about is the incremental increase associated with the additional car parking levy, which is a relatively small additional impost.

Mr Marshall: How much?

The Hon. J.W. WEATHERILL: Well, we've already told you: $750 per annum for each of the car park spaces. That is the impost in 2014-15, which will be indexed annually to movements in the Adelaide CPI. That equates to around $2 to $3 per working day in 2014-15. As I have observed before, this has not created any difficulty at all in any of the jurisdictions in which it has been introduced. In Melbourne and in Sydney and in Perth and in Brisbane this is a common feature of arrangements for modern capital cities that want to run public transport systems and want to discourage congestion. These are pretty orderly sets of arrangements. Why do we have this renewed line of questioning? It's simply that they want to tow in behind the big end of town in an advertising campaign.

Mr van Holst Pellekaan: Point of order—

The SPEAKER: Is the Premier finished?

The Hon. J.W. WEATHERILL: Yes.

The SPEAKER: Then the member for Stuart's point of order, which would have been upheld, won't be necessary. The member for Ramsay.

Mr MARSHALL: Can I ask a supplementary, Mr Speaker?

The SPEAKER: No. The member for Ramsay.

POPULATION GROWTH

Ms BETTISON (Ramsay) (14:40): My question is to the Minister for Planning. Can the minister please inform the house about how the Australian Bureau of Statistics projects population growth and how this impacts upon planning in South Australia?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:40): I thank the honourable member for her question. Planning for growth is very important. Last night, along with a number of other individuals including the member for Bragg, Senator Xenophon and the Hon. Mr Parnell, I attended the magnificent town hall in Norwood. A number of people were there who were interested in the topic of planning. Some of these people, Mr Speaker, were people who might even be constituents of yours, people who had a particular interest in a certain development in the western suburbs. Some of them were constituents of the member for Bragg, interested in another particular possibility, and so on.

They raised a number of important issues. The assembled group heard remarks from the four members of parliament present and then from an expert panel, included amongst whom was Mr Brian Hayes, who is chairing the government's planning improvement project which is due to report towards the end of next year on a range of opportunities for change and improvement in our planning regime which, incidentally, is recognised already around this country as being amongst the best in the nation. However, the important aspect of the question that the honourable member asked me was about population growth—

The SPEAKER: I was wondering when you'd get to that.

The Hon. J.R. RAU: Indeed. Population growth. The Australian Bureau of Statistics records, amongst other things, statistics relating to population using various practices including the National Census. What this data tells us is not subject to argument; it is a fact. It is not an opinion. What we can deduce from this material is very important. It tells us that, based on birth rates alone, something incidentally over which even this government has no control, Adelaide will—

Members interjecting:

The Hon. J.J. Snelling: I do, a bit.

The Hon. J.R. RAU: Except for the Minister for Health. Adelaide will have an additional 11,000 people every year. There is also migration—again, a matter over which even this government has no control as we do not control the national border, nor do we have people sitting at Tailem Bend or Keith or Bordertown stopping people moving.

Mr Marshall interjecting:

The Hon. J.R. RAU: No, but if you don't get them at Keith, Mr Speaker, you need a second line of defence.

Members interjecting:

The SPEAKER: Close.

The Hon. J.R. RAU: You need defence in depth. If you don't catch them at Keith, you want to catch them at Tailem Bend. In any event, population data released by the ABS shows that in the year—

Members interjecting:

The Hon. J.R. RAU: Hang on. This is important. It shows that there was an increase in our population here in Adelaide of 14,200 persons or, in other words, 1.1 per cent growth. Projections fluctuate from year to year and the 30-year plan upon which much of our planning strategy is based takes into account projected changes in population. It might interest people to know that over the long-term trend change in population projected in the 30-year plan is in fact 1.2. We have it at 1.1 for the last year, so we are tracking pretty well on course.

What becomes clear and what is very important in this whole debate is this: there are a number of people in South Australia, and it was particularly evident last night, who are passionate about a thing called zero population growth. These people unfortunately commence their debate

about planning from a very unhelpful position which is a fantasy, the fantasy being that the population will not, does not grow and has not grown.

Mr PISONI: Point of order, Mr Speaker. As interesting as the minister has expressed this to be, I believe sessional orders on the length of answers to questions has been breached.

The SPEAKER: I am impressed that the member for Unley was right on the ball and, indeed, at the instant he rose the Deputy Premier's time had expired. Much as we are interested in the Deputy Premier's answer, if he hadn't spent 90 seconds approaching the problem perhaps he could have fitted the population answer into that 90 seconds.

The Hon. J.R. RAU: Perhaps another time, Mr Speaker.

The SPEAKER: Another time.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:44): My question is again to the Premier. Did the Sustainable Budget Commission's car park tax recommendation come before cabinet under Kevin Foley and Mike Rann? If so, what was the Premier's position on the tax at that time?

The SPEAKER: I would imagine—

The Hon. J.J. SNELLING: Point of order. Is it orderly for an opposition to ask questions about proceedings of cabinet?

The SPEAKER: The Premier may wish to answer if the question is not interpreted as being, 'What did the Premier, when he was not premier in cabinet, think about the Sustainable Budget Commission report?'

Mr MARSHALL: I am happy to rephrase that.

The SPEAKER: We will read the question down as: 'Does the Premier have any non-cabinet reaction to the Sustainable Budget Commission report?'

Mr MARSHALL: I'm happy to rephrase it.

The SPEAKER: No, you don't need to rephrase it; we can just read the question down so that it doesn't seek disclosure of the Premier's position in cabinet on that document—if the Premier wishes to answer.

The Hon. J.J. SNELLING: The whole premise of the question was: what was the Premier's position during cabinet deliberations on the Sustainable Budget Commission?

The SPEAKER: I don't think the leader actually said 'cabinet deliberations' but as the leader has agreed to rephrase that question perhaps he could ask another question.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:46): What about if I just ask this question of the Premier: given that cabinet had previously rejected the Sustainable Budget Commission's car park proposal, and you were a member of that cabinet, when did you form the opinion that the car park tax was necessary for South Australia?

The SPEAKER: That question is premised on the assumption that cabinet did reject it—which they may have done—but I don't know. Premier, do you have any reaction to that?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:46): Perhaps, just to help those opposite. There is a range of things that didn't even make, necessarily, the budget or cabinet process so I think we can—

An honourable member: Sometimes they fall away before cabinet.

The Hon. J.W. WEATHERILL: Exactly. There are processes that may lead to something not even arriving at cabinet, so let's just put that to one side. The point we make is that the circumstances we find ourselves in now drive the need for the introduction of this particular set of arrangements. We have had literally billions of dollars wiped from our revenue from the combined effects of state-owned sources and GST revenue. There is only one response to that if you want to

maintain public services and that is to find alternative revenue sources. If you are trying to run a prudent budget you can—

Mr Marshall interjecting:

The SPEAKER: I call the Leader of the Opposition to order.

The Hon. J.W. WEATHERILL: As, of course, we have. Once you make all the prudent decisions about reducing the level of government expenditure you can (very substantial reductions in government spending in a range of areas that we regard as a lower area of priority); once you have excluded that and once you have come to a point where you are at a prudent level of borrowings and you don't want to breach any particular cap in relation to your borrowings, the only other source of capacity to maintain public services is to raise revenue.

We chose this particular initiative because it had some other secondary benefits. It will assist us in driving other behaviours, such as people choosing public transport. We think it is a sensible measure. We are fortified in that view because the other major cities have also chosen this course. Indeed, just a few days ago, Victoria announced that it was going to increase its levy. So much were they persuaded by its efficacy that they have decided to increase it—so it is a sensible measure. I understand that the Liberal Party has to team up with its mates in big business; it's natural. I don't think anybody should be surprised.

Members interjecting:

The SPEAKER: What about the leader asking a question?

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:48): My question is again to the Premier. Can the Premier explain the difference between his Mid-Year Budget Review budget papers which identified $26 million a year being raised from his $750 car park tax, and the Sustainable Budget Commission's report which predicted that a lower $730 car park tax would raise $33 million?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:49): I do not have ownership of that previous report. This is the modelling that has occurred in relation to the present proposition. That was not advanced—

Members interjecting:

The Hon. J.W. WEATHERILL: It was not—

Mr Marshall interjecting:

The SPEAKER: I warn the Leader of the Opposition for the first time.

The Hon. J.W. WEATHERILL: I am trying to be as helpful as I can to the Leader of the Opposition. I presume it is based on the modelling we now have, which models the effect of this tax and what we are likely to expect from it. There is a range of exclusions from the levy, of course, which may have a bearing on this. The levy does not apply to residential car park spaces; it does not apply to non-chargeable privately-owned car parks not subject to FBT—primary customers in client parking provided on business premises.

It does not apply to disability car park spaces, and it does not apply to car park spaces for emergency vehicles. It does not apply to short-term visitor parking on the grounds of the Royal Adelaide Hospital and it does not apply to special events car park spaces, such as occasional car parking events within the Parklands. Based on the exemptions, the modelling has thrown up this number and that is the number we put into our budget.

The SPEAKER: I warn the deputy leader and the member for Heysen for the second time—that was a delayed warning—and I warn the member for Adelaide for the first time.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:51): My question is again to the Premier. Why has the government ignored the recommendation from the Sustainable Budget Commission report in relation to the car park tax that said, 'consideration could be given to exempting spaces allocated for short-term parking...in order to reduce the impact on CBD businesses'?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:51): I think that is actually what we have done. We have exempted primary customer and client car parking provided on business premises. I think that is precisely what we have done, and the way in which particular businesses seek to reorganise their particular offering to the community when they begin to charge will be a matter for them.

This is something that the Adelaide City Council will have some influence over, because it has a substantial number of car parks, so the way in which it organises its charging, which will still be a matter for individual car parks, will no doubt respond to the particular segment of the market it is seeking to capture.

I think all those things will be the subject of robust competition within the car parking area, bearing in mind that we have more car parks in absolute numbers than any other capital city, even places like Sydney, so we are talking about an extraordinary number of car parks. I think we have to get over the fact that just coming into town and then pulling up in front of Harris Scarfe's and having a shop is a thing of the past.

Mr Pengilly: You can't pull up in front of Harris Scarfe's.

The Hon. J.W. WEATHERILL: Of course. Precisely—but I think this idea that somehow you can just drive into the city and actually expect to be able to pull up and find a park is a nice old country town idea, but we have a vision for the city which is more than just a country town. It is a vibrant, modern, cosmopolitan city that needs a good public transport system and a set of congestion arrangements that are in keeping with a major capital city.

The SPEAKER: The member for Finniss is right that you can't pull up in front of Harris Scarfe's. He is also out of order and I bring him to order and I warn the—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: You knew you were going to be warned, did you?

The Hon. J.J. SNELLING: He's been doing it all day, sir.

The SPEAKER: I warn the Minister for Transport for the first time and, as the Minister for Health says, he's been doing it all day. The member for Taylor.

EDINBURGH DEFENCE BASE

Mrs VLAHOS (Taylor) (14:53): My question is to the Minister for Veterans' Affairs. Can the minister tell the house about his recent visit to Australian troops currently serving in Afghanistan, particularly those from our local Edinburgh defence base?

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (14:53): I thank the member for Taylor for her question and acknowledge her ongoing interest in the welfare of the soldiers from 7RAR who are based at the Edinburgh superbase in her electorate.

The SPEAKER: Ongoing?

The Hon. J.J. SNELLING: Indeed. As state Minister for Veterans' Affairs, I was privileged to join commonwealth parliamentary colleagues and visit young South Australians defending our nation on the front line in the Middle East. The trip was difficult to coordinate and I would like to thank Wing Commander Stephen Crawford of the office of Military Strategic Commitments in the Department of Defence for his patience and the effort he and his colleagues put into planning my trip.

I left Adelaide on 2 April and travelled to Al Minhad Air Base in Dubai where I was met by Major General Michael Crane, Commander, Joint Task Force 633. I came under military control at Al Minhad Air Base. I was privileged to see young South Australians from different walks of life doing their nation's bidding in a most professional way. Members may not know but there are many South Australians deployed in the Middle East. These include the South Australian members of the Royal Australian Navy serving in the Gulf. The Royal Australian Air Force is represented by 462 Squadron, 87 Squadron and 1 Radar Surveillance Unit and 92 Wing.

The largest Army commitment from South Australia is that of 7RAR task group. When the 7RAR task group deployed to Afghanistan, the Premier and I were pleased to be at their farewell

parade at Edinburgh on 13 October last year. The deployment of 7RAR was the first deployment of an infantry battalion on active service from South Australia since 3RAR deployed to Vietnam from Woodside in 1971. This was the third deployment for 7RAR.

The 7RAR task group is an immensely impressive group. I saw them in the field and marvelled at their courage and their professionalism. I was greatly impressed by the young men employed in mine clearance. They are inspirational young men, some just out of their teens. Their youth struck a chord with me when I observed their dedication and the danger they faced every single day and I realised soberly that several are only a few years older than my eldest daughter.

The mission of the Australians, especially that of 7RAR, has changed since they deployed overseas. Originally their role was to be a mentoring force that accompanied their allies, the troops of the Afghan National Army, into the field on operations. The role is now one of advising. Having said that, some members of 7RAR are employed on security duties, protecting civilian workers, while others are employed on convoy protection.

The men and women of the Navy, Army and Air Force will return to us later this year. We will all have a special responsibility when that occurs. First, we must ensure as a government and as a state that we welcome them home appropriately, that every one of us shows our appreciation for a job well done. We also have another task: to care for these young men and women and the challenges that will present as they adjust to post active service life and reintegrate with their families and community. That is probably the larger of the two tasks and one I will seek to address with all my capacity.

I extend my gratitude and respect to the commanding officer of 7RAR, Lieutenant Colonel Malcolm Wells, the executive officer of the 7RAR task group in Afghanistan, Major Malcolm Beck, and the force commander, Major General Michael Crane DSC AM. My thanks also to Captain Oowan Davies and Captain Scott Minion of 7RAR for escorting me during my time in Tarin Kowt. I would like to mention Major Graeme Palmer, the battalion second in command, who has done so much to ensure that everything on the home front at Edinburgh runs smoothly.

POPULATION GROWTH

Mrs GERAGHTY (Torrens) (14:58): My question is to the Minister for Planning. Does the minister agree with those who base their opinions about our planning system on the assumption of zero population growth?

The SPEAKER: Oh, excellent, excellent! The Minister for Planning.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:58): Mr Speaker, thank you very much for—

The Hon. I.F. EVANS: Point of order, Mr Speaker. We have to take a point of order here. This is simply a repeat of an earlier question so that the minister can complete the last 90 seconds of his briefing notes, Mr Speaker.

The SPEAKER: Well, that may be so, but I don't think there is anything in standing orders that prohibits repetitive questioning by the government of itself.

The Hon. J.R. RAU: Indeed. If that were the measure, none of the opposition's questions would be in order at all. In any event, I thank the honourable member for her question—and, yes, I do have a view about this. The fact is that the science underpinning planning includes some idea of growth in our community, and people who commence the debate about planning from a preconception that there will not be growth are not only completely unreal but it means that we are left with a situation where any solution which they put forward entails both an end to urban sprawl and an end to any infill or any increase in density. This, of course, is possible only in circumstances where there is both no population growth and no re-formation of families or changes in family circumstances, both of which are completely and utterly impossible.

So, for people to enter the planning debate in an intelligent fashion and to have something constructive to say about the planning debate—and I accept that there are many alternative opinions, all of which should be listened in the marketplace—one entry point into that discussion is that you remove the ZPG fantasy from your lexicon and start debating it on the basis of things such as, for example, ABS statistics, which I think somebody mentioned earlier today.

In any event, what we want to see is an end to urban sprawl to the north and the south. This government has introduced legislation to protect the Barossa Valley and McLaren Vale from

urban sprawl. We also want to see a more vibrant city here in Adelaide, and we have taken steps to ensure there has been a rezoning of the City of Adelaide—done, I might say, with the full cooperation of the Adelaide City Council, for which I thank them. At the time they thought it was an excellent idea and I believe they probably still continue to think it is an excellent idea.

We want to see more people living in a vibrant city and participating in all that this city has to offer but, for those people who want to put their head in the sand, unfortunately it means an increase in population, some areas with higher density and a more European-style city. The ABS data that has recently been produced confirms that is the track that Adelaide is on, whether the ZPG people like it or not.

Can I also say that I was delighted to meet with some of the young entrepreneurs in Adelaide who are taking advantage of this new atmosphere and are looking to open up new small venues in our city. The city is on the cusp of becoming far more enlivened. All of those people who doubt this, I invite you to go down to Peel Street and talk to the young people down there, talk to the young people in Leigh Street and have a look at some of the new venues that are opening up around the place.

The young gentleman who was there with us the other day, Mr Stanley, tells me he has seven, eight or nine other friends he knows of who are interested in taking advantage of this. This all feeds into the same picture—sensible higher density city development—and the people who want to approach this debate from the perspective of zero population growth are dealing themselves out of the debate because their premise is completely false.

CAR PARKING LEVY

Mr MARSHALL (Norwood—Leader of the Opposition) (15:01): My question is to the Premier. Will the Premier commit to removing the car park tax once the amount required for park-and-ride facilities has been collected?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:02): No, we will not be doing that.

Mr Marshall: That's what it's for.

The Hon. J.W. WEATHERILL: Well, it's for a whole range of infrastructure not limited to the park-and-ride facilities that it has presently been identified for, and to support our ongoing investment. We have invested $2 billion in public transport infrastructure. We continue to roll out that investment. You might have noticed that we are electrifying the southern line: we are extending it to Seaford. We are continuing to upgrade our services. The most recent announcement by the Minister for Transport Services just the other day was that we will seek to provide better services on the north-south line in relation to the bus services. There is a range of public investments that need revenue to support them, and that is how this particular measure will be applied.

CAR PARKING LEVY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:03): My question is to the Minister for Transport Services. Given the answer of the Premier in respect of public transport, can the minister advise what the government's modelling indicated will be the increase in revenue from bus and train tickets as a result of the car park tax?

The SPEAKER: Premier.

Mr Pisoni interjecting:

The SPEAKER: The member for Unley will come to order.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:04): Thank you, Mr Speaker. Of course, the arrangements that flow from the car parking levy and the effect that they have on people and their usage of public transport is something that will first have to be observed. Generally, Treasury takes a very conservative approach to revenue, as they take a very conservative approach to expenditure, but that is the nature of the way in which they model these sorts of arrangements.

It is unlikely that Treasury will be factoring in increases in revenue associated with increased usage of public transport. It also needs to be borne in mind that public transport is

something that we invest in and generally is a subsidised service. To the extent to which we do that, it actually generates some degree of costs as well. So, what we are talking—

Ms Sanderson interjecting:

The SPEAKER: Premier, would you be seated. I am not going to warn the member for Adelaide for the second time, because I am going to take the view that she was talking to herself. The Premier.

The Hon. J.W. WEATHERILL: The way in which this particular tax and its incidence occur over time and the effect that they have on state budgets will be a matter for future forecasting. At the moment there is no particular forecast increase in revenue associated with that because of an increase in usage of public transport, and that is what you would come to expect from Treasury modelling, which is conservative on revenue uplifts, especially in circumstances where this is not an arrangement that will come into force until the middle of next year.

CAR PARKING LEVY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:05): Supplementary.

The SPEAKER: If indeed it is a supplementary.

Ms CHAPMAN: I know that you will listen carefully, Mr Speaker.

The SPEAKER: As always.

Ms CHAPMAN: Premier, as you have indicated that there is a wait and see policy, how can you justify to the people of South Australia a claim that this new tax will get people out of their cars and onto public transport, if you have got not one demonstrable piece of data on this wait and see policy?

The SPEAKER: Yes, I think we've got the idea. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:06): One pretty apparent and demonstrable piece of data is that some people will be actually going to park-and-ride facilities that take advantage of free services. The tram that goes into the city from the Entertainment Centre I think is one obvious example where people will no doubt take advantage of the opportunities that exist to take advantage of those relatively more attractive and convenient arrangements to go to a park-and-ride facility, to have the advantage of their car so that they can have a range of choices to drop their kids off at school, get to the park-and-ride facility and then go on the free transport into the city, which many will take advantage of.

That will not actually find its expression in any particular revenue effect, except to the extent that it increases usage in those particular areas and may create some future pressure for us to increase those services. Presumably there will be some unders and overs about the way in which this plays itself out. There may be some increased usage in some areas. Some of the increased usage will come from people who presumably will need to be supported in concessions and other ways. They are things that will be monitored over time, but remember this is a tax where we are still consulting. We have had something like 40 submissions in relation to the arrangements. We are considering those carefully. We will design the arrangement. It will be implemented from 1 July next year and we will reflect upon its effect.

CAR PARKING LEVY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:07): My question again is to the Premier. As the government has claimed its car park tax is to pay for park-and-ride facilities, why does the car park tax commence after the promised park-and-ride facilities are completed?

The Hon. P.F. Conlon: Imagine if we started it before!

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:08): That's right. Consider the counterfactual: we started the tax before we built the park-and-ride facilities. There would be howls of derision. I mean, what an absurd question. Somehow we are being criticised by implication in the question for actually investing up front, and this is precisely why we did it—a moment's reflection.

You should show your questions to somebody else in the caucus; they would spare you the embarrassment of asking such a ridiculous question. Of course we wanted to invest first so that we could demonstrate to the people of South Australia that we were getting something in return for this revenue. That is precisely what we were doing. This is an absurd proposition. What they have done with this question is try to get a cheap tow in on a bunch of developers that are running a publicity campaign, and they have decided to tow in off the back of it.

That is really all that has happened today. That is why we have the re-enlivening of interest in this particular matter, and it is absurd to suggest that we should not be publicly investing in park-and-ride facilities to provide people with the support. Of course, park-and-ride facilities take some time to construct and so we wanted those arrangements in place for the commencement of the new levy arrangements.

Members interjecting:

The SPEAKER: The member for Unley is warned for the first time. The Minister for Transport is warned for the second time, and the deputy leader is informed that there will be no Chris Huhne to Vicky Pryce-type transfer of warnings—she's on her last. Deputy leader.

CAR PARKING LEVY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:09): I accept your wise advice, but I only need to be told once. Thank you, Mr Speaker. My question again is to the Premier: given the Premier's ministerial statement, can the Premier advise if the parking at the new RAH site will be subject to car park tax and, if it's not, why has it been put in the proposed draft boundary?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:10): My advice is that the levy won't apply to short-term visitor parking on the grounds of the Royal Adelaide Hospital.

Ms Chapman: Not the current one but the new one.

The Hon. J.W. WEATHERILL: I will bring back an answer to that, but I presume the arrangements will be the same. At the time the levy comes into play, the arrangements will still be in place for the Royal Adelaide Hospital on its present site. That will be the arrangement from that period up until the period in 2016, I understand, when there will be new arrangements for, presumably, parking at the Royal Adelaide Hospital. I will bring back an answer, but I presume the arrangements will remain in the same way, with applicable changes.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:11): My question is to the Minister for Transport Services. In relation to the metropolitan bus contracts, does the minister accept that the government has the responsibility to enter into practical contracts, and that involves checking that services can be delivered for the price that is being offered?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:11): I thank the member for her question. All governments enter into any given contract as responsibly as they should. The contracting out of these particular services which I know that you are alluding to occurred in an upfront, authentic and honest way. There was nothing other than open and honest tendering within the parameters of a privatisation system that was, in fact, set up by those opposite.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:12): My question again is to the Minister for Transport Services: is the minister confident that the Transfield bid was properly assessed by the government, given that the CEO of the Department of Planning, Transport and Infrastructure has confirmed questions were raised within government concerning the extremely low bid price made by Transfield for metropolitan bus services?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:12): First of all, of course, every bid is examined and every bid is questioned. You don't just sort of look at a couple of bids and decide on them without questioning them. Of course you do; of course you sit down with those who are tendering and talk about what it is they are offering for the amount that they are giving you.

The comments that you are referring to were made by Mr Hook, and Mr Hook said quite openly, as indeed he should, that when he received a tender from this particular group he went back to them and he had a conversation with them about what it was that they were offering, and I think that that is completely normal and acceptable behaviour.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:13): My question is again to the Minister for Transport Services: will the minister confirm that her announcement last week that the state government will invest in an additional $2 million per year for bus services will not result in any additional bus services for passengers?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:13): Mr Speaker, may I ask, through you, that the member for Bragg rephrase that question somewhat, because there seems to be a double negative in it.

The SPEAKER: As I recall it, it was: will the minister confirm that there won't be any extra services for the $2 million?

Ms Chapman: Correct. You understood it—just explain it to her.

The SPEAKER: Minister for Transport Services.

The Hon. C.C. FOX: Thank you. I don't think I accept the basis upon which your question is predicated.

Ms Chapman: How do you know what the basis is?

The Hon. C.C. FOX: It was a funny question.

Members interjecting:

The SPEAKER: I warn the member for Adelaide for the second time. There will be no further warnings. She is obviously under the malign influence of the rowdy member for Kavel.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:14): Can I have a supplementary, sir?

The SPEAKER: Yes, you may have a supplementary.

Ms CHAPMAN: Given that the minister is labouring on the lack of understanding of it—minister, will there be any extra service out of the $2 million?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:15): The $2 million to which you refer is, as you well know—as the member for Bragg well knows—the price that we are paying Torrens because that is their schedule of fees. That is the price that they tender to us to offer that service. It is as simple as that. It is not $2 million for anything extra or anything less, it is $2 million for the service that they offer. I would have thought that the member for Bragg would have understood something that simple in this contract.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:15): Of course if we'd had the full contract disclosed to us—

The SPEAKER: No, just ask the question, will you?

Ms CHAPMAN: My question is to the Minister for Transport Services. Will the additional 16 buses that the minister announced last week be providing additional bus services in Adelaide or will there be the same number of services operating as before?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:16): Obviously the way that we schedule the services—and what we're trying to do here is to improve the north-south running times—will be based on a needs basis as we re-regard, as we go back, as we look at how we're actually going to run these lines even better. If Torrens indicate that they need more infrastructure in terms of buses, we are there to help them with that. I think, once again, that that is quite reasonable and as it should be. Will it translate to extra services? I should frankly think so but, at this point in time, Torrens will come on board, we

will look at what it is they need to do, and they can only work that out by actually beginning to run the service. So there are 16 buses, but how Torrens chooses to use them at this point in time is up to them because they are running the service.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:17): A supplementary?

The SPEAKER: If indeed it is a supplementary.

Ms CHAPMAN: Well I think the minister has made it clear that 16 buses are there and available and they'll use them as they need them, so my question is: are you handing over the whole 16 buses to them, or are you just going to give them one at a time as they might need them?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:17): The 16 buses are being made available to Torrens Transit. They are being made available as they wish them to be so, and I believe that that is the immediate availability of those 16 buses. I can go back and I can check that but that is what I do believe at this point in time.

BUS CONTRACTS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:18): Is your glance to me saying that I have—

The SPEAKER: Yes it is.

Ms CHAPMAN: Thank you, sir. My question is to the Minister for Transport Services. Will any of the $2 million announced by you last week for the Adelaide bus services go to the private operator Transfield?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:18): The $2 million is, as the member knows, a payment which is made to Torrens because it is part of the schedule of their fees. This is the price that they ask for to provide this particular service. In relation to any government payments to Transfield, obviously contracts have to be moved slightly and we are aware of that. The member is aware of that and I will bring the details back to the house this very day.

PREMIER'S RESEARCH AND INDUSTRY FUND

Dr CLOSE (Port Adelaide) (15:19): My question is to the Minister for Science and Information Technology. Can the minister inform the house about programs funded through the Premier's science and industry fund, designed to foster international collaboration?

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (15:19): I thank the member for this important question. As you well know, research and development are critical for our state's productivity and prosperity. If we are to grow our advanced high-value manufacturing sector, clearly we need to be innovative and invest in world-class research. That is why I am very pleased to inform the house about the latest round of international research grants that this government has recently awarded. The grants are designed to help local researchers tap into international expertise, supporting them to identify overseas-based research or development partners.

By way of background for members, proposals are submitted and shortlisted with the assistance of our Chief Scientist, Professor Don Bursill, and I would like to thank him for his contribution. They are assessed based on how well they address state strategic priorities. They are then rigorously evaluated by members of the Australian Research Council College of Experts to ensure that they are of the highest standard and that they are likely to achieve the research outcomes. The total value of the government's contribution is $1.4 million over three years. Funding must be matched or bettered by the participating organisation, and so the total value of these collaborations is nearly $3 million.

In terms of the grantees, I informed the house recently about a collaboration between Flinders University and a Chinese seaweed processing company based in Qingdao; in fact, the Premier made reference to it earlier. I am pleased to announce that the South Australian government will strengthen this collaboration, providing $300,000 to Flinders University to assist with the establishment of a seaweed bio refinery. These grants will also support three projects at the University of Adelaide.

One involves working with the von Karman Institute for Fluid Dynamics in Belgium to develop a small satellite-based system that will improve climate change modelling. Another supports work with the German Institute of Photonic Technology on next generation optic fibres. These are aimed at providing new possibilities for sensor technologies in areas such as agriculture, preventive health and the mining industry. The third involves work with the University of Manitoba to improve the nutritional and health benefits of chickens, which are of course an integral part of our quality food industry in South Australia. The government is very proud of this important work. I wish the grantees well.

GRIEVANCE DEBATE

STATE BUDGET

The Hon. I.F. EVANS (Davenport) (15:22): Over the last couple of weeks the Premier and the government have been playing a little game of trying to suggest that somehow all the over-spruiking by this government was done by former premier Rann and former deputy premier Foley, and none of the current administration under Premier Weatherill or then treasurer Snelling was involved in any of this spruiking. The media should not fall for it and the public should not fall for this particular line put out by the Premier.

Just because you speak quietly, Mr Speaker, it does not mean you are not over-spruiking the issue. I just want to remind the house of a few classic examples of over-spruiking by the super spruik himself, the Premier and his sidekick, the then treasurer, Mr Snelling. Going back to last year's budget is probably the classic example. We all remember that classic opening line of the budget speech that:

> South Australia will be a very different place in a few years.
>
> The expanded Olympic Dam mine—the largest open pit mine in the world will be operating.

That was not Kevin Foley saying that, that was not Mike Rann saying that: that was the then treasurer, Mr Jack Snelling, saying that, Mr Speaker—

The SPEAKER: The member for Davenport will be seated.

The Hon. I.F. Evans: I called him by his name, 'the then treasurer'.

The SPEAKER: No; you will be seated. You will refer to him as the Treasurer or the member for Playford and nothing else. It is a rule that, surprisingly, applies to everyone and, surprisingly, the member for Davenport also.

The Hon. I.F. EVANS: Thank you, Mr Speaker. I will also refer to him as the current health minister. The current health minister, the then treasurer, said that in the budget speech. That budget speech, of course, Mr Speaker, as you well know, goes right through the cabinet process. So it was not just the then treasurer who was making that comment: it was the whole of cabinet. Go a little bit further down that particular budget speech and you get the then treasurer saying, quote:

> These savings will ensure that the debt cap I set in December—that government borrowing would never exceed half our annual revenue—is achieved.

Well, Mr Speaker, we can tear up the budget speech, because that particular measure was also over-spruiked. Go back to the very simple issues of the BHP expansion. It was the premier who said, 'I am very, very confident that BHP Billiton's expansion of Olympic Dam will go ahead.' That was the treasurer at the time but the premier also said that the project will transform South Australia by bringing unprecedented wealth and economic opportunity to the state well into the next century. The future leader contested it, the minister for mining (member for West Torrens), 'King Kouts' which is the nickname we all know outside the house. The minister for mining said it was going to be a—

The SPEAKER: The member for Davenport will be seated. Now I call the member for Davenport to order. His use of a diminutive for the Minister for Mineral Resources was deliberate and in contempt of the chair and I will name him if he does it again. The member for Davenport.

The Hon. I.F. EVANS: Thank you, Mr Speaker. The reality is that this Premier is the only minister who has been in the cabinet since day one from the 2002 election. It is this Premier who has been part of the cabinet that has overspruiked for 11 years. It is this Premier who has adopted the same spruiking style as the previous premier and he is not going to get away with saying, 'That was them and this is me.' Even today in question time with the Sustainable Budget Commission question, he said, 'Well, I didn't have control of that issue. That was someone else.' Rubbish.

This government has been over spruiking its performance for a decade, and this Premier is simply Kevin Foley without the disco. He has the same spruiking style. There is absolutely no doubt about that. This Premier is the super spruiker of the government. He has been there every single day of the cabinet and the public are not going to wear this Premier saying, 'Even though I have been there 11 years, it wasn't me, it was someone else.' Rubbish!

AUSTRALIAN CITIZENSHIP

Dr CLOSE (Port Adelaide) (15:27): I have had the honour of attending about 15 citizenship ceremonies since coming into this role and I would like to share my observations gathered over that year or so. The first is the overwhelming sense of pride evident on the faces of the people who are becoming citizens. This pride reminds me as an Australian born citizen not to take belonging to this country for granted. The strength of our democracy, evident in the three levels of government represented at each ceremony, is to be treasured and to be prized. While being signed up to the electoral roll the minute you become a citizen and then rushed through three elections in just over 12 months might feel a bit of a shock to newly minted Australians, better a surfeit of democracy than none.

The scope of our rights to preserve individual liberties is enviable and, thanks to some very good governments here and federally, the services provided to make our lives safe, healthy and productive is similarly the envy of much of the world. It is easy to know this intellectually but nonetheless grizzle about relatively minor frustrations and irritations. It is a wonderful reminder of how fortunate we are to live in Australia, to see the happiness in the faces of the people who have chosen to come and make their lives here.

Second, the number of individual stories that lie behind each face fascinates me. When I am fortunate enough to speak at these ceremonies, I try to vary what I say out of pity for the councillors who have to sit through many of my citizenship speeches, but each time I welcome the people who are becoming citizens I ask them to keep their stories and add them to this country, not to feel that they have to abandon who they are or instantly forget the journey they took to get here. This is particularly important, I think, for those who have had a hard journey, who have suffered, who have had to leave family members and loved ones behind.

I look at the faces of women with their children coming from war torn parts of our world and I wonder what they have experienced. Their journeys may make hard hearing but they should feel that they can tell us what they went through if they want to and that we have to understand that many people who now live in Australia have survived war, torture, refugee camps and loss and have shown enormous courage and resilience to make their way to become Australian.

Third, the richness of cultures in this country surpasses nearly all others. We are a nation of migrants. Admittedly the journey the first peoples took to get here happened many thousands of years ago but come here they did. In the last 200 years we have seen wave upon wave of migration and each has added immeasurably to the quality of our life in our settlements, to the strength of our economy and to the diversity of our culture. I take great delight in attending the festivals and ceremonies of the many cultures that make up the Port Adelaide electorate, and I know we all enjoy the range of food now available here.

When sitting at a playground on the weekend with my daughter, I was also delighted to hear several languages being spoken. Clearly, while functional English is necessary in our country and having a single common language is very important, having people keep other languages alive—be that Kaurna, Greek or Vietnamese—can only add to the richness of our collective culture. My speech today is simply a few words of gratitude for living in this country, for being in a country where people are welcomed from other places and for the number of interesting, skilled and resilient people who are choosing to make their futures here with us.

ARMENIAN GENOCIDE

Mr PISONI (Unley) (15:30): I rise to remember the Armenian genocide. On 24 April 1915 the persecution, displacement and killing of Armenians in Asia Minor began. It is estimated that 1.5 million Armenians died between 1915 and 1923, and the entire landmass of Asia Minor had been rid of its Armenian population. As difficult as it is to comprehend today, there is no doubt the genocide was the result of a deliberate policy of the young Turk government of the day. However, despite all the evidence and international pressure, the Turkish government continues to deny that the Armenian genocide occurred.

Many people have spoken eloquently about the horror of the genocide and the injustice of the denial. In 2009 this parliament moved to recognise the Armenian genocide and the motion received bipartisan support. I was proud to be a part of that debate but today I simply want to give my heartfelt support to South Australia's Armenian community at this difficult time. I know they have found a safe and welcoming home here in South Australia but, despite living safely here, I know there still exists a pain in their hearts that lives like a ghost that cannot move on.

It seems a cruel accident of fate that the peoples of Australia and Armenia observe, just one day apart, what are arguably the most important events of their histories. Our peoples are bound by tragedy but the tragedy of the Armenian people, of course, is so much more harrowing. It is hard to believe that the Australian and Armenian views of the Turkish government of the time could be so different. In Australia we view the Turks of Gallipoli as a noble foe who fought through a tragedy that neither side wanted or deserved. An important development in the relationship after that were the words of recognition uttered by Ataturk in 1934 and later immortalised at the memorial at Anzac Cove.

The memorial and the words themselves are incredibly moving and, above all, healing—so why have the Armenian people not been afforded the same respect and the same chance to grieve and heal as we have. Surely their suffering was greater than ours. Perhaps the wrongs of 1915 through to 1923 were so great that it is easier to forget or deny them than to face up to what your ancestors have done. Perhaps there is a vain hope that over time the grief will just go away and the issue will never have to be dealt with. However, our sins cast long shadows and it is time for the Turkish government to come out from its shadow and into the light.

In no way do I hold the current Turkish government responsible for the genocide, nor do I seek to demonise the Turkish people or the Turkish community in South Australia, but I call on the Turkish government to take the first steps in recognising the genocide. Recognition is a slow process—as we in Australia know—but it must begin now and then the healing can begin for both sides and the ghosts of the past can move on. The Armenian people always remember the pain of the past but they do not deserve to still be haunted by it.

MAY DAY

The Hon. S.W. KEY (Ashford) (15:33): Today I wish to commemorate the fact that tomorrow is May Day. Most people in this chamber will know that May Day really evolved from the Second International, the original Socialist International—this is 1889 to 1916—and is now the Socialist International. This is an international forum for socialist and labour parties. It was the Second International that declared 1 May as International Workers Day, and 8 March as International Women's Day.

International Workers Day was a commemoration from a general strike in 1886 where workers were striking for an eight-hour working day. Unfortunately, this ended in violence between workers and police in Haymarket in Chicago. Over time May Day has evolved into a real celebration day for workers but also to acknowledge the need for workers' rights and conditions to be observed. Over 80 countries celebrate May Day or Labour Day. In some countries May Day is in fact called Labour Day and is an official holiday, and it is also celebrated unofficially in many other countries.

Sadly, the call for a holiday on May Day in South Australia has not been successful. I have been involved in trying hard for this to happen, but different ministers for labour and industrial relations on both the Liberal and the Labor side have ignored these calls for a holiday. We do however have a traditional day with regard to Labour Day, which is recognised in October each year.

In South Australia I am pleased to say there are a number of activities. As a life member of May Day, I am very proud to see that May Day is still a really active group. We have International Workers' Day—a memorial day. There is a church service, which this year was held on 28 April (last Sunday) at the Pilgrim Uniting Church, where certainly the community gets together to commemorate a memorial day for workers. At the service there was a balloon release signifying unity for workers and their conditions and also in memory of those workers who have been lost due to their work, and then afternoon tea.

Tomorrow night I am hoping that parliament will rise at 6 o'clock because it is the South Australian May Day dinner at the Cypriot Club. The speaker is Jack Mundey who, for a number of us in the trade union movement, has been an inspiration and leader. I am really keen to get there

so I hope we do not sit late, Mr Deputy Speaker. I do not know whether you can influence this in any way, but it would be very helpful.

On Saturday we have the traditional May Day march. Interestingly, in 2013, the themes are job security—something that is very real to a number of us in South Australia—wage justice, safe work and also the eight-hour day. There are a number of workers who have not achieved an eight-hour day. Certainly, I know a number of people in this chamber who work more than eight hours a day. That will be going from Hindmarsh Square to the Torrens Parade Ground.

Also, there is a very important ceremony, which I know both the federal and state members for Port Adelaide are very keen on, on 5 May at the Port Adelaide Workers' Memorial. This is in St Vincent Street in Port Adelaide, and this year we are commemorating the late and great comrade, Rex Nunn, who has always been an inspiration to the trade union movement, certainly in my time.

The other important occasion is something that I must say I look forward to every year. I am hoping that I will get my annual supply of Kalamata olives at the Greek workers' association May Day dinner. I did mention at one dinner that I was very keen on olives, and I have been presented with a huge jar of homemade Kalamata olives each year.

ANZAC DAY

Mr WHETSTONE (Chaffey) (15:38): I rise to speak about some of the ANZAC Day ceremonies I attended last Thursday. As the Last Post rang out across the Riverland and the Mallee on ANZAC Day, thousands of people in Chaffey reflected on the sacrifice by Australian men and women to protect our country. These people endured unimaginable horrors, but when their mates fell down, they were there to pick them up, all so that we can live with the opportunities and freedom we enjoy today.

Thousands of people attended services across the region on Thursday 25 April to pay their respects with some of the biggest attendance numbers that the region has seen in recent times. What was most encouraging was the presence of the younger generation and it seems to be growing year by year. At one local service, I spoke to a Loxton World War II pilot, Howard Hendrick, who completed 31 bombing missions over Europe, and in May 1945, Mr Hendrick was awarded the Distinguished Flying Cross for his service to 460 Squadron. He said that, for many years, he did not talk openly about his war experiences but that, in the past seven or eight years, he had been passing on his experience to the young by speaking to various community organisations and helping our youth to learn about the world wars. At 94, he still flies at the Loxton Aero Club.

I also spoke to Harry Lock, a Renmark man, who enlisted in the Australian Army in 1940 when he was just 19 years of age. He told me that there were rats in holes that would never get out, yet it was the mateship that got them through. It is Renmark's John Lill who is believed to be the Riverland's last surviving World War II prisoner of war. John's wife, who was told he was missing in action, always believed that he was still alive. Today, John believes that there will never be a more important day than ANZAC Day.

Travelling the region, judging from what I saw when attending the services at Barmera, Renmark and Waikerie, attendances have never been better. At Renmark, they marked 100 years since the Royal Australian Navy conducted its first ceremonial fleet into Sydney Harbour. At the Berri RSL service involving 90 students I met Meg Gillespie, a school prefect, who addressed the 200-strong gathering. She said that she was 17, the same age her grandfather was when he landed in Gallipoli.

Again, in relation to unmarked veterans' graves, as has occurred over the past five years, Renmark Girl Guides this year joined with the Renmark Scouts in visiting Renmark, Paringa and Lyrup cemeteries and putting flags up at ex-servicemen's graves. My personal highlight of the Renmark service was the old war plane flying over as the Last Post sounded. It was an ex-military 1955 Trojan used in the Vietnam War—1,425 horsepower just jugging along. It really did bring a tear to many eyes.

Our service men and women showed strength, courage, determination, endurance, mateship and, above all, bravery. Thousands of Riverlanders working on fruit blocks left their families behind and enlisted to fight, and some never returned to see their loved ones. It is fitting that the number of people attending ANZAC Day services across the region is increasing, and the younger generation is further realising the sacrifice these men and women made.

One thing that really was very moving, particularly at two services I attended, was the presence of the young and the involvement they are now having with the ANZAC Day services. It really was a bit of a tear-jerking moment for me to look across to see four generations of family there—a great-grandfather, a grandfather, a father and his children—and to see those young children in tears, finally realising exactly what ANZAC Day represents, exactly what their forefathers had done to preserve this great country we live in.

It is a great affirmation that our younger generations understand what ANZAC Day means to this great country, the sacrifices that men and women made, the ultimate sacrifice some made and realise exactly what they had done and demonstrated to safeguard our borders.

DUTCH FESTIVAL

Ms BETTISON (Ramsay) (15:43): I rise today to share with the house a recent festival in the northern suburbs, the Dutch Festival, held on Saturday 27 April. The Dutch Club at Greenfields holds this festival annually to celebrate the Dutch Queen's birthday. The festival was opened by the Consul for the Netherlands, Willem Ouwens. The official guests included myself, Gillian Aldridge, Mayor of Salisbury and councillors Betty Gill and Brian Goddall. Also, David Pisoni was in attendance.

It was a family-friendly festival, with face painting, jumping castles and many market stalls, including a stall selling a fabulous array of Dutch groceries. There was live music by the music duo, Dutch Treat, and klompen dancing demonstrations in what were some fabulous yellow clogs. One of the best aspects of the day was the interesting Dutch menu that was being served both inside and outside the club, including herrings, which I have to say I did not decide to participate in—they were a bit spicy, with their fresh onions—croquettes, sausages, and not forgetting some fabulous Dutch pancakes. Also, which was really interesting, was the availability of nasi goreng, which is a nod to the colonial heritage with Indonesia, the former Dutch East Indies.

The Dutch Club is a long-established community club in the northern suburbs and provides social connection for people of Dutch descent throughout South Australia. I would like to thank the committee—club President Gerrit de Vries, Vice President Bob van der Hoeven, Treasurer Eddy Korver and Secretary Connie Kramer. The club plays a very active role, offering a cafe and shop and also a function centre. Some of the most famous annual events they hold are the Saint Nicholas Ball and a New Year's dance. More importantly, they provide a very strong role of supporting people coming together socially as a community. Some of their regular events include 50 Plussers, Windmill Ladies, Gentlemen Matins, a billiards group, the Klaverjas cards group and the New Year's Dive.

One of the interesting things about our Dutch community is the majority of Dutch migration occurred post World War II, with 1952 being the year of highest migration of Dutch people to Australia. Many settled in Australia after Indonesian independence. The census estimates there are more than 300,000 people of Dutch heritage living in Australia. The people at the Dutch Club pay particular attention to the fact that this is a very interesting time in Dutch history with the abdication today of Queen Beatrix in favour of her son Prince Willem-Alexander. She is 75 years old and has reigned for 32 years over the Kingdom of the Netherlands.

BUS CONTRACTS

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (15:47): I seek leave to make a brief ministerial statement.

Leave granted.

The Hon. C.C. FOX: During question time the member for Bragg asked me a question asking, 'Will any of the $2 million announced by you' (that is, me) 'last week for the Adelaide bus services go to the private operator Transfield?' I responded to her that the $2 million was, as the member knew, a payment which was made to Torrens. I then said if there was any different detail in that I would bring the detail back to the house this very day. I was 100 per cent right and I stand by the initial answer to the question. I would just like to clarify that. There was nothing more to say.

WORK HEALTH AND SAFETY (SELF-INCRIMINATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. I.F. EVANS (Davenport) (15:48): We are about to debate the government's amendments to the Work Health and Safety Act.

An honourable member interjecting:

The Hon. I.F. EVANS: I assume the Minister for Industrial Relations is on his way; otherwise the Minister for Finance might have fun answering the questions. This is a bill brought before the house only weeks after the government had brought into play the new Work Health and Safety Act which commenced on 1 January this year. The Work Health and Safety Act, which this bill seeks to amend, is the result of well over a year's worth of negotiations, discussions and debate, and many years of debate at the commonwealth level where they sought to get a harmonised approach, Australia-wide, to work health and safety. The outcome is there is not a harmonised approach Australia-wide—different jurisdictions have done different things—and this amendment seeks to deal with section 172 of the new act. The new act has only been in place since 1 January this year.

When the minister came in and dropped the amendments on the table initially the industry groups were horrified, and quite rightly so, because the minister had dropped the amendments on the table without consulting the key industry groups. There was quite a lot of disquiet and anger amongst the industry groups because they had just gone through an enormous process of negotiating the whole Work Health and Safety Bill, made concessions and undertook negotiations on certain wording and certain clauses to achieve an agreed outcome. They were horrified that only a matter of weeks after that bill was passed and then commenced on 1 January the government, without consultation, walked in and dropped on the table an amendment to section 172, which is all about the protection that is offered with regard to self-incrimination for the provision of evidence or documents.

It would not be an unfair characterisation to say that some of the industry groups were concerned that they had been dudded—that after 15 to 18 months of consultation all of a sudden the government walk in and say, 'Well, even though we have negotiated all of these outcomes, here we are a matter of weeks later and we are now going to come in and try and change this particular provision.' The opposition stood firm and said that it was not prepared to debate it unless the government undertook some consultation process, so the government then went out and undertook some consultation process with the industry groups.

The government ended up writing to the industry groups offering to amend its own amendment, and it offered three options about possible wording to amend its own amendment. Having spent many months/years negotiating the outcome of the legislation and having got the legislation up and running on 1 July, the government dropped on the table its own amendment in relation to section 172, and then when it is encouraged (to put it mildly) to go and consult the industry groups it actually ends up writing to the industry groups with three different provisions. We are now about to debate this particular bill in which the government is going to move its own amendment to its own bill to try to fix a problem to do with section 172.

In fairness to this minister—the current Minister for Industrial Relations, the Deputy Premier—he was not in charge of the negotiations of this particular bill when it went through the parliament. I took the opportunity to get a briefing from the government on this particular bill and the proposed amendment because, as the house knows, I am no industrial relations lawyer, I am just a humble builder who ended up in parliament. What absolutely staggered me was that the government proposed amendments to section 172 in the original debate in the other place. There were three people who proposed exactly the same amendment to section 172. They were the Hon. John Darley, the then minister (the Hon. Russell Wortley) and the Hon. Rob Lucas for the opposition. They all tabled exactly the same amendment to section 172, which ended up being adopted by the upper house and put into the act, and it is that provision we are seeking to amend today.

When I got a briefing from the government officers—and I appreciate the briefing from the government officers. We had a lot of fun trying to give me an industrial relations lesson in half an hour on how these matters work, and I appreciate them putting up with me and all my nuisance questions (probably to them), but I am a simpleton in these matters and I like to understand how these things work. What happened was that we discovered that, on the amendment to section 172 tabled by the government and moved ultimately by the Hon. Rob Lucas, the government never sought legal advice. It never sought crown law advice on that particular amendment.

It absolutely staggers me that the government can be negotiating this particular bill for basically over a year in public debate, with all the consultation that was held upstairs for many months and, on the key clause about self-incrimination and whether individuals are exposed to providing evidence and incriminating themselves, the minister himself, on behalf of the government, tables the amendment, and the opposition tables the amendment—because that is the one the industry groups want and it is all negotiated—and the government never took the opportunity to get crown law advice.

So the bill is passed, all in good faith, because we all understand; they all debate what the bill is going to do and they all compromise and negotiate on that basis. Lo and behold, five or six weeks after the bill starts, the government is back here saying, 'Well, guess what? That clause has got a problem with it.' The problem that the government says it has with the clause is open to debate. Whether it needs amendment or not is open to debate, because what has happened is that we have asked the government, 'Well, okay, what's the problem?'

The government's advice essentially is, in broad terms, that there are three cases at the time of the advice—there might have been more since, but there were three cases at the time of the briefing I had—where lawyers have advised their clients to say they are not going to answer questions because it might incriminate them and the lawyers, or the people who are seeking this defence are corporations, not necessarily individuals. In two of those cases I think it is a corporation seeking that defence. On the other one, I am not convinced whether it is a corporation or an individual; we will put that one aside for a second.

There are a couple of them at least where lawyers have advised a company to say, 'Look, under this new provision—section 172—there is a grey area as to whether the self-incrimination protection applies to corporations and not just individuals.' In section 172, the word that has been put in is the word 'person' as distinct from 'natural person' or 'individual'. The word 'person' is not defined in the Work Health and Safety Act. So you go back to the Acts Interpretation Act and the word 'person' can mean a natural person or, indeed, a corporation.

So there is some dispute in the private sector as to whether section 172, because it uses the word 'person' and not 'natural person' or 'individual', therefore provides a defence to corporations to say, 'Well, I am actually not going to give you the information you seek because it might incriminate not only the individuals but the corporation.' The reason I say there is some dispute about this is the simple fact is that the government has blinked.

What has happened is that the government has brought in a new law and, five or six weeks after the law has been brought in, the advice has been given by these lawyers to the two or three cases, that I have talked about, and the government has decided not to test the legislation in a court. I am not even sure if they threatened to take them to court—I might ask that of the minister in due course—but certainly they have not taken it to court to get the court's interpretation as to what 172 means.

There is some dispute amongst some highly qualified lawyers in the private sector who argue that, in actual fact, section 172 does not need amending at all; it is as the parliament intended. So the government has decided it is going to amend section 172 and it has floated, as I say, three options to amend section 172. One was to leave it as the original bill intended; the other option, from memory, was to replace the word 'person' with 'natural person'; and another option was to replace the word 'person' with the word 'individual. Now, as luck would have it, I consulted on that particular question because the government sent me the letter that they'd sent out to industry groups, so I thought I would ask the industry groups what they thought was the right wording. As luck would have it, believe it or not, the industry groups are quite divided on whether it should be 'person' 'natural person' or 'individual'.

This is important because this particular clause—and there was some suspicion from the industry groups when this amendment came in initially, because it is the central clause to protect individuals from self-incrimination, and this is the clause they seek to amend. So, this clause provides an individual the opportunity not to answer questions and not to be interviewed and produce documents, because doing so may incriminate the individual, and so there is—as I understand it, and I will ask the minister this to confirm—a defence that allows individuals to say 'Well, I'm not going to do that because it might self-incriminate me.'

What has been established through all this process is that the common law position, the government would argue and the Law Society would argue, is that the right to a defence for self-incrimination applies to individuals only and not corporations. There is a High Court case

EPA v Caltex, if my memory serves me right, which establishes this principle that corporations have no defence to self-incrimination, so I think that that has been established, and then it is a matter of, if you are going to amend the act at all, how are you going to amend it.

The minister will be pleased to know that the opposition is not about to try and rewrite this particular provision from opposition. We are going to bow to the legal superiority of the government resources, and if the government thinks that this wording is going to fix this particular matter, then the government is going to have its amendment, because the opposition has consulted, the government has consulted, and the government has come up with this particular solution to this particular problem.

Far be it from me to cast any doubt on the government's solution because I am not legally trained like the minister, but I did note with interest that the South Australian Law Society has some concerns with the government's amendment—not the principle of Caltex v EPA in the High Court, with which I know the Attorney-General would be familiar, not with that particular principle—what they are concerned about is whether the amendment should read 'individual' or 'natural person'. The government has opted for the amendment to read 'individual'. The Law Society says:

I refer to your letter of 2 April 2013 inviting the Shadow Treasurer, the Hon. Iain Evans MP, to consider the Government's proposed amendment to s.172 of the Work, Health and Safety (Self-Incrimination) Amendment Bill 2013.

This was a letter to the Attorney-General so I am sure the Attorney-General is familiar with it.

For your information, Mr Evans provided the Society with a copy of your letter for the purposes of consultation and accordingly we make the comments outlined below. We have also provided Mr Evans with a copy of this letter. Thank you for the opportunity to give comments on the bill. The matter was referred to the Society's Industrial Relations Committee—

Mr Speaker, which is obviously a highly regarded committee—

and Criminal Law Committee. Due to time constraints, this submission incorporates comments from the Criminal Law Committee only.

3. In our previous submission of 19 February 2013, the Society noted that under common law, the privilege against self-incrimination does not apply to corporations, however the current wording of s172 of the Work Health and Safety Act 2012 (the Act) has been interpreted by some parties to suggest that the privilege applies to both corporations and individuals.

I note that the Law Society does not say at that point that they agree with that, they just note that some people have taken that view. It continues:

4. The Bill initially proposed to delete the word 'A person' and replace it with 'A natural person' so as to limit the privilege against self-incrimination to natural persons only. Following consultation, the Government proposes to amend s172 as follows:

'An individual is excused from answering a question or providing information or a document under this Part on the ground that the answer to the question, or the information or a document, may tend to incriminate that individual or expose that individual to a penalty.'

5. The Society understands that the revised wording is favoured by local businesses and employer organisations in preference to the initial proposed wording, however it is not immediately apparent why.

6. In our view—

which is the Law Society's view—

the phrase 'natural person' is clear and unambiguous. The same we suggest, cannot be said of the term 'individual'.

7. There is a risk that 'individual' may be interpreted by some to mean all legal entities, including body corporates. In saying this, we acknowledge that the term 'individual' in Commonwealth legislation means a natural person: s2B Acts Interpretations Act 1901 (Cth). However, it is worth noting that 'individual' is there defined to mean 'natural person'. There is no clearer statement of the definitive nature of the phrase 'natural person' than for it to be used to define another term.

8. Our concern—

the Law Society's concern—

is that the term 'individual' may lead to body corporates asserting that they are covered by s172 on the basis that the term encompasses body corporates. In our view, there is no room for such interpretation if 'natural person' is used.

9. Accordingly the Society submits that the proposed amendment to s172 of the Act tabled in the House of Assembly on 6 February 2013 is preferred because it is clear and unambiguous.

So, that is the legal representative's view on this particular matter; but as I was saying, I am not legally trained. The opposition is not about to try to rewrite this legislation. The government has access to the crown law department which has, I cannot remember how many hundreds of crown law officers, but certainly more than we have got in opposition, and we are going to accept the government's advice that this fixes the problem.

This all relates to section 172. This was subject to a lot of discussion in the other place. I took the opportunity to contact the Hon. Dennis Hood and the Hon. John Darley to check that in their negotiations in their debate it was not their intention to give corporations the power or the defence of self-incrimination, and they advised me that it was not their intention, and I thank them for that advice.

During the committee stage I will be asking the Attorney if he has taken crown law advice this time, because when the Hon. Russell Wortley tabled the original amendment to this bill upstairs no crown law advice was taken at that time, and that might be why we are here. I also want to explore this question in relation to how this provision now works for a sole director company. So, if Iain Evans, individual, is the sole director of Iain Evans Pty Ltd (a corporation) and an incident happens in my workplace, how does this provision actually work? If the SafeWork officers come to me and seek to interview and consult me they are caught initially by section 171. Section 171 describes what happens in relation to a person which includes a corporation or an individual (it doesn't say 'natural person' but 'person'). It describes what happens when the inspector comes into the site and wishes to conduct an interview.

What I want clarified is this. Iain Evans as an individual is the sole director of a company. An incident happens at my workplace, the SafeWork inspectors come onto my property and they seek to interview me as an individual. I say, 'Well, because of the detailed argument in the House of Assembly and the agreement between the houses and because of common law and the high court case of EPA v Caltex, I am actually not going to answer that question because it might self-incriminate me. So I don't have to answer it as an individual, I don't have to provide documents and I don't have to continue the interview.' At that point the SafeWork investigator can go back to the office and come back in and decide they are going to seek information from Iain Evans Pty Ltd.

At this point I start to seek clarification. Can Iain Evans as an individual, as the sole director of Iain Evans Pty Ltd, refuse to answer questions? If the corporation hands over the documents or answers to the questions, then that exposes me as the individual to prosecution or penalty. So, how the line is drawn between Iain Evans the individual and Iain Evans the corporation becomes the issue.

Section 172 as it presently stands extends to all matters that are outlined in section 171 which is the provision that deals with the interview process and the entry onto the property by the SafeWork inspectors. Section 171 applies to requests from the inspector to produce documents and any questions including answering who has custody of a document. My understanding of it is that corporations cannot give oral evidence. Corporations can only give documentary evidence. I will be seeking clarification of that in the committee stage.

The other issue where I am not sure is in a corporation, can the officers legally obtain information from an officer who is not authorised to provide that information? Are they obligated to only seek the information from officers as authorised? How does that process work? How do the SafeWork inspectors establish who is an authorised officer within the corporation to give the documentary evidence to the SafeWork inspectors?

The other issue that I want clarified is as it was explained to me in the briefing. As I understood the briefing it is quite possible for the SafeWork SA inspectors to ask me questions as an individual. I take the self-incrimination defence. They then rerun the questions to the corporation. Having established the facts out of the corporation and knowing where the problems are occurring, they then try to prove those errors and problems through other avenues. I was advised that was 'normal investigative practice'. I want to get that on the record. If the corporation cooperates with the SafeWork investigators, is it possible for me as an individual to be subject to penalty?

If the corporation is approached by a SafeWork investigator and they seek all these documents about a particular incident and some offence has occurred, does that mean that I, as the individual director, then become liable for some penalty so, even though I have taken the self-incrimination defence and the corporation has provided the documents, I still get the penalty? I am

not quite sure how the self-incrimination defence then helps me in those circumstances if I end up with the offence anyway. I am trying to establish exactly how that works.

The other question I will put to the Attorney during the committee stage is: when you approach a corporation can I, as an individual, refuse to provide information because it would incriminate me? Even though you are approaching the corporation I am still the individual providing it, so at what point do I lose my individual rights?

That is the background to this particular debate. It is regrettable, in my view, that on such an important piece of legislation and in such an important clause the then minister (and I will just repeat that it was not this minister) failed to get crown law advice on the impact of an amendment that the minister was going to move himself in another place. I assume that amendment went through cabinet, because quite often a lot of the amendments go through cabinet/caucus to get into the parliament. They are the issues.

In fairness to the industry associations, it is not unanimous; industry support for these amendments is nowhere near unanimous. There is a mixture of 'The government said there would be a review in 12 months' time and we should not change anything for 12 months.' The government's response to that in the briefing was that that means that every lawyer in Adelaide will use the self-incrimination defence for both corporations and individuals and that would back up the case load or the investigation load. Then, at some point, the government would have to test it in a court and take one of the cases on and run it through the court. The government argues that it does not want to do that, for whatever reason.

Other industry groups say that they are reluctant to have it amended. Rather than the blanket wait until the 12-month review there are others who say that they would prefer to wait for the 12-month review but if it is going to be amended then they probably think the wording of 'individual' is the amendment that should be agreed to. There are other industry groups that say that there has never been a defence of self-incrimination for corporations; that was never the intent and if there is a grey area should be covered off. Those groups are generally in the majority.

The opposition is not going to seek to defeat the bill or the amendment. It is going to let the government have its wording, and we hope that fixes this particular matter. There are only one or two clauses in the bill, and we are hoping the Attorney might be generous in the number of questions we can ask, because there are a number of matters and three questions per clause just will not get there and I do want to get on the record exactly how this works. With those few comments, we look forward to the committee stage.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (16:18): I thank the member for Davenport for his contribution. I indicate that I am happy to answer, to the best of my capability, every question the member for Davenport might wish to ask in the committee stage and there will not be any of that business about saying you only have three questions and all that nonsense. I am happy to do my best to answer those questions.

Can I say that I was a little bit surprised myself when it was brought to my attention that this problem existed at all, because it has always been the case, as I understand it, that provisions such as this apply to natural persons and not to corporations, as the member for Davenport has already said. However, I have been advised that there is ambiguity about this, and, whilst there is ambiguity, that means there are some people who may try to chance their arm by refusing to cooperate and behaving in a way that is obviously not conducive to the smooth operation of the legislation. Having been presented with that advice, I really thought I had no alternative other than to bring the matter to parliament and bring it to parliament as quickly as possible.

The second thing is the question as to whether or not the words 'natural person' or 'individual' would be better. I have to confess—and I confess to a number of things, including being a lawyer—that as far as I am concerned, 'natural person' is the perfect formulation which is why my initial preference was to use the terminology 'natural person'. The reason that we are using the word 'individual' is that, having spoken to many bodies, many industry groups and so forth, all of whom had their own legal advice, they came to the view that they did not really want to argue about the principle—because none of them I think were seriously contending that companies should be immune—but they preferred the formulation 'individual' to the formulation 'natural person'.

I have asked those who advise me to check whether there is any material difference in law between the use of the words 'natural person' and the use of the word 'individual'. They say that they are, in effect, interchangeable; that is the advice I have received. Personally, if I were picking,

I would go for 'natural person', but because we have gone through a consultation process and we have some degree of consensus about this, and that degree of consensus has formed around one word rather than another, I am not going to be pedantic about it and say that I insist on my view and not the consensus view, given that the legal advice that I have received is that there is no material difference between the two.

In relation to the Law Society, therefore, in general terms I agree with what the Law Society had to say, although my advice is that their concerns about the word 'individual' being ambiguous are unfounded. I am left with a position where the debate about 'natural person' and 'individual' is really one of style or preference, or so I am told. My personal preference, being a bit of a traditionalist, would be 'natural person' but, as I said, we have spoken to a whole bunch of people. The preference and the undertaking we gave to those people was that we would advance the terminology 'individual' and we are keeping faith with that undertaking and therefore advancing that terminology.

However I do so—and I emphasise this to the member of the Davenport—only on the basis that I am advised that the material difference between the word 'individual' and 'natural person' is zero in this act. Were that not the case, I would not be prepared to do this. It is only because I have that advice that I am prepared to do this as 'individual' rather than 'natural person'. In the face of that advice—as you say, several hundred brains of enormous capability thinking about this have come to this consensus position—who am I to argue with them? So, I am not going to.

The Hon. I.F. Evans: You're the Attorney.

The Hon. J.R. RAU: I know, but anyway, that is what I have to say about that bit; so, hopefully, we do not have to spend too long on that. Another matter that the honourable member raised was: how do you know whether you are being spoken to as an individual or as a corporation? If you look at 173 of the legislation, this requires a certain procedure to be gone through before questions are put to a person pursuant to an investigation. Section 173 provides that:

> (1) Before requiring a person to answer a question or provide information or a document under this Part, an inspector must—

not 'may': 'must'—

> (a) identify himself or herself to the person as an inspector by producing the inspector's identity card or in some other way; and
>
> (b) warn the person that failure to comply with the requirement or to answer the question, without reasonable excuse, would constitute an offence; and
>
> (c) advise the person about the effect of section 172—

in other words, advise them of their rights in respect of the effects on an individual of answering those questions, and then advise about the effects of section 269, which is legal professional privilege. The way in which this would pan out would basically be that, in most instances, it would not be particularly confusing because the company would be bigger than the particular person to whom the inspector was talking.

The member for Davenport raises a very important issue about a sole trader who has decided, for example, to have a corporate structure. In that sense, I think that we need to bear in mind a couple of things. The first one is that there are two sets of penalties contained in this legislation. Obviously, you cannot imprison or hurt a company. We do not hurt anybody these days, of course. The member for Elder was here a while ago talking to me about a famous formulation about damage to the body or the soul. Either way, corporations have neither. So, the only way in which you can punish a corporation is by way of a fine or some restriction on their activity. An individual can be punished in a number of ways. They can be fined, yes, but they could also potentially be imprisoned.

The Hon. R.B. Such: Or elected to parliament.

The Hon. J.R. RAU: Or elected to parliament; the member for Fisher is quite right. The way in which I would see the matter proceeding in the hypothetical the member for Davenport raised would be something like this: the inspector turns up at the member for Davenport's premises and says, 'Rightio, I'm an inspector; here's my badge. There's been an accident here or an occupational health and safety issue. I want you to answer some questions. I must advise you about your rights under section 172. Section 172 provides that you as an individual are excused

from providing any information or document under this part on the ground that the answer to that question might tend to incriminate you or expose you as a person to a penalty.'

At that point, you can say, 'Right. You ask your questions but, if I get to one I don't want to answer, I'm not going to answer it because of what you've just told me,' and you are perfectly entitled to do that. They might also say to you—and this is the bit where it probably gets a bit difficult, nonetheless it is real—'Okay. I'm now not asking you about you the individual. I'm seeking information about the activities of the company,' and then they might ask you some questions about the activities of the company, you having already made it clear that you are providing no information at all as an individual.

If we step back from this for a moment, under the Police Act—and the honourable member has been, I think, minister for police in the past and would have some familiarity with this—a police officer can be obliged by the commissioner to answer questions pertaining to a disciplinary matter and can be directed to answer questions pertaining to a disciplinary matter, but the answers provided to the commissioner, pursuant to a direction under that section, cannot be used against that member in other proceedings. That is, in effect, what we are dealing with here.

I know, in the case of a sole trader who is a company, that sounds a little bit artificial, but it is no more artificial, really, than the police officer who has the commissioner say to them, 'I direct you to tell me what you were doing, who you were speaking to, what was said, blah, blah, blah, on these occasions, because I have a charge against you for a disciplinary matter.' But the member knows, in answering those questions, that member is not disclosing information that the commissioner is then able to use against that member in any other proceedings.

The Hon. I.F. Evans interjecting:

The Hon. J.R. RAU: In the disciplinary proceeding, yes, but what I am trying to explain is that it is not an unusual thing for a direction to be given. Another example is in royal commissions. People can be directed to answer a question by a royal commissioner, for instance, but the consequence of them providing the answer to the royal commissioner pursuant to a direction of the royal commissioner is that that answer is not admissible in evidence against that person in other proceedings.

A similar example will exist under the ICAC when it is operational. The ICAC commissioner will be able to call somebody before the commission, if they have got an investigation under way, and they might be able to say to you, 'Mr Evans, I direct you to answer these questions,' and you can be imprisoned, potentially, for refusing to answer a question when directed to do so by the commissioner, but what can be done with your answer is a completely different matter. That answer cannot be used in evidence against you in criminal proceedings.

This happens all over the place. I have given a couple of examples. The last two are pretty well the same example, the ICAC and a royal commission, but I think the police disciplinary proceedings and the prosecution of a police officer for a criminal offence are equally valid examples. There is that distinction. In practice, what would happen? You would say, 'I'm not answering your question as an individual. I refuse on the ground it might incriminate me.' Okay; they say, 'I want this information about what the company was doing,' and you then provide certain information.

That information could lawfully only be used to prosecute the company, and the company could only be punished by way of a fine. Again, this problem exists in many places but, if you and the company are identical, then it comes out of the company's pocket or you pour the money into the company's pocket, or whatever, or the company cannot satisfy the fine, in which case it is the company that has not paid the fine, not you.

There is a distinction which I accept, in practical terms, starts to get very difficult to comprehend when you are down to a single entity being the only director, manager, shareholder and the only operator. I agree that at that point of singularity, if you like, some of these laws start to look a bit odd but, conceptually, they are quite clear. As soon as you get beyond that point of singularity where you have got a company which has more than one person in it and has employees and you get into a far clearer environment, and then when you have got the management on one side and the employees on the other, it is crystal clear.

I do not think the problem that we are dealing with here is unique to this legislation. Again, if an individual is called before the ICAC commissioner or a royal commission and the individual is directed to answer a question and therefore they are personally immune to any consequences

through other legal avenues such as a criminal prosecution by reason of having given that information, if that same information is capable of prosecuting a company for that offence, there is no barrier now on that information being used for that purpose.

As I said, I know that at what I will call the point of singularity where it is all in the same space it is practically difficult to extract this, but the concept is relatively straightforward: you are wearing one hat as an individual and you are wearing another hat as a company. To the extent that the individual might be exposed to a penalty involving imprisonment, the critical difference is that this self-incrimination provision will mean that that person is not exposed to that possibility, because you cannot imprison a company and the only person who might be prosecuted by reason of that information might be the company, if that makes sense.

To take the member for Davenport's example again, we have the member for Davenport personally and then we have Iain Evans Pty Ltd. If they go to the member for Davenport and say, 'Please provide this information,' the member for Davenport says, 'Hang on, I have read section 172 and I am not going to provide that information. I don't have to and I refuse.' Then they say, 'Okay, fair enough, we are not asking you now because we are interested in in any way pursuing you Mr Evans. We want to ask you some questions about Iain Evans Pty Ltd.'

You then provide answers, and let's say those answers enable them to launch a prosecution. When the summons turns up, the name on that summons will not be Iain Evans, it will be Iain Evans Pty Ltd. Any conviction will be of Iain Evans Pty Ltd, not Iain Evans, and any penalty would be visited on Iain Evans Pty Ltd, not on Iain Evans.

I understand your point: that the distinction at that point where you and the company are virtually indistinguishable might be academic from your point of view, except you will not have a criminal record for that—you personally, member for Davenport. You would not personally have a criminal record for a breach of that provision, it would be the company that has a record for having been convicted for a breach of whatever. My advisers are happy with that. That is basically how it works, but if there are any more questions—I have probably gone on a bit. I think we need to go into committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. I.F. EVANS: Thank you for your explanation in the second reading. I will go back and revisit and clarify some of the issues so I am crystal clear. I am right with Iain Evans wearing a hat as an individual and the defence, and then we go to the corporation. Is it possible for the corporation to be interviewed—as in, can they stand there and interview me and ask me questions, and I answer as the corporation, or can the corporation only be asked questions by way of letter?

The Hon. J.R. RAU: I think the answer to that is that an authorised officer or competent officer of the corporation is the only way by which the corporation can communicate and it would be a matter, I guess, of whether the inspector was happy with written responses. I suspect that the most likely answer to your question is the inspector would say, 'Are you the authorised officer of the corporation authorised to speak for and on behalf of the corporation?' If you are the corporation, then you necessarily must be that person and they would then ask you whatever questions.

I have been advised that the chance of this sort of event occurring is pretty small because I do not believe it would be seen as being probably the best way to proceed, as a matter of course. Indeed, the idea is that assuming this goes through the parliament, there would be some sort of guideline issued to all of the inspectors about how they are to go about doing this business. I would be happy to talk to the member for Davenport about that and make sure that it is in plain language and comprehensible to all concerned.

The Hon. I.F. EVANS: So, my understanding of your answer is that if I am an authorised officer of the company, it is possible for me to be interviewed and asked questions.

The Hon. J.R. RAU: Correct.

The Hon. I.F. EVANS: The minister says on the record.

The Hon. J.R. RAU: As the company, not as you the human being.

The Hon. I.F. EVANS: Yes, I understand that. So, then at that point, if Iain Evans the company is answering a question that Iain Evans knows is going to lead to him being prosecuted if he was an individual, at that point, am I, as the company representative, able to say, 'I am not answering the question; I am taking the self-incrimination defence'?

The Hon. J.R. RAU: I think this is a highly academic question, but the answer is no, you are not, because you are then speaking as the company, not as you. In the hypothetical we have been discussing today, you would have already made it clear that you in your own private capacity as a human being are not saying anything to them. So, whatever information they get is information about the company, not information which is an admission of any type by you.

I should say that operationally, at that point, I am advised that they would stop; that SafeWork would not proceed at that point. I am advised they would not take that any further, but you are asking me the legal possibilities; I am giving you the answer. We are talking here in sort of, you know, 'What happens if a meteor hits earth tomorrow afternoon'—I think that is where we are at presently—but the legal answer to your question is as I have just given.

The Hon. I.F. EVANS: I am just trying to get on the record—for those who are not legally trained—a better understanding of how this works. So, at that point, if I am legally not entitled to take the individual's defence because I am speaking as a corporation, at that point, why would the SafeWork investigation stop and how then would they seek to continue the investigation?

The Hon. J.R. RAU: This is where I think they would have to stop because if you follow this through to the next couple of steps, the next step is they have some information from the company, from the authorised officer. In your hypothetical, not only is the company and the authorised officer and the individual all the same person, but the information they have incriminates that person. That is the hypothetical. Then they get to the question of proof. If they cannot prove it otherwise than through you, the only way they can prove anything against the company is through, in effect, calling you; the only way they can prove anything against the individual is through calling you.

As soon as you go in the witness box, you may be there because you are a director of the company but you are undoubtedly there as Iain Evans, the human being, and when you are asked the question, 'Didn't you do this or that?' you, in the court, would be able to say, 'I refuse to answer on the basis that the answer to that question would tend to incriminate me.' So, this is where they would probably back off, because the ultimate outcome would be that they would still have to rely on putting you in the box and, once you're in the box, the two hat routine does not work any more. It is down to one hat because the company is not in there of itself. You are in there representing the company, but you are also in there yourself, and that cannot be split up any further in a court case and, once again, you are able to refuse to answer the question on the basis that it might incriminate you.

The Hon. I.F. EVANS: So then, in this hypothetical meteor that is going to hit us tomorrow night, as the Attorney puts it, does that mean that in reality there will not be a prosecution of a sole-directed company because they are always going to go into the witness box and say, 'I'm wearing one hat not two.'? How then does SafeWork SA investigate and prosecute a sole-director company?

The Hon. J.R. RAU: It is a good question and the advice I have is that the likelihood in such a circumstance is that the inspector would move into the provisions under section 155 of the legislation whereby, as I understand it, they issue a request for information which you would then be able to take away, get legal advice on, and provide written responses to them on.

The Hon. I.F. EVANS: No disrespect, but this is a bit like drawing teeth. So, now I understand that if I am being interviewed, and I take the self-incrimination defence as an individual, I can then be interviewed as a corporation and, if I then say, 'Well, look, I am concerned that what I might say is going to incriminate me as an individual,' they go to section 155 where they will write to the corporation and seek information. At that point, I am the sole director, and I am the authorised officer providing the information, so at that point am I allowed to say that, even though I am the sole director wearing my corporation's hat, I am not prepared to provide you with the written information because it is going to potentially incriminate me as an individual?

The Hon. J.R. RAU: The short answer to your question is 'yes', for the reasons that we have just been through. I do not know much about the laws of physics but I am told that there is a thing called the singularity which is in the middle of a black hole and, at that point, all known laws of physics cease to operate. I think the member for Davenport has identified a point of singularity in

this legislation at which, in practical terms, the whole scheme, for the reasons that we have just discussed, ceases to operate and, in effect, for all practical purposes, that person is protected from self-incrimination in either event.

But you see, at the moment we move out of that hypothetical space, the importance of having these protections becomes clear, if that makes sense. It is just that at that point, the absolute extreme end of the spectrum of possibility, it starts to become academic and produce potentially strange outcomes, for which reason I think in all practicality a single person who is trading as a sole director, shareholder and everything else, who takes the self-incrimination defence, is unlikely to hear any more about the matter. I have been answering this on the basis of legal possibilities, but I think we have explored why, from a practical point of view, it is unlikely to go anywhere.

The Hon. I.F. EVANS: Just for the record, I suspect it is far more common than the Attorney might think, because there are lots of little sub-contractors in the building industry who are sole traders, many of them who would be covered by the debate we are just having. I would suspect my brother is one with his plumbing business. So I think that, potentially, it could impact on far more people than the Attorney may give the question credit for.

The Hon. J.R. RAU: The other point about this is that it does also assume that there is no other evidence sitting around. Another assumption we have got here is a sole company, sole director, etc., and no other source of evidence.

The Hon. I.F. EVANS: I am coming to the 'other evidence' issue. Let's go now to the issue of a multi-director corporation. Is it possible for a director to take the self-incrimination defence because he or she may have been the responsible officer, and say, 'Well, I'm not going to answer that question because I'm an individual and it may incriminate me,' and then SafeWork would have to go and ask other directors or officers of the corporation. In a multi-director company can a director say, 'Well, you know what? I'm not answering that question because that may self-incriminate me,' so SafeWork SA is then obligated, or they are left with the option of going to other people within the corporation. Can that person take the self-incrimination defence?

The Hon. J.R. RAU: I think this is where we get back to my original analysis of the thing. The person would have to be advised, 'You are being questioned in relation to a potential charge against either you personally or the company in respect of an alleged breach of whatever.'

The Hon. I.F. EVANS: In the second scenario would the advice be to use the company?

The Hon. J.R. RAU: Yes; as a company they would not be able to take advantage of 172. In speaking on behalf of the company they cannot claim immunity from answering under 172. Again, I am not here to be giving companies legal advice, but it would be quite an easy matter for the company to say, 'Well, look, do you know what, Iain, you're not our authorised officer for these purposes; the member for Unley is. We know the member for Unley has had nothing to do with it; he's just been sitting at board meetings and behaving well, as he does; he is a low-risk person for the company.'

The Hon. I.F. EVANS: So once you have a director interviewed, my understanding of your second reading contribution was that that person, if you are answering in the capacity as an officer of the corporation, is not open to any penalty based on the evidence provided.

The Hon. J.R. RAU: That person is answering questions in respect of no charge against themselves, having been warned; they are answering questions in respect of a potential offence committed by the company.

The Hon. I.F. EVANS: And is it possible under the act for that director to suffer a fine or a penalty as a result of the actions of the company? In other words, could the director—and I do not know the exact words—for instance, give evidence that proves the company was negligent and therefore open him or her up to a fine or penalty as a director for being involved in a company that was negligent in an OH&S matter?

The Hon. J.R. RAU: Can I say, I know that the member for Davenport would not wish this on himself, but if he gets sick of this he should do law. The member for Davenport has got enormous potential as a lawyer, I think. The answer to this is: we have a chain of events where the company produces information through an officer. It is about the company. The company is prosecuted, the company is convicted. There is then, under division 4 of the legislation, certain provisions about the duty of officers.

It says, amongst other things, here that if a person conducting a business or whatever has a duty or an obligation under this act, an officer of the person conducting the business must exercise due diligence. There is a definition of due diligence that you would have to pass through and then there is an example of where this might have application—for example, not reporting notifiable incidents and various other bits and pieces—and then there is a commission of an offence if that is not done.

That prosecution is clearly, if it is launched against the same person, a prosecution against them as a person (a human being) not as an officer of the company and therefore the evidence they have given, wearing their hat as officer of the company, would not be admissible in the context of the prosecution for being personally lacking due diligence. It would be necessary for that to be proved independently of the information that has been provided by that person when they were answering questions as the authorised officer of the company.

The Hon. I.F. EVANS: Is it then the process that the investigating agency could do is go to the next officer of the corporation, knowing that the first officer that has been interviewed has given evidence as an officer of the corporation saying that this happened, that happened, this happened and this happened, which protects that person from the division 4 penalties, and is it then not possible for the investigating agencies to go to the other officer and say, 'Did the first officer do this, this, this and this or not do this, this and this?' and then prosecute the first officer under the division 4 provisions based on the evidence of the second officer and not his own evidence?

The Hon. J.R. RAU: Again, fascinating question but I still think we are talking about a meteor hitting Adelaide tomorrow at 3 o'clock in the afternoon, but can I say this. The question you are asking actually gets into some very complex legal issues. As I understand it, there is a case called Green, the details of which I cannot now recall, but this case deals with people using evidence to prosecute somebody which was obtained in a different context for a different purpose and the courts have said that they do not approve of it. An example: the police under the abalone protection act might be able to demand that you provide information about something. It is okay for them to demand that information in the context of an abalone prosecution but it is not okay for them to demand that evidence in the context of an abalone prosecution so that they can work out whether your car was in the driveway last Thursday when a robbery occurred. Do you understand what I mean?

The Hon. I.F. EVANS: Yes, I understand what you mean.

The Hon. J.R. RAU: So I don't know the answer to the question you are raising but I suspect it is not a straightforward simple answer and it might be quite complicated as to what extent that could go on. As to whether it would go on, I honestly suspect that unless there is independent evidence in most of these cases it won't be going any further.

The Hon. I.F. EVANS: The reason I asked the question, Attorney, is that I asked this question in the briefing and the advice I got from Mr Russell was that it was the standard investigating procedure. I raise the concern about whether with evidence gathered as me giving evidence as an officer of the corporation—and I think I used the words 'shopped around to the subcontractors on-site' using my building background as the example—they could then come back and prosecute me through another mechanism. I was advised that was the standard investigating procedure and it happens quite often in not only these investigations but others. I agree with you that it is complex. I am just trying to get on the record how this actually works so that we can be as clear as we can given the complexity of it.

The Hon. J.R. RAU: I know analogies are always difficult but the best analogy—with the example that the member for Davenport just gave—is something like this: it is intelligence rather than evidence. Intelligence is different to evidence in the sense that intelligence is not necessarily admissible of itself in court.

To take an example: you might have a police informant who tells the police, 'Look, I've heard that Billy Bloggs is growing marijuana in his roof.' That is not evidence of marijuana growing in Billy Bloggs' roof; that is just intelligence that the police have picked up. The police pick that information up—which they cannot use against the person, cannot take to court, cannot get a prosecution for—and they go around and knock on the front door and say, 'Mm, interesting aroma in this house. Do you mind if we check your power supply, etc.' Then off they go and prosecute them.

I do not mean my last answer to the question to suggest that that sort of intelligence-gathering is inappropriate or improper or cannot be done. I was talking about whether or not evidence would be admissible—which is a different point altogether.

The Hon. I.F. EVANS: Okay, now I understand that issue. I understand the distinction the Attorney is making between intelligence-gathering and evidence. I come back to my point of clarification that I want put on the record: is it possible for a director to be interviewed (with his corporation's cap on) and then that intelligence be used by the investigating agency to go and talk to—I will use the building site example—the subcontractors on site, because they know there is a problem because the corporation's officer has told them, and now they use that intelligence to gather the evidence necessary to prosecute that officer who gave the original answer as a corporation under division 4 and, therefore, that officer suffers penalties under division 4 not because of the evidence he gave but because of the evidence gathered from the subcontractors on site?

The Hon. J.R. RAU: I do not see that there is any reason that that could not occur because the evidence obtained would be similar to intelligence in the sense that the evidence obtained from the officer as the company would be intelligence. It would actually set the investigators on a line of inquiry and the investigators would then pursue the line of inquiry by speaking to third parties and, if there were enough third parties who provided that evidence—and, by the way, that conversation with the director as an officer of the company is probably not the only conversation they are having; they are probably talking to 20 or 30 people, so it would be unlikely that that is the only clue they get to follow up—but assuming they had no clues at all and that was the only hint they got, they would be able to say, 'If that's the information I've got from that person, okay, we can't use that directly against the person but I wonder if the steel fixers saw anything that day. They must have been around; let's go and talk to the steel fixers.' Or they might say, 'I wonder whether the guy that's managing the coming and going of vehicles saw anything that day.' Yes, sure, but it would not be directly admissible against that individual for a prosecution against that individual.

The Hon. I.F. EVANS: His own evidence would not be used against that individual but all the evidence from the others could be used against the individual.

The Hon. J.R. RAU: Yes. But, again, before we get too concerned about this, in the sense of it being out of the ordinary, this is not much different—these are, after all, prosecutions. These are criminal offences and the standard police investigating technique is to interview a whole bunch of people who you think might be potentially witnesses or suspects or whatever the case might be. The fact that an answer sets an investigator off on a line of inquiry, which ultimately may lead them back to the individual they originally spoke to but this time with evidence, is not in any way peculiar.

Again in reality, the chance of the only hint of that line of inquiry coming from that person is in most practical situations very remote. We are talking here, after all, about work-related accidents. We are talking about a machine that has blown up or something of that nature. It would be highly unlikely that there was only one person who saw, heard or did anything in relation to that matter and, moreover, that that person was a member of the board of management. More than likely there are 20 or 30 people, some of whom are employees and some of whom are not, who know something about it, and the investigator would speak to all of those people.

The Hon. I.F. EVANS: We are nearly there. I think I have received my legal lesson for the week, Mr Chairman. It is a cheap way to get a law degree. I assume that the asking of questions of an officer who is not authorised to bind the company is not allowed under the act. They have to establish that the officer they are interviewing has the authority to bind the company.

The Hon. J.R. RAU: I am advised that the only person investigators would be talking to would be a person the company had nominated as their authorised officer as the company, but that obviously would not exclude a situation where a person who was a manager of the company but not the authorised officer who happened to be on the spot when the accident occurred would be asked to provide an interview and that person, if they felt answering the question would incriminate them as a person, would have the right under 172 to refuse to answer.

The Hon. I.F. EVANS: The last question, Attorney—in between the houses, I wonder whether you could undertake to do this for the opposition. There were three examples given in the government's briefing to the opposition as to where this had become a problem. They were attachment 1 in the letter you wrote to me on 2 April, so I will identify the three cases. Your advisers are no doubt aware of them.

I am wondering whether you could do a review process to see whether it was an issue with the legal advice that was actually the problem in those three cases or whether it was the questions asked or to whom or how the questions were asked that was actually the problem. It just seems to me that if the investigators did not go through the correct process of asking the right person in the right capacity the right question, then the lawyers are quite within their rights to advise those people being interviewed to take certain positions.

I am just wondering whether anyone outside of the agency has assessed those three cases to see whether it is actually an unreasonable position that the lawyers have taken or whether it was in actual fact a problem with the process leading to those taking their position. If you could undertake to have a look at that and give us some answers in between the chambers, it may well be that there was a problem with the process with all three and we did not need to debate the matter at all.

The Hon. J.R. RAU: A couple of points on that. The first one is that, yes, I will ask that there be some work done on that. The second point is the honourable member's last point about maybe it was not necessary for us to have this interesting debate at all: that would worry me a great deal. I would not have brought this here had I not been told that there was ambiguity in the original draft.

The Hon. I.F. EVANS: You were told there was ambiguity only because the lawyers took the position they did.

The Hon. J.R. RAU: Indeed. The lawyers took the position, and I asked for advice: is their position completely loony, or do we actually have an area which is vague here? If the answer had been, 'No; it's completely loony,' I would not be doing this because, as interesting as this discussion is, all of us could be doing other things. I would not have been doing it had I not been given that advice.

We will try to get an answer to the honourable member's question but, for the reason I have just explained, I think the answer to that question is a bit academic because, had there been no problem with the current wording, I assure the honourable member and everyone else that we would not be wasting all of your time by debating this here.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. J.R. RAU: I think both amendments are not going to be opposed. I move amendments Nos 1 and 2:

Page 2—

Line 11—Delete 'A natural person' and substitute:

An individual

After line 11—Insert:

(2) Section 172—delete 'the person or expose the person' and substitute:

that individual or expose that individual

The Hon. I.F. EVANS: I am happy with that.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (17:12): I move:

That this bill be now read a third time.

The Hon. I.F. EVANS (Davenport) (17:12): I just want to thank the Attorney for his forbearance in the committee stage and his officers for the brief. It is fair to say that we had a heated brief at some points trying to establish what the rule was, and I appreciate the officers' tolerance of the opposition's questions.

Bill read a third time and passed.

TAFE SA (PRESCRIBED EMPLOYEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

Mr PISONI (Unley) (17:13): I am the lead speaker for the opposition on this bill, which is, of course, a second attempt by the government to complete the transfer of TAFE SA from the Department of Further Education, Employment, Science and Technology to an independent statutory authority.

I indicate that the opposition will not be supporting this bill, and we will not be supporting this bill because there is a bill sitting on the table which will do this job—the original bill—and which will enable the minister to achieve what she wishes to achieve in this bill. That bill was amended in the upper house, and it was amended by a majority of elected members of the upper house and it was amended in such a way that would make the Education Act more democratic.

The opposition previously supported the TAFE SA Bill 2012 and the Statutes Amendment and Repeal (TAFE SA Consequential Provisions) Bill 2012, the first of which has passed through both houses and the second one obviously passing only through the other place, with Liberal and Independent amendments that the government has objected to.

The opposition is at a loss to understand why the government has refused to accept this legislation as amended by the Legislative Council, nor do we understand why the government cancelled four deadlock conferences over a period of many months before the new minister finally kept an appointment for the fifth conference, only to reject her own government's legislation.

I note that in her first reading speech the minister states that the bill replaces the previous Statutes Amendment and Repeal (TAFE SA Consequential Provisions) Bill and that the government was unable to pass it through the parliament. That is not the true state of the facts of that bill. It would be more accurate to say that the government was actually unwilling to pass it through the parliament or that it refused to accept the amendments that were passed in the upper house.

Let us be clear: these were minor amendments to the Education Act 1972 by the opposition and the Hon. John Darley in the other place which sought only to remove the Australian Education Union's exclusive right to appoint employee representatives to education boards and committees such as the Teachers Registration Board, the Teachers Appeal Board, etc.

It is important to note that these amendments did not in any way restrict union access to these appointments: they merely removed the exclusive monopoly, opening up the positions to all members of the teaching profession, whether or not they were union members. The amendments that were supported and passed in the upper house had the effect of removing the exclusive right that the Australian Education Union had to appoint delegates from its own members to these important bodies such as the Teachers Registration Board and the Teachers Appeal Board.

No-one has ever sought to prevent the union or union members from having access to these positions. The intention was simply to do what anyone in the wider community would see as being fair and reasonable in an open and democratic society and to free up these positions to all employees. The amendments that were successful in the upper house and that were rejected by this government were there to enable all teaching staff the same opportunity. There was no requirement, no prerequisite, for them to be members of the Australian Education Union in order to be considered for a position on the Teachers Registration Board, the Teachers Appeal Board, etc.

It would be difficult to think of any other area in the workforce or in society where such a union monopoly remains. This monopoly is a legacy of a time past when Australians lived in a much more regulated society, when union membership was about 75 per cent of the workforce. Today, of course, union membership is about 17 per cent of the general workforce—about 13 per cent of the private sector workforce—yet we still have in legislation here in South Australia clauses that positively discriminate against members of a faculty or members doing the same job simply because they are not in a union—but not just any union, not in the Australian Education Union.

Let us be clear that the opening up of positions and the ending of the Australian Education Union's monopoly is what the state Labor government refuses to accept. It is an extraordinary situation that we have a government that has refused to accept amendments to the Education Act

that open up and democratise the Education Act and enable all teachers, regardless of their status, regardless of their union membership, to nominate and vote on who they believe would best represent them on such important bodies as the Teachers Registration Board and the Teachers Appeal Board.

The AEU is obviously demanding that the Labor government do this, that the Labor government not support these amendments, and the Labor government has capitulated. The Labor government has wasted our time here and the taxpayers' money to introduce a replacement bill for one that is clearly acceptable to everybody except the vested interests of the Australian Education Union and those who support the union monopoly in the education workforce, which is the ALP and the Greens.

A cautionary note for those who see green as an appealing political colour is that they refer to amendments to the previous bill in the other place that sought to open up opportunities for non-union teachers and principals as 'union bashing amendments'—an extraordinary claim. 'You are either with us or you are against us' according to those that are opposed to the amendments that were passed in the upper house—not a very free-thinking modern attitude I would suggest.

It is disappointing that the Australian Education Union chose to misrepresent to its members the facts in regard to the previous statutes amendment legislation that was supported in the Legislative Council. It falsely alleged a campaign 'Keep the act intact'. If you look at the material on their website at the time, it is interesting to see the claims. I should read the whole lot so it is in context:

> While debate took place on TAFE reform in the Legislative Council on June 14—

this was last year. This is how long the government has taken to deal with this matter—

> Liberal MLC Rob Lucas launched a surprise attack on the AEU by moving amendments to the Education Act...that delete all reference to the AEU.
>
> The amendments were supported by Shadow Minister for Education, David Pisoni, who tried the same move a few weeks earlier in the Lower House.
>
> The amendments were passed with the support of the Independents and Family First. Both the Greens and the ALP members voted against the amendments, with Industrial Relations Minister Russell Wortley fighting hard for the union's rights in his speech against.

Of course he would do that. He is in the parliament because of the unions. His wife is about to get preselection for Torrens because of the connection that the family has with the union movement.

> The AEU was astonished to see that SASSLA (SA State School Leaders Association) President Jeff Waite was referenced in Hansard as supporting these anti-union amendments.

Goodness me, another organisation that represents the interests of educators is described as demons by the Australian Education Union in this letter. It also goes on to ask, 'What does this mean for AEU members if the proposed amendments go ahead?' This is what the AEU was telling its members:

> No AEU representative on any merit selection panel. There are thousands of leadership panels that run every year and the AEU rep has a critical role to play in ensuring fairness and equity for applicants. AEU Sub Branches would no longer have any say in this process.

What a load of nonsense! Every single teacher has an opportunity to nominate and vote for their representative, including AEU members. They have the same vote: one vote, one value. We all stand in favour of one vote, one value, but not the Australian Education Union. One union vote, one value; one non-union vote, no value is what the AEU would prefer. It goes on to say:

> Teachers Appeals Board
>
> No AEU representative on the TAB thus denying AEU members who take matters to the TAB union representation. The AEU reps are democratically elected and currently consist of Principals and teachers.

Again, a totally false claim and an absolute lie. There is nothing stopping Australian Education Union representatives participating in the process.

> Classification Review panels
>
> No AEU representative on this panel which means that any Principal member seeking a reclassification will be denied union representation in this process.

Another lie by the Australian Education Union. That is simply not the case. Any teacher—any member of teaching staff—can run for this position, including Australian Education Union members.

Any member of the teaching profession can vote for somebody to represent them with this position—they can vote for a union member or they can vote for a non-union member, or they could simply vote for the person they think will do the job best. On school amalgamations review panels:

> No AEU representation on the 10 person panel for these reviews. An astonishing decision by the Liberals which removes the union from any further process re: proposed amalgamations.

Again, another lie by the Australian Education Union. It does not remove the AEU from the process at all, but simply enables non-union members to participate in the same process that union members had exclusively as their own for many, many years.

What is interesting is that we received a number of form-style emails from union members to the Leader of the Opposition's office and, because I was very active in my children's schools as a governing council member, governing council chairman and an active member of governing councils over a 12-year period, I knew a number of the teachers who had signed those emails. I rang one of them in particular and said, 'I got your email, thank you very much for participating in the process. Can you explain to me what your concerns are?'

He said, 'Well, the union said that you're going to stop union members from participating in teachers' appeal board, classification review panels, school amalgamations review panels,' to which I was able to explain, 'That is simply not right—what we are doing is we are enabling non-union members to participate in the same process that union members have had exclusively since they were written into the act.' He said, 'That's okay, I don't have any problem with that.'

Once he understood what the amendments actually did, he did not have any problem with that. This was somebody who was motivated to write to a member of parliament that they were motivated by a pack of lies by the Australian Education Union and that is very disappointing.

It is important that we are honest when we debate education, the way the education system is run in this state. When we debate outcomes for children, we want to be honest with that debate. Unfortunately, the Australian Education Union were more interested in their self-preservation and monopoly position than what they were in having an honest debate about the merits of whether all members of the teaching profession have an equal right in voting for and being represented on those various panels.

You can understand why the Australian Education Union may have got that wrong. Just recently we saw the announcement of the Gonski funding by the federal government and on the Sunday that the Prime Minister announced the funding, David Smith, the Vice-President of the education union said, 'On these figures, we are definitely not getting a fair deal compared to other states,' he was quoted in the Sunday Mail. He goes on to say:

> It's disappointing that SA—where the State Government supported the Gonski funding proposals—seems to have been taken advantage of.

Of course, the next day, Correna Haythorpe, the President of the Australian Education Union, said that it was a win for South Australian schools. Well what is it? You can understand why it is that they were so confused about their understanding of what the successful amendments in the Education Act meant as part of the consequential amendment bill. Let's be clear that the opening up of positions and the ending of the education union's monopoly is what the state Labor government refuses to accept.

Liberal amendments to the act, supported by a majority of members in the Legislative Council, were never designed to remove the Australian Education Union representative from panels and decision-making processes, and will not unless there is a democratic decision to do so. We continually hear from the president of the education union and their representatives that 70 per cent of teachers are their members.

They are certainly not behaving like an organisation that has a membership that covers 70 per cent of the organisation because, if they did, they would know that they would have nothing to worry about in supporting these amendments. They could actually be on the front foot agreeing that the democratisation of education is a good thing, and that all teachers are equal, and that all teachers should have the same opportunities regardless of their affiliation with outside organisations.

On the contrary, the bill would have broadened the representation eligibility for all teachers including members of the Australian Education Union. They would have an equal opportunity to participate as is their democratic right—union member, non-union member—the same participation

rights, the same nomination rights, the same voting rights. Unfortunately, the then minister, Tom Kenyon, also sought to perpetuate this myth in committee in consideration of amendments made in the other place. The government is apparently philosophically opposed to non-union education workers having a seat on the decision-making table. For some reason, the Labor government believes that a pre-requisite for someone being qualified to be a member of the Teachers Registration Board, the Teachers Appeal Board, or the merit selection panel, must be a union member. That is the only stipulated qualification.

If you go to the act and look at the requirements, the only stipulation is that they are a union member and they are appointed by the union. They are perhaps unaware that just because you have to be a member of a union to be a member of the Labor Party as an MP or a MLC, in the real world it is a choice as to whether you join a union or not. We encourage choice, we are a party of choice. The community demands choice and that is why there are so many products available on the shelf to choose from in the supermarket—people like choice.

We are not in the business of compelling people to participate in an organisation, and for whatever reason, we are not going to question the reasons why they do not want to be a union member—whether they do not want to spend $1,000 a year in membership, or maybe they have philosophical reasons for doing so, but that is up to them. They do not need to justify why they do or do not want to be a member of a union; that is entirely up to them.

That is what we believe. People are free to choose and, funnily enough, as I said earlier, most choose not to be members of a union. Thirteen per cent of workers in the private sector choose to be union members, and 87 per cent choose not to be. However, we will not debate here the tactics used by the previous minister's own union, the shoppies' union, to bluff teenagers working their first jobs at Woolies or McDonald's into union membership, and to parting with a fee and adding to the shoppies' union power base on the floor of the Labor Party Conference in this state.

It is an extraordinary situation. My son went through it when he was working part-time at Woolies. He described the very intimidatory process by the union, with Woolies keeping half an hour free for a union induction, and students forced to sit through an induction by the shoppies' union on their induction night at Big W. It is the same routine, and you see it on their eloquently produced videos, the demonstration of one stick breaks really easily but put a whole lot of sticks together and you cannot break it.

I am sure Mao would be very pleased to see the tactics used on young children. How can they? How can children under the age of 18 have a contract put in front of them and be expected to sign it without consulting their parents? What sort of an organisation does that? They are not even of legal age and they are making them sign a contract. Unbelievable! If indeed the Australian Education Union has broad support amongst education professionals, as they claim they have, why on earth would they have fear of competition for these positions by non-union members?

The Hon. Russell Wortley in the other place, who was then the minister and is no longer the minister, undoubtedly using figures provided by the union, claimed 85 per cent membership of both teachers and principals. So, what is the problem? If it is 70 per cent, as the union says, or 85 per cent, as the knowledgeable Hon. Russell Wortley says in the other place, what have they got to worry about?

If this is about union power, unions retaining their power within schools and the education system, what have they got to worry about? Why not go to a full democratic process and be seen to be democratic? What is their problem? Either their support base is not as broad as their claims or a sense of entitlement and unchallenged power in the workplace has created a mindset out of step with changing community standards and the modern post-union shop work environment.

There appears to be an archaic 1970s compulsory union membership world to which the Weatherill Labor government is happy to consign our state's public education institutions. Well, let's do the time warp again, shall we? Let's go back to the seventies, when we saw unions heavily protected by legislation and dominating the industrial landscape because there was no choice. We are happy for the Australian Education Union to have access to all decision-making positions in education boards and panels and, if supported by teachers in a vote, the right to potentially occupy all positions allocated as employer representatives.

That is the democratic process. We are not going to discriminate against people because of the organisation they belong to. We might be concerned, of course, if it is an inappropriate organisation, but there is nothing wrong with the Australian Education Union; they claim to look

after their members. However, we refuse to endorse a monopoly on these positions and we refuse to endorse the continuation of the Australian Education Union's monopoly on these positions.

The government previously rejected amendments to the Statutory Amendment and Repeal (TAFE SA Consequential Provisions) Bill 2012 on philosophical grounds. The Liberal opposition invites the government to reintroduce their previous legislation, accept it in the other place, amend it in the other place, and support basic democratic rights in a workplace. It is accepted everywhere else but, it appears, in the Weatherill Labor government and within the Australian Education Union.

If we look at the purpose of the first bill, the statutes amendment and repeal bill and now the bill that we are debating today, which replaces that bill, the TAFE SA (Prescribed Employees) Amendment Bill, let's look at what it actually does and why it is necessary. In 2002, as part of the Skills for All strategy the government introduced legislation, the TAFE SA Bill 2012, to separate TAFE SA from DFEEST and to set it up as a statutory authority governed by a board of directors. We supported this legislation.

Supporting legislation, the Statutes Amendment and Repeal (TAFE SA Consequential Provisions) Bill 2012, necessitated the opening up of acts such as the Education Act in order for TAFE to be able to manage their staff, basically. This opportunity was used by the opposition and the Hon. John Darley MLC to move amendments in the upper house which effectively removed the Australian Education Union's right to appoint employee representatives to education boards and committees such as those I mentioned earlier: the Teachers Registration Board, the appeals board, etc.

It is important to note that these amendments did not in any way restrict union access to these appointments; it merely removed their exclusive monopoly, opening up the positions to all members of the teaching profession, whether members of a union or not—fair and reasonable in anybody's mind.

The consequential amendments bill passed the Legislative Council in July 2012. Remember that this was July 2012 and it will be 1 May tomorrow, so it was quite a while ago. It has since been the subject of five deadlock conferences. The TAFE SA (Prescribed Employees) Amendment Bill is a replacement for the Statutes Amendment TAFE SA Consequential Bill 2012 and without one of these bills (today's bill or the bill the government has access to) passing the parliament, TAFE SA employees remain without official access to the Teachers Appeal Board with regard to disciplinary and other industrial matters. This was the advice that was given to me and the Hon. Jing Lee and staff members at a minister's briefing on 11 April.

Access to the Teachers Appeal Board by TAFE employees for disciplinary and other industrial matters was not the government's preferred option when this legislation was originally drafted and the department of further education's CEO Ray Garrand made it clear in his comments during the Budget and Finance Committee on 15 April that the Industrial Relations Commission was the favoured alternative. However, in order to placate the Australian Education Union—and, again, this is what we were told in a previous briefing—and to ensure smooth negotiations for the passage of the TAFE SA bill in 2012 to a statutory authority, a compromise was struck with the union. My understanding is that the then minister (minister Kenyon) caved in to the union demands to enable the Teachers Appeal Board to continue to be the board that deals with disciplinary and other industrial matters for lecturers in particular in the TAFE system.

We know that the union's motivation for that is so that it can continue to claim that lecturers must be members of the Australian Education Union if they are going to be members of a union at all, so it is their stake on union membership and their claim on who they have automatic entitlement to represent for those who choose union representation. Basically, it is another fight within the union movement. We know those sorts of things happen all the time.

As a matter of fact, I think it is the TWU at the moment that has lost about 200 members—gasfitters, I think it is—into the CEPU in a factional fight that is happening with unions at the moment. This sort of thing happens all the time. You can understand if you follow union politics why it is that the Australian Education Union finds it so important that lecturers continue to have access to the Teachers Appeal Board because it is all about holding onto their membership base and their right to represent those people over and above, say, the PSA or another public sector union.

Access for TAFE SA employees to the Teachers Appeal Board remains the preferred option of the TAFE CE, David Royle. He told the Budget and Finance Committee this, although they were neutral on their views during the consultation process and we covered the reasons for

that earlier. We consulted widely with stakeholders on a previous bill to which there was no stakeholder opposition.

Of note is that those same stakeholder groups, particularly in the private sector training provisions as well as those affected by changes to the Education Act, such as principals and non-unionised educators, were supportive of the amendments limiting the Australian Education Union monopoly on employee, board and committee positions. They believed that it was long overdue and that it would be of benefit to educational outcomes and the management of the education system here in South Australia.

As I expressed earlier when I stood to speak on this bill, we are not supporting the government's bill before us today. Our advice to the government is to go back to the original bill. We understand that it can be reintroduced and passed in the lower house and that will then enable the government to achieve what it wishes to achieve and that is to deal with its employees through the Teachers Appeal Board and manage the employees of TAFE as it intended. We are not getting in the way of TAFE acting as a statutory organisation—we supported that. We believe that it is important for TAFE, in this small competitive environment, to be in control of their own leaders.

A majority decision was made in the upper house. Remember, this is a bicameral system of parliament and there are, in fact, members of parliament elected in this house through a single member electorate and there are members elected in the other place through proportional representation. The make-up of the other place and the representatives of people who voted for those members have sent a clear message to the government that it is time to democratise the Education Act in South Australia and support these amendments. They are there for the minister to grab any time she wishes and to reintroduce them into the parliament and they will have our full support and the minister can continue to do her work as the minister for further education.

The Hon. G. PORTOLESI (Hartley—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy) (17:46): I would like to thank the member for Unley for his contribution. I appreciate and, in fact, would like the record to once again demonstrate the opposition's support for the TAFE reforms—I think that is good. I report that those reforms are progressing and progressing well.

The issues that we are debating now were never part of the original propositions in relation to TAFE reforms. It was simply an opportunity that the opposition and members in the other place took as a result of those TAFE reforms, and that has been very disappointing. However, I am determined to resolve this issue once and for all because we think it is important for the sake of good administration.

It is clear from the opposition's contribution that this is a bit of an ideological obsession on its part. For me, this is about ensuring and acknowledging the fact that the system that we have is not broken. The system that the opposition is seeking to repeal is not broken; it functions well. If you speak to the parties they will tell you that the system works well. This is not an ideological obsession for me as it is for the opposition; it is simply about good government and good administration. I am very happy to work with the opposition again in addressing these concerns. However, I suspect that we will not get very far because at the heart of their opposition is a very fundamental ideological objection. However, I thank the member for his contribution.

Bill read a second time.

In committee.

Clause 1.

Mr PISONI: Can the minister explain to the house how TAFE has been operating without the passage of the original bill, the consequential amendment bill, and what process it had in place to deal with staff issues in particular? When I say 'staff issues' I mean issues of appeal, issues of disciplinary action and so forth.

The Hon. G. PORTOLESI: I am happy to get back to the member with a response to that question.

Mr PISONI: I would like to take you to the provision of the board fees for the TAFE board members. Mr Royle told the Budget and Finance Committee earlier this month on 15 April that the basic remuneration was set at $24,000 per annum for a board member and $37,000 per annum for the chair of the board.

Then Mr Garrand expanded on the answer to that question and told the committee that there was a retention payment of $48,000 for the chair on top of the $37,000 and a retention payment of $23,000 for each board member on top of the $24,000, taking the chair's total remuneration to $85,000 and the total for members of the TAFE board to $47,000.

Mr Garrand was asked whose decision it was to make a retention payment to board members and he answered that that was a cabinet decision. 'It's the cabinet's decision for retention allowances?' confirmed the chair, and Mr Garrand said, 'As a department, we had nothing to do with the appointment of the board or the setting of board fees. They are decisions for cabinet.'

Can the minister advise on what grounds a retention payment was established or paid to board members and the board chair, and for how long that retention payment applies? What is the process for implementing retention payments or even establishing and determining the value of a retention payment?

The Hon. G. PORTOLESI: I am very happy to come back to the member with a response in relation to that matter.

Progress reported; committee to sit again.

[Sitting extended beyond 18:00 on motion of Hon. G. Portolesi]

SUPPLY BILL 2013

Adjourned debate on second reading.

(Continued from 10 April 2013.)

Dr CLOSE (Port Adelaide) (17:55): I want to talk today about Port Adelaide—the place, the community and the football club. I have long seen the parallels between how we think and talk about the club and how we view the place and its community. Those parallels have become stronger for me over the year or so I have had the honour of representing the community in parliament and as our team has gone through hard times and started to emerge as the team to watch this year.

There are few places around the country that have the distinction of having an AFL team that is identified strongly and over many years with a specific community and the history of that community. The fact that many players do not come from that area and that many supporters do not either does not lessen the sense that the team Port Adelaide is of and for the port of Adelaide.

I want to talk today about a place and a community which get demonised by people who hardly know them and, sadly, by some who should know better, and a football team which cops the same range of emotions and attitudes. Port Adelaide the place is special to the first peoples of this country, and it is one of the oldest colonial settlements in South Australia. Its colonial and post-colonial history is obvious at every turn—buildings with a history which stretches back to the earliest years of the ships coming and building the state from the Port out.

Better even than that is the living history of the people who remember the changes over the past 60 or 80 years, who can tell me about the past uses of every building and each stage of change the Port has seen. And we have the ships—the *Falie*, the *Yelta*, both still in the inner harbour, still able to be seen by visitors and the beneficiaries of countless hours of volunteer labour keeping them looking good. We have newer ships, too, the *One and All* being one that many people are proud of, their having been involved in her building and operation over the past 28 years.

And the Port itself—the inner harbour and the suburb called Port Adelaide—is not the only treasured place known locally as the Port. People from Alberton, Rosewater and Cheltenham, and on the peninsula from Semaphore up to North Haven, will talk to me about being part of Port Adelaide. Those not within the electoral boundaries often tell me why they should be my constituents. I am conscious that I may be the member for Port Adelaide, but the members of Cheltenham and Lee have many constituents who consider themselves to be of and from the Port.

The mixed land use up the peninsula represents a particular challenge, and I have had cause to talk about that in this place before. This small area of land is home to thousands of people and one of the best stretches of beach in the metropolitan area. It is the place where people come to sail, compete in lifesaving, ride their bikes, walk the dog and enjoy the playgrounds and fish and

chips at the seaside. It is truly one of the best places to live in the world, and I will never live anywhere else.

But it is also home to industry, some that date back as far as the oldest homes. With the move of freight shipping from the inner harbour to Outer Harbor, the peninsula houses South Australia's major port, with all the trucks and trains that implies. These bring their challenges for the locals, and we are constantly working to improve the local environment for the people who live there.

Wherever I go in this state, because I bear the title of the member for Port Adelaide, people will talk to me about their and their family's history in the Port Adelaide area—someone whose grandmother was born in Ethelton, or someone who was educated at the former Taperoo High School and who went on to run a hospital, or someone who got off the ship at Port Adelaide, the ship that brought them and their family to Australia to live.

For the last decade or so, my family and I have lived fairly near the former Lefevre hospital. and I have lost count of the number of people who tell me they were born there, including our own Premier. I never tire of hearing of these stories, because it is these stories, more than the buildings and even more than the ships, that make the Port area so very special—which brings me to my football team.

I know I cannot be too biased. Some people in the Port Adelaide electorate do not barrack for Port Power and, as their representative, I must respect that. In fact, I have to confess that one of my children refuses to be one-eyed and will go equally for the Crows, except during Showdown, of course. But for me it has always been the Port Adelaide Football Club, the last few years more than ever before. This is because the team is not just an AFL team in the eyes of my community: it is an extension of our community, and even of our families.

Like all good families, we are our own harshest critics. We like to give a metaphorical clip under the ear when we feel things are not going the way they should and, if we have a bad quarter, I am not sure the language near our seats in the outer is particularly family-friendly. Like families, we never doubt that we are bound together, this team and ourselves. As our team lifts and pulls together and shows the kind of belief in all the team members that we saw this weekend, it makes the community feel proud and inspired.

I have talked about the stories I hear across the city and the state about Port Adelaide from people who trace their roots there. I hear in their voices pride and fondness and a sort of lasting connection that makes them Port Adelaide Football Club supporters wherever they may now live. There is another kind of way of talking about the Port, though, and it is not so pretty. It talks the Port down. It says that the place is dead, it is dirty, it is full of pigeons and it is dangerous: it is full of scary people you would not want to meet on a dark night. This same talk about our football club says we are rough and violent and thuggish. This talk is nonsense.

This talk loves to point to every challenge we have and ignores all the hard work and stories of success we have right now, and I have no time for it. I do not ignore the challenges and I know that we have some things that need to change quickly and require strong talk and tough action. Making sure Incitec Pivot is not a danger to people living and working in the Port and does not depress investment requires this kind of hard work, but it is not an invitation to jump on the radio and talk the Port down, to throw up our hands in despair and say that nothing good will ever happen.

Just as the Port Adelaide Football Club has dug deep and built itself up from some hard days, putting all the pieces together steadily and with belief in itself, the Port Adelaide community is pulling together to find the emerging place around the Inner Harbour that is not a major port any more and is not a place just for industry. It is a residential, tourism, Kaurna, artistic, maritime, student, dolphin-watching, cafe and small business hub. It is becoming, again, the most special place in Adelaide with the most character and the most opportunity.

The government is working with the community and the local council to crystallise what that emerging place is through a plan that will lead to an amendment of the development plan to guide private investment in a way that the community wants to see. We are bringing back to life some of the places that have been neglected for the past few years, like around the Adelaide Milling Company, and connecting places to allow people to walk or cycle around the Inner Harbour and into Semaphore. We are encouraging boating life by bringing the *One and All* alongside the *Falie* on North Parade Wharf, by opening up the pontoons on Dock 1 for people to overnight, by building Cruickshank's Sands for the rowing club to compete on in the Inner Harbour, and we are working

with the Port Adelaide Chamber of Commerce (the oldest in South Australia, I believe) to bring free wi-fi to the Port.

I was on the radio a few weeks ago and the interviewer hearing this list of actions seemed to want to dismiss them as pretty everyday stuff. Well, you know what? That's how you build a community or a football club. There is no magic bullet—wave your wand and, suddenly, you have utopia. Pulling a community together is just the logical step-by-step work that makes sense to people. I have a view that nothing really good happens overnight. Good work takes time, effort and application, step by step. You do one thing that works and you build on to the next thing. Something doesn't work so you try again.

I tell you the slogan that works most for me, that brings a lump to my throat when I am at the footy, is the simplest one a club can have. It says simply, 'We are Port Adelaide.' With those few words, a wealth of history, pride and commitment is expressed. We are Port Adelaide.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (18:03): I rise to speak on the Supply Bill which, as members would be aware, is for the appropriation of money from the Consolidation Account for the financial year ending 30 June 2014.

The DEPUTY SPEAKER: Are you the lead speaker?

Ms CHAPMAN: I should indicate that our leader, the member for Norwood, will be the leading and, no doubt, outstanding speaker on this bill, and I am just a mere Indian following the chief. May I say that, as is customary, for the first three months of the financial year we need to make an appropriation of funding for the payment of loyal public servants and, this year, the Supply Bill proposes $3,205,000.

As members would know, this is to cover the anticipated period necessary pending the passage of the budget bill by which this parliament approves the government's expenditure for that financial year. We ought to use this time each year to reflect on the preceding 12 months and have some understanding of where we are at. In reviewing the year, I felt like I was about to go in and change my will and find that the cupboard was bare and wonder as to who I might possibly leave a legacy or a bequest to and what on earth they would get. It is a bit like opening the cupboard and the cobwebs are sitting there to face you.

Regrettably, the position is after six out of seven years of deficit by this government, a staggering increase in debt level to the anticipated $14 billion liability that we leave as the legacy to our children. If that is not enough to horrify members, then one only has to look at the over $2 million a day service cost to that debt. It is not surprising to me—I think it is textbook Labor management—that they spend the money, they run up the debt, they exhaust all avenues that are available, then they leave us in a parlous and impecunious state.

This is not unusual. It has been repeated through history, so I am not surprised by it. I am staggered this time around at the level to which it has got and I am alarmed at the lack of asset that is left to be able to provide some secure fiscal management for the state and also to, in some ways, arrest the liability that is accruing. In other words, there is limited asset left to be able to sell.

In the last 12 months there have been announcements of the sale of significant assets. Out there for sale is the property owned by the government at Netley, the State Administration Centre and this, of course, includes the building where the Premier is selling his own home. They have sold the forests, on all assessments except their own, apparently at far less value than they should have, the lotteries has been sold and we are left with what? We are left with a significant level of South Australian housing stock.

South Australia has a very proud history of its development of housing for those who are unable to afford to buy or privately rent and I think it is a tragedy, when I pick up the Mid-Year Budget Review, to find that there is little left in the larder to be able to provide. In addition to that, they have recently reviewed the establishment, under Renewal SA, and the transfer of significant personnel from Housing SA and they have been vested with a charter which will clearly have a fire sale on our stock.

There is significant asset in SA Water, such as reservoirs and pipelines. There is the mothballed multibillion dollar desalination plant. Who knows what is going to happen to that? There are some pockets of asset left in this state and it is concerning to me that, coupled with this, there is a massive (something like 250 per cent) increase in the cost of water in this state; a massive 25 per cent just in May 2012, which was snuck in without the disclosure at that stage of the anticipated mothballing of the asset. So, we are really in a very desperate situation.

As I say, predictable under this government, but nevertheless with little options as to how this can be managed, but the Liberals are up for the job. We understand that the government is saying, 'Well, we will cancel some projects.' That is what they did last year with the Gawler electrification project. The poles are up, but there are no wires on them. You will see that as an unfinished example of a half project done: tens of millions of dollars spent and now it is just waving in the wind, languishing like tombstones.

Then we have a level of exposed incompetence, not the least of which is the contract that the government entered into initially under the supervision of the member for Elder, who was then the Minister for Transport, and then shortly after that by the member for Bright, who is now the Minister for Transport Services, and under her watch in the last 12 months we have seen a major level of breakdown of buses. Over 2,000 buses have broken down in the preceding year. The patronage had been shattered over a $2.4 million drop in the number of passengers who caught buses.

This is clearly a reflection on the bus on-time data, which confirmed that, particularly in the north-south services, only 57 per cent of buses ran on time. The complaints exploded to a situation where there were over 350 complaints a day. The minister told the department she simply would not focus on the complaints. We have had massive levels of train fare evasion, so that 20 per cent of passengers on Adelaide trains did not even pay for their ticket. Then of course we have had the complete debacle over the Noarlunga, Tonsley and Grange closures during the electrification, and all the issues that followed.

Most recently, the contracting party, Transfield, transferred eight of its routes across to another provider, namely Torrens Transit, under a deal which took $150,000 in taxpayers' money from the party that were apparently failing in providing those lines of service and another $2 million handed over by the minister in the other hand to the new providers, with 16 buses, to provide exactly the same service that had been contracted in 2011.

The situation is despairing, yet in the parliament we have heard repeatedly the pride of the government, apparently, in investing in public transport. The shattering statistics that go with it are evidence to us that, unfortunately, even with the tens of millions of dollars they have been investing in infrastructure, we actually have fewer people going on the buses and a poorer service, and it obviously has a shattering impact on our budget to be able to manage it.

I also bring to the parliament's attention the attempt by the government to raise more revenue. This is a textbook Wayne Swan policy or approach: when you are in a financial haemorrhage, what you do is just go and get more money. And how do you get more money? Well, one of the ways of course is to increase taxes. We have had the announcement by the government of a car park tax.

Today that is qualified by the Premier as being something that is still apparently in consultation and that its final model has not been determined. It is pretty clear the government has not done the modelling to support the claims that they are going to provide increased support for public transport as a result. Apparently that is going to be its positive effect. There is absolutely no data to support that.

In addition, we find that in the budget for this financial year we already have the provision of park-and-ride services, which the government have now come out and announced are going to be paid for by a tax that they are going to introduce a year after they have completed the projects. That is just inconsistent entirely with the claim that this initiative of the car park tax was to have some demonstrable positive effect of getting people out of their cars and into public transport and providing the infrastructure to go with that. In fact, what it is is a tax to prop up this enormous black hole.

The other thing that I found, which was a most disturbing revelation, was that when we review some of the tax costs that are currently imposed we see the real trickery of this government. I am sure that the Speaker would not have heard of this issue yet, and if he had I am sure that he would be as alarmed as I am, as would be his constituents whom this would affect. I discovered recently some issues in respect of the plant registration fee, and for members who are not aware of this, it is a fee that is charged by SafeWork SA for registration and approval processes.

Under the Dangerous Substances Act and the Explosives Act there are work health and safety requirements. In particular, on the latter there is a plant registration fee. It applies to all pieces of equipment in the categories of amusement structures, lifts, boilers, pressure vessels, mobile cranes, tower cranes, building maintenance units, and concrete placement units.

Members would have some understanding of what this is. It is not the trucks on wheels. It is the pieces of equipment—they include lifts in people's private homes—and until this year, the government would charge, through SafeWork SA, a fee of about $60 for each piece of equipment. This is just to simply keep it on a register. It would be approved like a car registration; it is an annual renewal.

This year the government has issued invoices to everyone who owns these things—as you can imagine, there must be thousands of them across the state—a notice for $310. When one person who complained to me about this contacted SafeWork SA, they were told, 'This is because we are now charging you for five years of registration upfront.' Five years of registration upfront! 'How is this to be?' 'Oh, we sent you a notice last year.' He said to me, 'I get all the notices; I haven't received any notice of advice of this. Had I not even called, it wasn't disclosed on the invoice about what is now the case. There is no discount for paying five years in advance. There is no option available to me to pay one year.'

I said to him, 'Obviously, in this case you have a mobile crane. This is a payment you will have to make. Did you inquire as to whether you might get a refund if you don't get any work this year, given that the building industry is practically on its knees?' He said, 'Actually, I did, and they said, "You could apply again and get some refund if you were to sell the piece of equipment, but if you simply don't use it in the hope that you might be able to get some work in this following year, then you don't get the refund".'

We have a situation where, so desperate is the government to fill that black hole, it is prepared to issue a notice to people for a five-year obligation to pay their registration. There are no options, no discount; you pay, otherwise you cannot use this equipment. That was snuck in in the last lot of regulations under the Work Health and Safety Act 2012. I hate to think how many other opportunities the government might have implemented to rape and pillage those who are on their knees financially.

We have had the Premier come into this house and claim to us that it was necessary to introduce stamp duty exemptions within the Adelaide district, including a little extra area of Walkerville and Bowden, to enable the housing industry, which had had a major conference with the Premier about how desperate the situation was in respect of housing and building construction in this state. The property circumstances are poor; we know because the data tells us. There is a 27 per cent drop in one of the property statistics this year.

That is a very concerning circumstance for the state. We listen to that, and yet while the Premier is saying, 'I'm here for small business, I'm here to protect, promote and support the jobs in small business. I'm here to give them a go. I will make these concessions,' on the other hand he is pulling away this money when the people are in the most difficulty in their financial circumstances.

I am very concerned about this. I have spoken to other people in the industry. The government and their representatives are presenting to people in the industry their sympathy, their concern, their commitment to provide support, especially in a circumstance where the government has spruiked a financial future for the state which was going to be all rosy. We were going to have 25,000 jobs with BHP. We were going to have defence contracts come through; the Prime Minister still has not signed up to that.

We have a situation where the state is in a stagnant position, in a quite parlous financial position, and we have a premier who is saying, 'I'm here to help the little person. I'm here to help small business,' when in fact he is raping and pillaging their pockets to prop up a deficit which is of his own making. He, of course, alone has taken on the responsibility and decided that he is the best person in the Australian Labor Party parliamentary team to take on control of the financial accounts.

The situation of employment, of the balancing of the financial budget, of the debt level and of the AAA credit rating (which, of course, has plummeted), all of these indicators have gone south. All of these indicators have told us as South Australian parliamentary representatives that we have a serious situation facing South Australians and our electors and we need to be able to act as soon as possible.

Regrettably, we have about another 315 days before the people of South Australia can do anything about it electorally, but, in the meantime, be rest assured that, on this side of the house, we will be making sure that the public are well aware of the nightmare that the government has left them with. If they are writing out their wills for their children and their grandchildren, they will find as well that what has been left is very little and that it is now under attack.

I just want to say that, at the federal level, relief is on its way, of course, with the opportunity for the people of Australia to change the government. People can have different views about whether carbon taxes or mining taxes are appropriate or important or revolutionary policy. My concern is that, under the Julia Gillard/Wayne Swan formula, again, when they get into trouble, they just promise more, they just offer more debt to support the positive news of support—for example, to those who are disabled—and then they make announcements to say they are only going to rob from the rich and give to the poor, such as with the superannuation reform.

South Australians, both as members of the Australian community and under this state government, are under serious financial pressure. Their savings are being raided and their capacity to be able to continue to operate in the 140,000-odd small businesses in this state has been diminished. The opportunity for their children to have jobs, of course, is ever shrinking, so they look to broader horizons to give themselves some chance in life.

I indicate that the opposition will be supporting the bill so that the state public offices can continue to function, which is important, but we will be on the lookout for all of these, I think, sneaky, underhanded tax initiatives that the government is obviously trying to use to prop up this financial position which they have got themselves into and they are leaving us with the most disgraceful legacy.

Mr WHETSTONE (Chaffey) (18:23): I too rise to speak on the Supply Bill 2013, and I have some real concerns. It is not just about the way that the state is being run but about how the regions are suffering under a government that is continually centralising services, centralising mainstream support bases and centralising, I think in the mainstream, everything that takes away productivity and confidence in the regions.

It was almost 12 months ago when I stood in this place to speak on the Supply Bill, and it is with great pain that I stand here again today to reiterate my sentiments. I conveyed a year ago the dire state of the budget and the effect it is having on our regions.

I am a passionate regional South Australian. I represent the region of Chaffey, which takes in the River Murray, east of the River Murray to the Victorian border. We are continually under siege with a high Australian dollar—and no, a state government cannot impact on the high Australian dollar.

We are impacted on by commodity prices and, no, a state government does not have a lot to contribute to changing those commodity prices. It is about the cost of doing business, it is about the cost of regulation, it is about the cost of doing the business that we do, about growing food, and about supplying a domestic market that puts food on everyone's table. Everyone in this chamber—not many of us here this evening—when we sit down to our meals, the majority of that food comes out of the Murray-Darling Basin and, proudly, the Chaffey electorate is a critical part of that, particularly here in South Australia. We are, in many cases, the engine room to food production.

Before I go on and touch on primary production, as we have already heard from the member for Bragg, the deputy leader, South Australia has reached a number of firsts in the past 12 months. We have heard about the highest debt in the state's history. We hear about the highest budget deficit in the state's history. We hear about Australia's worst credit rating and, of course, how can we forget some of the nation's highest taxes? We look at land tax, we look at payroll tax, we look at WorkCover. I think WorkCover is one of those issues that need to be addressed. For far too long this state government has continually almost irrigated and fertilised a WorkCover system that is becoming unsustainable.

Not only do we have these broken records, we also have a number of other ominous circumstances, obviously including the dramatic increase in the cost of living. The cost of living is probably going to be the number one issue leading up to the state election in 2014, and for anyone here to say that the cost of living is not an issue in their home, or in their electorates, they are kidding themselves. It really is something that is starting to bite at every household budget and it has people talking.

In general conversation, whether you are out at a function, whether you are talking to people individually and, often, when door knocking, I ask people what is their biggest concern. It is, of course, the cost of living. It is the cost of putting food on the table; it is the cost of being able to pay for those utility prices; it is the cost of owning a business, paying that land tax; it is the cost of just general life here in South Australia, and it really is becoming the number one topic.

Again, rises in water and electricity prices have been very well documented. We look at why those electricity prices are so high. We look at why the water prices are the highest in the nation. We look at having diversity away from the River Murray. We look at how the government made a decision on accepting a 50 gigalitre desalination plant and, back then, this current state government was a denier on stormwater harvesting.

I think in a debate in here one day—and I am sure that you, Mr Speaker, were sitting over in the benches—and we were doing some robust bickering about stormwater, and I made the comment that all water here in South Australia is stormwater; whether it is the River Murray, whether it is in your rainwater tank, or whether it is water into our reservoirs, it is stormwater. I think that is something that needs to be further addressed. I acknowledge that the government has looked at stormwater reuse and is putting money towards it, but we have also increased the desal plant by two.

In the state government's wisdom, it was led into a dark corner, because to receive funding for a 50 gigalitre desalination plant, I think, was justifiable. It was a good investment in the diversity of our water supply, but to double the investment into the desalination plant was simply short-sighted, and you were looking at the candy and you were not looking at exactly what the reality was. Again, we are dealing with fewer jobs and the cost of living. The cost of doing business here in South Australia is creating less jobs, it is creating less certainty, and it is not creating an environment that we here in South Australia desperately need.

We have had the blow of some mining announcements, such as Olympic Dam. The expansion of exploration in the mining industry has been touted for some years now and, all of a sudden, we have the Premier coming out and saying that we are in a mining boom and we are moving on with this mining boom. The mining boom is not here with us today. The mining boom has passed. I am sure that the Premier and the minister for mining will be addressing the mining sector across the road tonight, and they will receive a very firm message from the mining sector that things are not rosy. It is not only about the mining industry: it is about the support mechanisms, the support industries around mining. They are doing it tough. Consultants are doing it tough.

I was speaking with Consult Australia this morning. It is laying off more people than anyone. It has laid off just over 1,000 people in recent times, yet look at how our state and federal governments are propping up Holden. They are propping up something that is seen to be a worthwhile exercise and yet we have one industry that revolves around infrastructure and mining and it has just laid off 1,000 people. I did not hear any front-line stories on that. I did not hear the Premier come out and say that he is going to support the consulting industry or any of those service industries that should be there and should be supported.

Again, if we look back at the nineties, those industries will be gone; those service industries will not be there: they will have travelled back interstate where they have come from. They will be looking further afield overseas, looking at exactly how they can secure jobs and secure what they need to get on with life. That would leave South Australia depleted of not only consultants, engineers and architects, but of a workforce that is critical for prosperity and for moving on.

One day, when we see these big infrastructure projects take hold, or the mining industry take another hold, we will not have those support industries here to help. So I guess the message is that all people across South Australia are hurting, and it is thanks to our state Labor government and its charter. Its charter at the moment is overspending and overspruiking. It is out there selling a story that does not have any credibility to back it up. South Australia is hurting. Potentially it is a city centric ideology that if we support the city metropolitan seats everything will be alright. I can tell you that everything is not alright. The last 12 months have been more of the same: more spending and more mismanagement, particularly waste.

We have departments that are overstaffed and overregulated. To get around all of the overregulation, overspending and under-management of these departments, we need to support industries in our economic sector. We just see a void, and that greatly worries me for the future of our state. We will not have the skilled services there.

A serious flaw of this state government has been its inability to prioritise. We have seen the $40 million that is about to be spent on a footbridge. It is not about the footbridge: it is about the priority of spending. It is about where we need to spend that $40 million first. Do we need to spend it on a bridge or do we need to spend it on trying to excite or stimulate infrastructure investment? I will leave that thought with you.

We see the upcoming mothballing of a long-heralded desalination plant. That desalination plant has had another significant impact on exactly what utility costs are doing to every household budget, and water has probably one of the biggest impacts. When every householder gets their water bills, they shudder. In a lot of instances I speak to people who are not my constituents in Adelaide. They spend a lot of time on the phone deferring payments, finding other ways to stagger payment of their water and electricity bills. This really is a sad indictment; the priorities of the government are all wrong.

We hear the Premier spruiking about a water rebate that is going to help everybody's water bill and the cost of living. Well, I can tell you that that water rebate is only for some. For many people living in country electorates, particularly in my electorate of Chaffey, country living house blocks do not get the rebate; so it is good for some but it is not good for others. Those blocks have the same criteria for how their water is delivered. It is filtered water and it is delivered to their home, but because they live on a country block they are not eligible for a rebate; so it is good for some but not good for others. This just goes to show the priorities of this current government.

The current government is racking up over $200 million annually on consultants and contractors, which I have already touched on. That industry is putting off more people than the government cares to even talk about. They are an industry that is not out there highlighting, spruiking, that unless we have this industry, unless we have government support, we are gone. Well, it looks like a lot of this industry has gone. We do not see the government putting in huge buckets of money to underpin a manufacturing industry that needs to be held accountable. They need to give an explanation of just exactly what their long-term vision is and how that money is going to improve not only opportunities for employment, for the economy of this state, but how it is going to be of benefit for the future of this state and our economy.

The government is spending around $75 million annually on advertising. It is not about advertising the economy, it is not advertising for the betterment of the state. The advertising is all about justification for government decisions. It is advertising why we are going to have these sanctuary zones and why we have got this magnificent desalination plant that we are about to close up in a minute. Please tell me: what are we spending $75 million on? That's right, we are spending it on the government brand. I think that the government's priorities—and I come back to this word again—on this advertising are just outrageous.

We are spending $25 million annually on overseas travel. We continually hear about the trips to China and what it is going to bring. Well, we are yet to see what it is actually going to bring, what tangible outcomes. It is all very well to do the fuzzy meetings, the big cocktail briefings and rub shoulders with our overseas markets, but what are we actually getting out of it? We are getting exposure, but we are not getting concrete, grassroots outcomes, and that is something that really does concern me, considering that I have been an exporter out of the Riverland with wine grapes and citrus for many years. It is about getting out there and doing it yourself; it is not about governments going out there and getting in the way.

While this government has been flip-flopping over projects and costs and squandering money, rural and regional areas have been suffering. They tend to do a lot of it for themselves, but they are suffering. It is timely that this week I will speak on the member for Frome's motion urging the state government to completely review the PAT scheme. That is an area where the constituents of regional electorates are doing it tough. For people in the regions to visit a hospital, because their hospital has either been destaffed, defunded, they have to take time off work, they have to organise themselves, they have to organise someone to help them travel to Adelaide to health providers, and it is a huge cost.

Not only are they taking time off work, taking someone to care for them down to Adelaide, it is the cost of getting to Adelaide, the cost of fuel, the cost of accommodation. It is something that has been overlooked for far too long. As I said, it is timely that this scheme is reviewed; it is long overdue. Again, I understand that the impact of centralisation on health services in country areas is taking away the fabric of these country hospitals.

I have much to say, but I know that tonight all of us on this side, the opposition, have much angst about the way this state is being run. It really is a sad indictment, whether we are talking about credit ratings, exactly how the money is being spent, or AQIS inspection fees. The state government has just supported fees that have gone from $500 to $8,500 and that simply shuts out small business in horticulture because they cannot afford to export on a small scale.

It is outrageous. Those increased inspection fees will mean an end to a lot of small businesses in the electorate. We have over 4,000 small businesses in Chaffey that directly or indirectly rely on exporting, and for the current state and federal governments to cut them off at the knees is just another example of what they are doing to this state's economy.

I would like to briefly touch on fruit fly. Being fruit fly free is something that this state is regarded highly for in terms of our export markets; our pride in being fruit fly free is something that nationally no other state can boast. South Australia carries that mantle, and it is something this government needs to be proactive on. It needs to reassess exactly where its priorities are, it needs to look at putting funding in place to nurture that feather in the cap we have.

In closing, I would, sadly, like to touch on the quality of our country roads. Country roads are a major issue in regional electorates, and it really is a case of country roads being out of sight and out of mind. That squeaky wheel, country roads, needs to be addressed. We look at road tolls, we look at the young on our country roads, and we look at the statistics that tell us that country roads are claiming many lives.

It is not just about the education process, it is not just about government slowing down speed, and speed restrictions. It is about repairing the roads, it is about putting money into funding to get those roads fixed so that they are safe, so that our young and uninitiated drivers can get out there and drive on safe roads that will enable them to have a long and extended driving career. I think I will save my further comments for, perhaps, an adjournment grieve.

Ms BETTISON (Ramsay) (18:43): I rise today to support the Supply Bill 2013 and highlight the government's key priorities in the 2012-13 budget. The budget was delivered against a backdrop of uncertain global and domestic economic conditions lingering from the global financial crisis. The widespread loss of consumer and market sentiment associated with the economic downturn has translated into significant and successive revenue writedowns of over $3 billion since the 2011-12 budget.

Nevertheless, we have continued to provide additional funding to support areas of need, including disability, communities, health, child development, transport and infrastructure. In the budget, the government prioritised funding of $210.2 million over four years to help those most in need. This sum included $101.6 million over four years to provide additional support for disability clients needing accommodation support, community support, community access and respite services for carers. On this point, I note that during my doorknocking, particularly during the by-election, many times I spoke to people who had adult children with high disability needs. They talked to me about the different levels of support that we would need, and I am very proud that this government was able to provide this additional support.

There was $61.5 million over four years in capital grant funding to the South Australian Housing Trust for the construction of new community based disability housing. One of the key concerns about older people with children or adult children with disability is where they are going to be living when they are older. This is of grave concern to them as they are getting older themselves and unable to look after them. There was $21.6 million over four years to transition all remaining residents accommodated at the Strathmont Centre into community living arrangements and $20 million over three years for the National Disability Insurance Scheme launch.

The Department of Health is expected to reach record operational spending levels of about $4.9 billion in 2012-13 and to help cater for the demand in the health system and support the state's hardworking doctors and nurses, the government announced $183.1 million over four years to provide additional resourcing in the public health system and to support the increased cost and volume of services including nurses, doctors and other health professionals. To support their work there was $30.4 million over two years for the implementation of a singe Enterprise Pathology Laboratory System across the department with the intention of generating operational efficiencies in the processing of tests, storage of results and delivery of pathology results.

This government remains dedicated to helping our most vulnerable with an extra $23.1 million in funding over four years for the budget with initiatives including $19.8 million over four years to continue to meet the growth in children requiring alternative care and $3.3 million over four years for a program to support vulnerable families with infants and young children. What is important is that in a time of global financial crisis this government made a conscious decision to continue our record capital investment in the state's social and economic infrastructure with the clear intention of supporting South Australian jobs and boosting the economy.

Our historically high levels of investment in infrastructure continued in the 2012-13 budget with about $8.3 billion of expenditure in key infrastructure over the next four years. Major expenditures include $230 million for the South Road Superway, the state's biggest individual road project; $165.5 million for the Southern Expressway duplication project; $135.8 million for electrification of the Noarlunga line as well as station upgrades; upgrades to the Goodwood and Torrens Rail Junctions; $98 million for the 100 gigalitres desalination plant and pipeline to the Happy Valley Treatment Plant.

We also saw significant investment to improve connectivity between northern and southern metropolitan water supply systems; and $76.3 million for the development of the Sustainable Industries Education Centre at Tonsley Park. In the 2012-13 Mid-Year Budget Review we built on our earlier commitments in the 2012-13 budget by providing further funding of $40.3 million over four years to provide more resources for our most vulnerable children requiring alternative care arrangements. The government also made a commitment to pay its fair share of costs under the Equal Remuneration Order covering those working in the social and community services sector.

We also acknowledged that our property sector was soft and the housing construction industry had been facing tough conditions. With this sector employing about 60,000 workers, the government took decisive action to boost the industry by introducing reforms to its housing assistance grants. These reforms included an increase in the First Home Owner Grant from $7,000 to $15,000 for first home owners building or purchasing a new home from 15 October 2012. The reform package also included an $8,500 Housing Construction Grant for all eligible buyers of new homes until 30 June 2013.

This government has not forgotten about businesses and investors in South Australia. That is why we have delivered significant taxation relief in both land and payroll tax to ease the burden on businesses and investors in our state. In fact, the total cumulative value of payroll tax relief provided by this government since 2004 is estimated to exceed $1 billion. The total cumulative land tax relief provided by this government is estimated to total nearly $950 million by 2012-13. While all these measures are necessary, the government remains committed to fiscal sustainability.

We have introduced a significant package of savings measures in an effort to restore the budget position. These measures will reduce the level of our debt by $6 billion by 2015-16. We have met our savings target to date, and we are currently on track to deliver the remaining savings, despite some challenges in Health. These measures reflect those of a financially responsible government. It is essential that the Supply Bill is passed so that we can continue to use resources to look after the most vulnerable in our society and invest in projects that provide a strong economy for all South Australians.

Debate adjourned on motion of Mr Gardner.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed not to insist on its amendment No. 2 to which the House of Assembly had disagreed, and has made the alternative amendment in lieu thereof, as indicated by the annexed schedule, to which alternative amendment the Legislative Council desires the concurrence of the House of Assembly:

No. 2. New Clause, page 8, after line 9—

After clause 5 insert:

5A—Amendment of section 13—Presiding and Deputy Presiding Members

Section 13—after subsection (1) insert:

(1a) Before a member of the Tribunal is appointed (or reappointed) as the Presiding Member or a Deputy Presiding Member of the Tribunal, the Minister must consult confidentially about the proposed appointment with the Law Society of South Australia.

At 18:53 the house adjourned until Wednesday 1 May 2013 at 11:00.