HOUSE OF ASSEMBLY

Wednesday 15 October 2008

The SPEAKER (Hon. J.J. Snelling) took the chair at 11:00 and read prayers.

VISITORS

The SPEAKER: I advise members of the presence in the gallery today of the Rotary group study exchange from North Carolina (guests of the member for Morialta).

SPEED DETECTION DEVICES

The Hon. R.B. SUCH (Fisher) (11:02): I move:

That this house establish a select committee to inquire into the effectiveness of radar cameras, hand-held laser guns and other speed detection devices in reducing accidents, injuries and fatalities on South Australian roads; and in particular, whether—

(a) these devices are being used for revenue raising or for road safety purposes;

(b) these devices are accurate, calibrated and tested according to national and international standards;

(c) road users are treated fairly as a result of the use of these devices;

(d) the policies and guidelines governing the use of speed detection devices are appropriate;

(e) there is new improved technology that could be used to assist in the detection of speeding motorists and red-light offenders; and

(f) any other relevant matter.

The first point I want to make quite clear is that this is not a criticism of the South Australian police force, for whom I have high regard. In my view, we have the best police force in the nation. From time to time, we will get the occasional police officer who might not do what he or she should, but I think that South Australians, rightly, respect our police force. We have high regard for the Commissioner and those who serve under him.

The reason for this motion is to tackle a matter often raised in the community: are these speed detection devices being used to raise revenue, are they being used for road safety purposes or (the other option) are they being used for both? I do not want to prejudge what our select committee might find, but I think that those are fair and reasonable questions to ask.

Members may say that it is not easy to prove or disprove the assertion that they are used for revenue raising or for road safety purposes, but this is such an important issue in terms of lives on our roads that it is worth exploring to see whether or not, as part of the inquiry, the devices, if they are appropriate, could be used more effectively and whether new technology is available.

I know, for example, that with the hand-held laser guns there is new technology coming which will provide a photograph of the offending vehicle or motorist. That is something that would be welcomed by the community. There is new technology happening. There are issues relating to the location of speed cameras in fixed positions on highways and freeways. Members who have travelled interstate will be well aware that there are fixed cameras in position on interstate highways. I am not aware if we have many that are fixed on our highways and freeways here but I am aware that we have the technology to check the speed, for example, of heavy vehicles travelling between point A and point B. That is a very common use of technology interstate.

There is a question about the calibration of these instruments. I was interested to hear, via a radio interview recently, that the assistant commissioner (I think it was) made the point that the laboratory for testing this equipment here is not accredited by the national Australian testing authority. I believe the answer that was given on radio by the assistant commissioner was that the personnel are accredited. I have, residing in my electorate, the former head of weights and measures in Queensland (I forget what the correct title is but that was effectively his role) who is now retired. He put to me that a lot of the equipment used here by the police is not properly tested and is not subject to the accreditation criteria that it should be.

I am not in a position to say whether or not that allegation is correct. However, his argument to me is that if the equipment does not conform to certain federal standards, as overseen by the national Australian testing authority, then the consequence of using that equipment renders

it invalid. I do not know whether or not that is correct but that is one of the issues that could be looked at.

I have had put to me by a professor of physics at Adelaide University (Professor Jesper Munch, who is a laser expert and has been involved in developing lasers for guided missiles) that the current practice of the South Australia Police, in relation to testing laser guns before the motorcycle officer heads out for daily duties is deficient. The practice is to measure a fixed distance of, say, 50 metres behind a police station, which is deficient in the sense that it does not measure the velocity of a vehicle. As the professor put it to me, 'Fences don't travel very quickly.'

To measure a distance of 50 metres behind a police station with a laser gun means that the distance might be registering correctly but it is not measuring the velocity, which is what the offending motorist will be charged with. That is the view that has been put to me by the professor at Adelaide University. He has queried whether or not the hand-held laser guns are appropriately tested before they are used during the day. It will be interesting (and useful) to explore that situation.

For those who are mathematically inclined, velocity or speed is distance over time and, I guess, the police are focusing on getting the distance aspect correct. However, it does raise the issue of whether or not the device is measuring velocity accurately. As I understand it (and I do not profess to be an expert in this area) it is very difficult to test a laser gun with regard to the accuracy of velocity—very difficult indeed; certainly in an operational sense—and that, presumably, is why the police do not do it.

I have read the manuals produced by the manufacturers of laser guns, and it is interesting that they caution against carrying them on motorbikes, because they bounce around a bit more than in motor cars. Therefore, such a delicate instrument is subject to quite a bit of movement if it is carried on a motorcycle, and it is the motorcycle police who, not always, but often carry hand-held laser guns.

Another interesting aspect of laser guns is that they will give an inaccurate reading when a vehicle is detected on a bend. I am not a mathematician in the league of the Hon. Rob Lucas but, as I understand, it has to do with the cosine. If the laser gun is pointed at a vehicle coming round a corner, it will give a reading which is different from the actual speed at which the vehicle is travelling. The police and, I guess, the technical people will argue that that goes in favour of the motorist. That is one of the things that I think should be explored.

The use and the consequence of the use of a laser gun is essentially at the discretion of the police officer. The police officer has significant discretion in terms of whether or not he or she wants to charge someone with breaking traffic rules; whereas a fixed radar camera on a car takes a very objective picture of a vehicle. A set tolerance is built into it so that the motorist gets the benefit of a margin, and a margin is normally built in for technical error. I am told by police that none of their equipment is 100 per cent perfect—and one would not expect it to be.

As we have recently observed in relation to the Qantas Airbus incident, technology is not perfect, but with the laser gun, it is largely at the discretion of an officer whether or not he or she decides to issue a speeding expiation notice to an offender.

I mentioned earlier that there are new laser guns coming onto the market which take photographs. At the moment, the motorist is confronted with an allegation of a speed on a screen. We know from basic research that there can be a query about whether the image on the screen is actually of that particular vehicle or the driver confronted with an allegation of speeding. As I understand it, the visual on the laser gun could come from a different vehicle. Certainly if other vehicles are present, there are difficulties in terms of that procedure.

With the laser gun, the officer has to zero in with a guiding light on the numberplate and hold it there for a minimum of two seconds, maybe longer. There are issues about the accuracy of that, particularly in a situation where there are strong winds, or other factors, that could influence the accuracy and therefore the legality of the ticket issued to the driver.

I am not suggesting that laser technology is inaccurate: if it is properly calibrated, designed and used, lasers are extremely accurate. But what we have at the moment is a degree of variability because, as I said earlier, a lot of it comes down to the integrity of the officer and the ability of the officer to use the laser gun correctly.

The guidelines issued by the Commissioner in relation to the use of speed camera devices and laser guns are quite explicit and are to be deployed where the Traffic Intelligence Section has

identified a road safety risk. I would recommend that all members have a look at the guidelines from the Commissioner about the location of speed cameras and the use of laser guns because, amongst other points, they state:

- Speed cameras would generally not be commonly positioned within several hundred metres of changes in speed zone, although they can be so positioned in high-risk type zones, such as school zones.
- Multiple speed detection devices would not operate within 1 kilometre of each other in the same direction on the same stretch of road.
- Speed cameras are not to be located to operate on the down slope or foot of a hill, unless there is an identified road safety risk associated with that section of the hill.

When I have queried this aspect with the police minister, suggesting that particular officers do target motorists on the down slope or the foot of the hill, the answer that comes back is that they are doing it for safety reasons. That may be valid but it also may not.

Those are some of the things that ought to be looked at: the calibration and the positioning. This select committee is not about questioning whether or not some roads have an inappropriate speed limit. I think some of them have, I think some of the 50 km/h default limits are inappropriate, but that is a different issue, not related specifically to this select committee; although, by having the motherhood clause at the end, members of the select committee could raise that issue.

In summary, as I said at the outset, this is not an attempt to attack the police: this is an attempt to clarify, in the public interest, whether the radar cameras and speed detection devices are appropriate, whether they are being used appropriately, whether they are accurate and whether motorists and other vehicle users are being treated fairly in the use of those devices. I commend this motion to the house. I trust the government, the opposition and my fellow Independents will support it.

Dr McFETRIDGE (Morphett) (11:17): I indicate that the opposition supports the member for Fisher in this move to establish a select committee to inquire into the effectiveness of radar cameras, handheld laser guns and other speed detection devices in reducing accidents, injuries and fatalities on South Australian roads and, in particular, whether these devices are being used for revenue raising or other road safety purposes and a number of other issues raised by the member for Fisher.

I had the opportunity—and I thank the police—to have a full briefing on the operation of speed detection devices. I was able to visit the Thebarton barracks, and I thank the Minister for Police for organising that for me. I was given a complete briefing on how these devices work: how they are calibrated and how the officers are trained in using them. I have complete faith in the South Australian police to make sure that they are using these devices according to their training and advice from the manufacturers and those testing the devices.

Having said that, it is always required in such cases, not only for openness and transparency, that we protect our South Australian police officers who are using this equipment every day out there as a speed detection device and road safety device. I think there is a real issue here. We need to protect them so that they are never put in an embarrassing position where this equipment is held to question.

I, for one, have been critical of the police for not having National Association of Testing Authority (NATA) accreditation on their equipment, and they still do not have it. But having spoken to the police about this, they are in constant discussion with NATA, and I understand that they will be achieving some accreditation within a very short time frame, and I commend the police for that. They have had it in the past; they have it in place for a number of their forensic testing facilities and they are aware that NATA accreditation is required in many areas. Certainly, it adds confidence—and that is probably what it really is—the perception of extra confidence that they are doing what they are required to do and that it is backed up by highly qualified technicians with well-calibrated equipment.

The problem we still have though is that, no matter how well the police are looking after equipment and how diligent they are in their testing and their protocols, there still is the issue that motorists in Australia today are driving cars (2008 models) that still have a level of uncertainty in their speedos, and in 2008 I would have thought that is just amazing. The scientifically provable uncertainties in speed calibration are incredible.

I have been working with Mr Les Felix, who is a metrologist. Metrology is the science of determining the accuracy of measurement. Mr Felix is a world authority in this area. We are lucky

to have him in South Australia. He has been involved in training police forces in South Australia, New South Wales, Victoria and, I believe, Queensland as well, in making sure that they are using the equipment as it is designed to be used and that they are interpreting the results of the equipment within reasonable levels of accuracy that need to be in place. Certainly, we have seen issues being raised about the tolerances that are accepted by police forces in South Australia and interstate.

I was told that the tolerances in Victoria were reduced by half, and the levels of fines went up exponentially. The problem I have is that if you are going to reduce those tolerances you have to make sure that the drivers who are driving these cars and who are trying everything possible to do their very best to make sure they are not speeding are not being pinged because their speedo or their equipment (in other words, their motor vehicle) is putting levels of uncertainty into their speed determination that are unavoidable.

For example, you can be sitting in your car and, according to your interpretation of what is going on, looking at your speedo, you could think you were doing 50 km/h but, by the time you take in the inaccuracy of the actual speedo itself, variation in tyre pressure, tyre wear, the loading of the car, the wind speed—and there are number of other factors that you add in—the levels of uncertainty are such that you could actually be doing between 42 km/h and 58 km/h but you are, in your mind, 100 per cent sure that you are doing 50 km/h.

Unfortunately, this uncertainty does get larger the faster you go. That is a scientifically provable range of uncertainties in speed measurement. To overcome that I think people like Les Felix have to be involved in establishing protocols and looking at the tolerances that are being put in place when speed detection equipment is used and quite heavy fines for speeding imposed.

Nobody in this place, particularly I, would ever condone people who deliberately speed, but if you are inadvertently speeding—because you have no intention of speeding; you are just unaware of the fact that your car is actually going faster than the speed that you recognise that it is doing from your interpretation of the information being given to you—innocently, I suppose, for want of a better description, and you are booked for speeding, then there should be some opportunity for you to have that looked at and adjudicated on.

I know it would be a cumbersome process, but because this scientifically provable level of uncertainty is there, I think, for openness and justice, there needs to be a panel or some review process that you can go to. You might have to pay the fine first as a surety or some sort of deposit but then be able to appeal to see what is going on. Certainly, if you are deliberately speeding you need to be penalised in a way that is going to make you realise that it is one of the most stupid things you can possibly do.

There would be nobody in this place or out on the streets who has not, as the current speeding campaign says, crept up over the speed limit. You do it going down hills; you do it around town when you are overtaking. It is a dangerous place to be, on the roads.

Certainly, combine that with the fact that AAMI insurance company's recent report on road accidents revealed that 44 per cent of road accidents were caused by inattentive driving. It is a bad combination. Speed and inattention is a real killer, in every sense of the term. It is very important, though, that, if they are to be driving on our roads in modern cars, people are able to have confidence in the fact not only that our police department is doing what it wants to do (that is, enforcing the law without any chance of being embarrassed because its equipment and protocols are not those that should be in place) but also that if drivers are put in a position whereby they know they are being pinged for speeding it is something they must face up to.

As I say, anyone who has been deliberately speeding should be treated quite harshly by the courts, because it is just intolerable. Having said that, I refer to another issue relating to the levels of speed limits. If you go from my place down at Somerton Park past the Marion Shopping Centre on Sturt Road, there are bus interchanges, pedestrian crossings, traffic lights and numerous commercial centres, and it is a 60 km/h zone. If you drive through the hills down to Clarendon, sleepy little Clarendon has a speed limit of 50 km/h. If you then go down into Meadows (and Meadows is just the same as Clarendon) it is 60 km/h. If you go to Macclesfield, about a kilometre out of Macclesfield, the limit is 50 km/h again.

There is a real need to examine the speed limits. The other one I find really quite an issue is Military Road, at West Beach, where it is 50 km/h. You are going from a 70 km/h zone to 50 km/h and 60 km/h zones. It goes all over the place. We need to look at the inconsistencies in setting speed limits around the place. We need to be sure that what we are doing is the right thing, not just

what seems to be right or what gets a good media splash. We need to make sure that this committee is supported. Certainly, I will be more than happy to be a part of the committee or to put submissions to it.

Mrs REDMOND (Heysen) (11:27): It is my pleasure also to rise in support of the member for Fisher's motion this morning to establish a select committee to inquire into the effectiveness of radar cameras, hand-held laser guns and other speed detection devices in reducing accidents, injuries and fatalities on South Australian roads. Members may be aware that I spent some 10 years on the Road Safety Advisory Council in this state. Indeed, I was removed from that council only by a Liberal government when it came into power. The minister came through with a new broom, swept clean and virtually everyone was off the Road Safety Advisory Council.

I did spend some years on that advisory council and I therefore gained a bit of knowledge about road safety; and, of course, in the nature of the practice that I formerly ran I did a fair bit of personal injuries work with people who sustained quite significant and dramatic injuries as a result of road accidents. I had a fair bit of work in terms of understanding some of the impacts, and so on. I come to the debate with a strong interest in issues of road safety, and I want to make a couple of comments about the issue generally. I start with the issues that were touched on by the member for Morphett, that is, this idea of when it is appropriate to be apprehending people under our road speed limit regime.

I have a strong suspicion that, in the last week or so, the government began a campaign about motorists creeping over the speed limit which is not aimed at road safety: I think it is aimed at revenue raising. I have a strong suspicion that this government is trying to soften up the electorate ready to introduce some lower tolerances in terms of at what point the speed detection devices will be imposing fines on people.

I know that in Victoria they went to a position where, if you were travelling in a 50 km/h zone at anything like 53 km/h, even three km/h over the limit, you would be fined for any breach. I have a problem with that because, as other members may have mentioned—and certainly the member for Morphett may have touched on it—in this country car speedometers are only required to be accurate to within a 10 per cent tolerance. That means that, if you are the most conscientious driver in the world and drive down the road in your brand-new car, you could be driving with the speedo clearly saying that you are doing exactly 50 km/h but, because the Australian design rules have that 10 per cent tolerance, in reality you may in fact be doing anything between 45 and 55 km/h.

So, I have a real problem with any government that decides to start imposing fines at less than that tolerance. Beyond that tolerance, I am prepared to accept that you need to be aware that, even when you are driving at 50 km/h, you may be doing 55 km/h and, if you were fined for doing beyond 55 km/h, so be it.

The reality is that, if you are doing 50 km/h in your brand-new car and you are an extremely conscientious driver who touches the brake even if you start to speed up a little as you drift down a hill, you could be doing 55 km/h and I believe the government is introducing this new series of 'creeping' advertisements simply to prepare us for a new and less tolerant regime, one to which I object, simply because it is not fair to have fines imposed on people who are doing exactly what they think is the right thing, namely, driving at 50 km/h but potentially driving up to 55 km/h without their knowing it.

As the member for Morphett said, we all tend to creep over the limit not because we are trying to hedge a little or go a little bit faster, but if you are going down a slope the weight of your car is likely to increase your speed and take you marginally over the limit. It might be only 1 or 2 km/h over the limit, but you can get over the limit before you recognise it and touch the brake and bring the car back to the required speed limit.

I have no objection to the idea that reduction in speed has been a major factor in reducing the number and severity of accidents. I supported the change to a 50 km/h limit. I specifically remember the minister talking about it when we debated it in this chamber—although it was regulation and not legislation—and the minister assured this house that the 50 km/h zone was to apply in the back streets, that the arterial roads would still be 60 km/h, but once the regime was introduced we are getting 50 km/h zones all over the place, not just in back streets but also on main streets.

The idea originally was that arterial roads would remain at 60 km/h. I have had many letters, to both the council and the department, asking why arterial roads have been signposted at

50 km/h rather than 60 km/h. Eventually I reached the conclusion that we will gradually lower the speed limit everywhere and not just on the back roads. Worldwide research supports the idea that we have fewer accidents and they are less severe if people are travelling at 50 km/h rather than at 60 km/h. I have no objection to that aspect.

I believe the current indication, where the government is heading towards having lower tolerances on the speed limit, is all about revenue raising and not about saving more lives on our roads. If they really wanted to save more lives on our roads—and anyone working in road safety will verify it—you will find that basically there are three elements. One of them is driver behaviour—things like wearing a seat belt, driving at a lower speed, not drinking and driving or not taking drugs and driving. We have had a massive impact on those aspects of driver behaviour. Most people wear seatbelts most of the time and most people do not drink and drive, and we have seen a decline in road injuries and fatalities.

The next element is the safety of the vehicles themselves. We have done enormous things with retractor seatbelts, baby capsules and airbags. All sorts of things have been introduced into cars, notably a sort of cage in which we are protected so the car crumples but leaves intact the essential part where the passengers are located. All those things have helped.

The third element—and the one which the government should be addressing if it really wants to have an impact on road safety—is what is called the roadside furniture, for example, the shoulders of the road. Sadly, this government has been lacking in paying any attention to the shoulders of the road or any of the other things that are likely to cause harm to people when they accidentally run off the road and so on. It is that third element that needs attention.

I support the idea that we need to look at this issue. Therefore, I support the motion that we look at the impact of radar guns and other speed detection devices, because, at the end of the day, I do not think that this is now anything more than revenue raising for a lot of the time. We should be concentrating on how we address the issue of the ongoing number of injuries and fatalities—which still number far too many. I suspect that we need to look at things such as pedestrian behaviour and the interaction of cyclists and pedestrians with car users.

There is no doubt that cars are a lethal weapon in terms of any impact with a pedestrian or cyclist who is unprotected. We need to look at a range of issues beyond the use of speed detection devices as a mechanism for road safety. Quite frankly, I do not think that is where the real problem with road safety lies, so I support the motion.

Mr HANNA (Mitchell) (11:37): I support the motion to establish a parliamentary committee into the effectiveness of radar cameras in reducing accidents, injuries and fatalities on South Australian roads. The motion moved by the honourable member specifies that the committee, if established, should look at whether these devices are being used for revenue raising or road safety purposes. Without foreshadowing what a considered response might be to that proposition, we would probably conclude that there is an element of revenue raising, as well as genuine road safety purposes, in terms of the deployment of speed cameras.

The community is concerned about it. If we go any further towards a revenue-raising motivation for speed camera deployment, then there is a risk of public confidence in SAPOL being eroded because the community sees the government wanting to raise more revenue and that some speed cameras are placed in places which are not particularly relevant in terms of road danger, so there is a conclusion that the police in some way are doing the revenue-raising work of government. That perception needs to be put right out of people's minds in order for us to retain full confidence in SAPOL.

It is natural that the cynicism is there when the deployment of cameras is not always in places which clearly show there is a danger of collision or harm to pedestrians and so on. I think it is high time that we as a parliament looked at this issue to put to rest once and for all the assertion that speed cameras are there for revenue raising. If they are, then they should not be used in that way. If there is nothing to this widespread cynical belief about speed cameras, so be it; it would be good for a parliamentary committee to find that. So, I commend the motion of the member for Fisher. I hope that the government will see that there is no harm in simply examining this issue and coming out with an objective response.

Mr VENNING (Schubert) (11:40): I will briefly speak to the motion without repeating what has already been said. Certainly, we support this motion and the setting up of the select committee, and we commend the member for Fisher for his motion. I should declare that I have transgressed in a certain way and paid the ultimate price, I would say. As a person doing approximately

60,000 kilometres a year, and often running late, I do run that risk. I think the consistency of speed limits, as mentioned by the member for Heysen, is my single biggest problem. When discussing this with the Police Commissioner just a couple of days ago, he admitted that there has been a problem with people guessing the limit and not knowing.

So, I certainly welcome this. I think it is time that we in this house took time out and looked at this issue. I am happy to offer my services to this select committee, should there be a vacancy, because I think a lot can be done. There is a broad accusation by people out there that this is used as a revenue raiser as well as a deterrent to speeding and a measure to save lives. At the moment we are seeing an increase in the road toll. It seems to be, some would say, a statistical aberration—it seems to go up and down—but, certainly, in my experience, I believe that I drive according to my judgment about the safety of the road and my motor vehicle, and what the road conditions allow safely.

After all, I believe the bottom line is that we are all responsible for our own safety on the roads because, if you are not, you will kill yourself—as long as you do not kill other people at the same time. We are responsible to some degree. We have all heard the comments about South Australia being a nanny state. We cannot protect people from themselves, but we do have to put down guidelines to protect people who do not know the road and put down speed limits to ensure that they can travel on our roads safely.

I have heard the discussion from the member for Morphett many times in relation to the devices being used and whether they are accredited and regularly checked. I use a GPS in my vehicle to give me an exact reading, because speedometers in cars do vary. It worries me to hear that the tolerances will be changed, and also the current advertising program about the creeping driver (the person who creeps over the speed limit). All I can say is that, if we had consistency, there would be a lot less of it.

I am happy to drive on all major roads within cities and towns at 60 km/h an hour. I have no problem whatsoever with that, and never have had. When you are driving on a major road like King William Street down past this building to the cathedral it is 50 km/h. Why? I cannot understand why that is the case; there are no houses there. In some of the other areas where you would think it is 60 km/h it is 80 km/h. It is inconsistent.

My big problem has been that, in many areas—not always—local government constituents write to their council complaining about speeds, and I have personal information that people write in because they want everyone to drive slowly past their place and then speed past everyone else's. Isn't that human nature? I think it is high time councils were more responsible and make a decision there and then and say no, they should should not necessarily then pass it on to the road safety board, the police, or both, and the decision be made then, because the council did not make that decision in the first instance.

I am saying councils have to be more proactive. The member for Goyder would know this. They know their areas. I think it is a nonsense that we have 80 km/h speed limits all the way from Nuriootpa to Greenock—it is 80 km/h all the way. Sorry; I transgress again. I am going to be in trouble there one day, because I just do not think it is reasonable on an open road to have an 80 km/h speed limit all the way. The same applies to Gomersal Road, the road for which I pushed so hard. I know a 90 km/h speed limit was put on that road for those people who did not want the extra traffic because of noise and everything else. Well, I think it is time.

I have seen two speed cameras on that road at the same time and just a few kilometres apart—and I know there is a recommendation—three, four or five kilometres apart. However, if you happen not to see either of them, you could lose your licence in one afternoon. Yes, there have been some fatalities on Gomersal Road, but I would say to the government that, before increasing the speed limit, the intersections need to be upgraded so that there are some turning off lanes. It is those intersections: it is nothing to do with the road itself, it is the intersections. Upgrade the intersections and I would take the road, say, to 100 km/h, which I think on a road such as that is reasonable and most people would expect that.

I welcome this motion for a select committee to look at this. As most people in this house would know, if someone was to put up a party, particularly in the upper house, and call it a single issue party on this issue—for example, just like the No Pokies, a single issue—I think that party would do very well, because people are sick and tired of this. I was talking to a police officer who told me that, last year, his family paid $1,000 in speeding fines; that is, him, his wife and two kids—and that is a police officer. I do not think it is fair to make people law breakers if they did not see a

sign. I do not think it is fair or just—and you know that the man in blue is waiting on the corner to catch you because he knows jolly well that this is a good spot to catch a few people. He has had a quiet week and he needs to push the revenue levels up a bit, he knows the right spots, particularly on the Gomersal Road at the bottom of the hill.

I have said in the house previously that I set my cruise control on 90 on that road, but, at the bottom of the hill, my car gets to 105, 108, if you let it, because it will run on. Cars will not hold; you have to watch that. You just cannot set the cruise control and forget it. All I can say is that, in the old days, we had two speed limits: the speed limit for towns and the speed limit for open roads. Why can we not go back to that? There was no problem with that; you knew exactly where you were. I believe the proliferation of the 50 kilometre speed limit is far in excess of the original idea. The minister of the day who brought that in was Diana Laidlaw.

The 50 kilometre zone, I think, was implemented for the suburb of Unley—they were having 40 and 50 kilometre zones. That is where it started and now look where it is—we have major roads at 50 km/h. I believe that all arterial roads—that is, all through roads, major roads in towns—should be 60 km/h and all suburban streets with houses at least on one side of the road should be 50 kilometres. Easy—but, no, we have these 50 kilometre speed limits all over the place. Coming in this morning, there was a 60 to an 80 to a 70 to a 50—and there was even a 40.

The Hon. I.F. Evans: Bingo.

Mr VENNING: That is right, it is. He is exactly right. It is Russian roulette. It is ridiculous, totally ridiculous. You only need to drive around our own city terraces—North, South, East and West terraces. You can drive along West Terrace at 60 km/h, but when you come around the corner, its being a busy intersection, you do not see the 50 kilometre sign, boom, they are waiting for you. Just around the corner it is 50. Now why is that? I note the motion states 'any other relevant matter'. I am sure there will be many other relevant matters and I look forward to the house supporting this motion. Certainly, if I am not able to be on the select committee, I look forward to giving evidence. I support the motion.

The Hon. I.F. EVANS (Davenport) (11:48): I rise to support the member for Fisher's motion to establish a select committee into radar cameras, laser guns, other speed detection devices and, as the member for Schubert said, any other relevant matter—I will not go through all the terms of reference. I rise to support it because, of late, a number of constituents have raised with me individual matters concerning speed camera offences, and I have taken them to the media to bring to the public's attention some of the injustices occurring within the system.

Having dealt with those matters, I have come to the view that there needs to be a stand-alone office separate from the police, possibly in the police complaints department, although not necessarily, that deals with the challenges to the speeding offences issued by speed cameras and the like. I have come to this conclusion for these reasons. If you look at what happened to one of my constituents who had his licence for 44 years and not had a speeding offence, any traffic offence at all—

Mrs Redmond: He should be very proud of it, I think.

The Hon. I.F. EVANS: He was proud of it. He got picked up going through a red-light camera on the corner of Doctors and South roads (from memory) in the southern suburbs. He was not reported for going through a red-light but for speeding through the intersection. As luck would have it, when you go through a red-light speed camera system two photos are taken one second apart. We know that because we asked for the photos from the police department, and you actually get the photos, and they say, 'These are taken one second apart.'

On the first photo, which showed the light was orange, the back wheels of the car are on the white line of the intersection that he is leaving. The second photo, taken a second later, shows that the car has not made it across the intersection. The good thing about the two photos at that junction is that there are so many lines and other infrastructure, such as concrete plinths, that you can actually measure how far the car has travelled. So, my constituent went down there with a measuring wheel and a tape and he measured the distance.

From memory, he was booked for doing 69 in a 60 zone. If you measure the distance, even between the two white lines right across the junction, had he made it right across the junction, the most he could have been doing was 64 km/h in that second. So we wrote to the Commissioner of Police saying, 'Look, there's something wrong here. Physically he could not have been going 69; the photos clearly show that.' This went through a bit of a tennis match between my office and the

police Expiation Notice Branch, which eventually said, 'Well, if you want to test it, you go to court.' I will come to that point in a minute.

The second constituent was out north. Of course, I wrote to the Commissioner and the police minister, and what we got back was the police minister saying that the camera was in a totally different spot to what the fine said. The fine said the camera was placed X metres from a change in speed sign, and the minister's letter said it was some 500 metres somewhere else. When we took that up with the Expiation Notice Branch—the fact that there were two speed cameras in two different places at the same time—it said, 'Well, bad luck; you take that up with the court'.

I suspect that the Expiation Notice Branch and some of the colourful personalities who serve the public in that branch are simply using the tactic of, 'You go to court if you want', knowing that a lot of people who are probably innocent cannot afford it in either money or time or are intimidated about taking on the police in the court system. Therefore, they reluctantly pay out $300, $400, or whatever it is, in fines rather than go to court. I think it is almost a tactic by some in the Expiation Notice Branch to get the fines paid.

I have come to the conclusion that what should happen is that, on those contested fines, there should be someone outside of the police that judges them and makes the decision as to whether or not the fine stands. I think that would be a far better system than having the police judge their own fines. I think the public will lose confidence in the system if the police Expiation Notice Branch deals with complaints as it has my constituents' complaints.

I will not go through all of the other reasons why I support this motion, but the matters put before the house by the members for Fisher, Schubert and others about a whole range of issues, about where, how and why they are placed, whether there are quotas required of the police, and all those sorts of questions that might be asked through the select committee, I think have been in place now for 10 or 15 years, and I think it is time for a review.

I see no harm in it. I think it can only be good, and I will certainly encourage constituents of mine who have these complaints to put their case before the committee so that it can call in the police officers and have them explain how a car could possibly be doing 69 km/h when the photo shows it could not be any more than 64.

Mr PENGILLY (Finniss) (11:55): I also rise to support the motion moved by the Hon. Bob Such, and concur with many of the remarks made in this place this morning as well as many of the examples. Indeed, I have any number of constituents who come into my office or who write to me regularly about the whole issue of speed guns and speeding offences in general, as well as about the tactics used (as indicated by the previous speaker) in the collection of these fees. It has got to the stage where one starts to wonder just what they are for: are they pre-programmed, is there a monthly award for whichever police officer or speed camera operator raises the most revenue? On many occasions it would appear that way.

In the country, more so than in the city, we have some unique methods of informing people of where these speed cameras or radar guns are located. Of course, the old flashing of lights is always good, but in the Fleurieu part of my electorate we also have some citizens who put up signs on the road to say that they are ahead so that everyone slows down. I, for one, have been very wary of these devices and their operators and where they locate themselves.

I am not in any way, shape or form supporting stupidity on the road or speeding. In fact, I have just been through a process where I was very keen to get a speed limit reduction on the Victor Harbor Road just out of Victor Harbor, where there have been a number of tragic accidents. That is not the issue. As the member for Davenport said, these cameras and guns have been in place for a number of years now, and I believe it is an opportune time for a parliamentary committee to have a good look at this, call for evidence, and find out just what is what.

I think the member for Morphett talked earlier about the need for the devices to be properly calibrated or the error factored into them, and in some cases I do not think people are fairly treated. If someone is doing 140 or 150 in a 100 km/h zone they do not get any sympathy from me whatsoever, but the issue is also that driving in the country is substantially different from driving in the metropolitan area. I do 60,000 kilometres a year driving around my electorate and I need to get there in reasonable time. I know that members who have large outback electorates, like the members for Stuart and Flinders, have to drive for many kilometres, and they want to get on with it; they do not want to be driving along in a 100 km/h zone when they could be in a 110 km/h zone.

I think it has gone a bit overboard. One of the issues here with people getting caught regularly is that we are seeing an increasing number of signs with speed limits being changed. People are not aware of it and they are getting stung. I do not know whether or not the councils are always informed—in fact, I am sure they are not—but, lo and behold, the limit will be changed from 80 to 60 km/h or from 100 to 80 km/h and you can almost guarantee that the next week the police are sitting there with a radar gun or cameras are set up to trap the unwary.

These people might have driven down that stretch of road for 10 or 20 years and the speed limit has been reduced from 80 to 60 km/h, or from 100 to 80 km/h, but they are unaware of it and they get pinged straight away. There does not seem to be any means of informing the public in a fair and equitable manner that the speed limit has changed. Picking up on the member's motion as to whether the policies and guidelines governing the use of speed detection devices are appropriate, I think that is something a select committee could well look into in fairness to the community.

Referring again to their revenue-raising potential, the revenue that comes in from these things must be enormous. I suppose I could find out, if I cared to do some work on it, but the manner in which some of these speed detection devices are set up does cause concern.

Debate adjourned.

LONG SERVICE LEAVE (UNPAID LEAVE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September 2008. Page 247.)

Dr McFETRIDGE (Morphett) (12:00): As the member for Fisher quite rightly points out, members of parliament do not get this, but we will not go down that path right now. This is a relatively simple bill, and the opposition will be supporting it. I will not keep the house long. The bill was introduced into the house on 24 September by minister Caica. The history of long service legislation, going back to 1957, was outlined in the minister's second reading explanation. This bill seeks to remove the ambiguity within the current act to ensure a consistent approach to the treatment of paid and unpaid leave when calculating long service leave entitlements. It seeks to clarify the calculation of long service leave entitlements.

The bill has gone through a consultation process, and stakeholders have been consulted, and they have given in-principle support and have proposed some technical amendments, which have been included in the final bill. The consultation has occurred with the Industrial Relations Advisory Committee (IRAC), a statutory committee established under the Fair Work Act 1994. In addition to the Minister for Industrial Relations, it consists of senior representatives from SafeWork SA; SA Unions; Business SA; the South Australian Wine Industry Association; the Engineering Employers Association; the Master Builders Association; Motor Trade Association; the SA Farmers Federation; the Shop and Distributive Allied Employees Association; the AWU; the ASU; the PSA; the Liquor, Hospitality and Miscellaneous Union; the Transport Workers Union; the Public Sector Workforce Division (Department of the Premier and Cabinet); the Crown Solicitor's Office; employer and employee associations not represented on IRAC; the Construction Industry Long Service Leave Board; and the Registered Agents industrial relations organisation. All of those consultants have supported the objectives of the bill, and most are supportive of the proposed amendment.

The key changes proposed in the bill are: unpaid leave is disregarded from the averaging provisions; the averaging period would now be taken to be the previous 12 months or three years of actual service (whichever the case may be), after any unpaid leave is disregarded; the inclusion of weeks when a worker was on paid leave, when averaging weekly hours for workers for whom the three-year averaging period applies; and clarification that only whole weeks of unpaid leave are to be disregarded from the averaging calculations. With those few words, I indicate that the opposition supports the bill.

Mr GRIFFITHS (Goyder) (12:03): I am not sure what the work history is for other people in this chamber, but I used to do payroll for a while, so I thought I might comment on this.

The Hon. P. Caica interjecting:

Mr GRIFFITHS: Hopefully, everyone got the right amount. While it might seem a relatively minor issue, it is important that you get payroll calculations right. Given that there is an increasing trend now for people to take unpaid leave for a variety of reasons, be it for overseas travel,

holidays or maternity leave (if they work for employers who do not pay for that privilege), it is important that we get the legislation right to ensure that, when people are paid out on termination, we are confident that the calculations are correct and truly reflect the period these people have actually worked.

I have had some issues in the past, where I have sat down diligently and someone has come to me and said that they have decided to leave that workplace, but there have been gaps in their continuous employment. You try to take those into account, but then you need to ensure that the records you have kept are very accurate and reflect the times when they have taken leave without pay to ensure that you get it right. Payroll, as with most administrative responsibilities, relies upon the accuracy of the records and, if you get that right, it makes everything easier in the long run.

I am quite pleased that the government has chosen to introduce this bill, and I am especially pleased that it has consulted very widely on it and, no doubt, each of those industries and associations that have been asked for their opinion has indicated its support. It is a step forward. It ensures that the rights of the employer and the employee are protected and that payment calculations are going to be correct and that there will be reason for debate. Quite often, when a person leaves their employment, they have a perception of what their final payment might be. Then, when it comes to a point when there is a dispute about how it is calculated, it can very quickly sour a good and positive relationship that might have existed for many years.

If the final payment calculation is incorrect, or perceived to be incorrect, it does take a lot to talk through it and resolve the issue. So, any regulation or legislation that actually ensures that everybody can understand the process—so that everybody understands that when they have had time off work that will not be included in their final payment—is a step forward.

I certainly concur with the shadow minister's comments on this matter. I know that he presented a very detailed briefing paper to Liberal Party members. I am not sure if any other members propose to speak on this measure, but it was clear to us that this legislation is a step forward, and I am pleased to confirm my personal support also.

The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (12:05): I would like to thank members of the opposition for their contributions on this bill. I am grateful for their support, and I am also grateful that their contributions were brief! I would also like to acknowledge the variety of organisations that were mentioned by the member for Morphett as being involved in the consultation process and, of course, all those members who are included in that group from the Industrial Relations Advisory Committee as mentioned by both speakers and in my second reading explanation.

This measure is about bringing much-needed clarity to the calculation of long service leave entitlements. I do not intend to go through that again: it was well covered by both the members for Morphett and Goyder in their contributions. I thank the opposition for working very much hand in glove with the government in relation to the passage of this bill.

Bill read a second time.

The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (12:07): I move:

That this bill be now read a third time.

Mr Venning interjecting:

The Hon. P. CAICA: I acknowledge and thank the member for Schubert for his contribution in this matter as well. He does care for workers and their entitlements, and that is a reflection indeed on the honourable member.

Bill read a third time and passed.

NURSING AND MIDWIFERY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 23 September 2008. Page 130.)

Dr McFETRIDGE (Morphett) (12:08): I was not expecting to speak on this bill, but I am more than happy to give some opinion on this piece of legislation, which the opposition will support.

The DEPUTY SPEAKER: Member for Morphett, can I confirm that you are not the lead speaker?

Dr McFETRIDGE: I certainly am not the lead speaker on this bill, but it was a midwife who brought me into this world and I would like to say that I have the greatest respect for midwives, particularly as, on 27 January 1952, it was a very cold and snowy morning in Leicester, England, when my father had to pedal his bike through the snow to get the midwife to come to Saffron Lane and deliver one Duncan McFetridge into this world.

In fact, my mother was able to deliver me into this world without the help of the midwife, but it was with the great after-care of the midwife that I am able to stand in this place today. Because of that fact, this sort of bill becomes a very important piece of legislation, and I strongly support the need to give the role of midwives the due regard that it is given in this legislation. As members of this house know, for many years, particularly in many of our remote communities, the midwife has been the chief medical expert at the delivery of many fine South Australians. With that, I will conclude my remarks, because the shadow minister is here and I know that she will continue.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:10): I am sure that, when I read *Hansard*, I will be thoroughly impressed and think that my colleague's remarks entirely obviated the need for me to address the chamber on this issue. In advance, I thank the member for his contribution.

Today, I speak on the bill introduced by the minister on 23 September this year. In line with the government's desire to have this matter dealt with relatively expeditiously, I was offered and provided with a prompt briefing last week by Ms Wightman, who advises on a number of these matters, to facilitate the government's request to deal with this matter.

It is noted that this legislation repeals the Nursing Act 1999 and is consistent with the Medical Practice Act 2004 and the precursor bill, together with subsequent health professional legislation that followed for a number of other disciplines. In a large respect, this bill is consistent with the tenor of that raft of legislation over the past three years. I note that the psychometric testing issue is still holding up the Psychology Bill in that raft but, nevertheless, in general terms, the opposition has supported the government's initiatives on these bills, noting the National Competition Policy issues.

We have moved a number of amendments, which we think have been helpful in this raft of legislation. It is the opposition's intention on this bill not to move any amendments, but I will highlight a number of areas of concern we would like the government at least to note and undertake some investigation and review on for the purposes of improving the protection of the public, as well as facilitating the registration and regulation of this discipline and certain other specialty areas. It is probably fair to say that there will be aspects of this legislation which we say are noticeably absent and which ought to have some consideration. So, in that regard, we will ask the government to take heed of some of the issues I propose to raise.

There are a number of aspects to this bill, which is presented as a bill to protect the health and safety of the public, and it does so in the nursing and midwifery fields of the health professional service provided to the community in a manner that requires registration and a regulatory regime. It imposes, as it has historically done, even more punitive action if there is a breach of standards, training, conduct or behaviour in the course of attaining the right to practise in this health professional area.

There are significant increases in penalty in respect of the punitive processes for failing to be registered—that is, to masquerade as a health professional and undertake certain employment and duties without having the adequate registration and/or qualification—and in relation to those who are service providers who employ health professionals in this area to ensure that they also comply with their obligations. There are significant punitive aspects to it.

That is the way this structure operates. It is quite similar to a number of other health disciplines. In that sense, that is the model that is being used, maintained and expanded. However, to use the government's description, this bill has the effect of modernising it. There are a number of aspects that I will comment on to say that the opposition understands why it has been done and/or supports the initiative.

The first is to ensure that properly qualified people are registered as nurses and midwives and enrolled as nurses. This, obviously, imposes standards in respect of training and qualification in order to be eligible for registration and to then have the right to be able to practise. That is a given and we support it. There is, essentially, an expansion of the level of accountability for the services provided by corporate providers of nursing and midwifery care. In principle, we support that, and that is outlined in some detail in the act which I will refer to later.

The decisions of the Nurses and Midwifery Board are to be more transparent. We are yet to see that. In principle, we support that, and I will comment on it. Currently, there are 28 nurse practitioners in South Australia and they are to continue to have adequate training. They have been given special status in this legislation by being able to maintain an independent register. However, they are also recognised as continuing in that category. We support their existence and, if others wish to aspire to that level of health professional standard, we support that—obviously, with the training that is required.

There are new definitions of nursing and midwifery included as being internationally accepted. There could be a lot said about that—as to their necessity or otherwise—but, in principle, we support there being these definitions in the act. Whether they are necessary or adequate is another matter but, in principle, we support that.

There are changes in relation to the composition of the board. It now requires that seven of an expanded number of 11 members must be nurses or midwives. We take no issue with that. We have had different views about the professional qualifications of other members of boards in other health disciplines in previous legislation but, in this regard, we take no objection.

The limit of three terms, which would be a total of nine years on a board, is a legislative imposition now which we do not oppose. Frankly, it could have been done by requiring it to be taken into account by a minister when making the appointments but, in any event, we have no objection to the principle. The idea is that there is a turnover of professional expertise, and we support that.

The Hon. J.D. Hill interjecting:

Ms CHAPMAN: Yes, thank you, minister. The minister points out that there are some elected—not many—nevertheless, for those who are, we accept that.

There is a level of capacity for complainants to be entitled to be involved in proceedings where there is an investigation into the conduct of particular individuals; they have more rights enabling them to be present. However, I do note that the legislation makes provision for proceedings to be held in secret and that that discretion is still left with the board. I am not quite sure how giving notice (of itself) and an invitation to attend, while still retaining that provision, does expand this. I suppose that, at least, the complainants know about the dates and times of the hearing but they may still have to wait in the corridor. However, in any event, we take no objection to advice. That seems to me to be part of natural justice and should be acknowledged, and we support it.

There is to be a register of students, which is consistent with the previous legislation. We have had this debate before: they get it for free, and I note in this bill they will get it for free, as well—as they should. The power of the board to impose conditions, including the power to suspend or impose those conditions prior to the hearing of a complaint, is important. It is consistent with the previous legislation. Again, other boards have been given this power. A number of them have sought it over the years—not just in the health area but in others—and I think that is important. With the approval of the minister, there is power to develop codes of conduct for the behaviour of service providers. I have not seen any of these yet, but I do not see any reason why that should not be supported.

There are provisions for the imposition of conditions by the board if a professional applicant has not worked for five years or more, and I will have something to say about that shortly. In principle, this is a legislative obligation on the board to consider skilled applicants who have been out of the workforce for more than five years.

There has been consistent legislation—with other acts—relating to investigations; that is, a requirement to answer questions, even if there is an incriminating component. Obviously, that is restricted information to be used only for distributive purposes and not evidence for criminal proceedings. That is an important qualification. As I have said, it is consistent with the other acts. It is an offence to hinder and obstruct inspectors; they seem to have been given a bit more power. In

any event, that is a process necessary to protect a person who is accused of some misconduct or failure to act in some manner, and it is also consistent with obtaining sufficient evidence for disciplinary purposes. I think it is a fair balance.

The capacity for a single board member to be able to determine a complaint rather than pull together the whole group for what appear to be lesser misdemeanours is, I think, reasonable, and we support that.

The appeal process being taken from the Supreme Court to the Administrative and Disciplinary Division of the District Court is not necessarily desirable. We have not raised any significant objection in relation to other acts other than the Medical Practice Act, where we were clear that there must be an appeal to the Supreme Court because, quite clearly, medical and dental professionals authorise, advise or carry out procedures which can kill people. That is a very serious consequence; I cannot imagine anything more serious. Therefore, there must be an appeal to the highest court.

With the expansion of qualifications and duties undertaken by people in the nursing profession, I think a risk exists with specialised nurses—nurse practitioners come to mind—and this in no way suggests that they would commit any sort of misconduct. I think that, with the expansion of their duties and the capacity to administer medications, a risk would exist and, looking through the Nurses Board complaints historically in respect to registered nurses, it is something to be mindful of. Therefore, to reduce this appeal process to the District Court is not really in the best interests of either the complainant or any potential victim. However, the government has decided that it is going to demote this level of appeal for nurses. I take a different view, but it is perhaps relatively minor in the scheme of things.

The government, in referring to the midwifery profession in the title of the bill, has decided that midwifery should be recognised as a profession, presumably independent of nursing, as clearly it is; in fact, you must undertake a separate degree course to qualify as a midwife. We do not take any issue with that, but the government has seen fit to do that and also to maintain a separate registry for midwives in the state. I note that, in the annual reports of the Nurses Board, a separate registration of midwives is already kept, and I will refer to that in a moment. We do not take any issue with that, but I will refer to it in the context of maintaining a register of midwifery and a separate registry in relation to nurse practitioners when I come to what I call the demise of the mental health nurses.

In referring to the nursing profession in South Australia, and I say that in its broadest sense, *The State of Public Hospitals, June 2008 Report* (a report of the commonwealth Department of Health and Ageing provided in 2008 for the previous financial year) tells us that, as at 30 June 2007, 18,769 people are working in our public hospitals and, of those, 8,821 are nurses. There are just over 2,000 salaried medical officers, other health professionals, a very large proportion of clerical and administrative staff, and some personal care and domestic staff. So, there are a number of other categories but nurses make up essentially nearly 9,000 out of nearly 19,000.

It is interesting to note that, when we come to the whole of the health sector, and we look at the Auditor-General's Report published yesterday, for that same financial year—and, of course, he has provided details for 2008 as well—10,066 nurses are in the total health sector along with a number of others, including medical staff, scientific administration, allied health, etc. totalling 25,100 people plus 759 at the Department of Health (the head office staff) and another 983 in the Ambulance Service. That totals 26,842 people. I am referring to Part B: Agency Audit Reports, Volume II, page 576 which all relates to 2007. Remember that, out of 26,842 people employed in the health department (now including SA Ambulance Service) for the same period ending 30 June 2007, 18,769 people are employed in public hospitals.

Therefore, the consultation was very interesting because we were advised by the minister in his second reading explanation that a number of people were consulted—organisations, particularly, although some individual submissions were received. I have also received from the minister's office the details of the more extensive list of consultation that has been undertaken. I say that because, as at 30 June 2007, we have 28,140 registered nurses in South Australia. I point out that, in the data I have identified, less than half of those (closer to a third) are actually employed in the public health sector.

The minister told us early in his contribution that the Nurses Board of South Australia had identified a number of areas in the current legislation that needed to be improved, and we support that. That is a very good group to start with in consultation. He stated:

Key nursing and midwifery organisations, such as the Australian Nursing Federation, the Royal College of Nurses, the Australian College of Midwives, the Australian College of Mental Health Nurses Inc., have also identified areas for improvement and have been consulted during the development of the new proposed legislation.

We endorse the fact that they are all important agencies and stakeholders in the development of this legislation. In fact, the opposition had written to the Australian Nursing Federation to ascertain their view on the bill, as we consider that they are particularly important stakeholders. So, we acknowledge the government's consultation in that regard: it is all important, and one would hope that the government has listened to the issues that each of them have raised during this development.

I received a letter from the minister's office confirming that submissions had been received from a number of other organisations, and that was pleasing to see. They include groups such as: the Maternity Coalition; Lifecare, which is the Park Rose Village and Aldinga Beach Court; educational people from TAFE; Aged and Community Services SA/NT; the Christian Science Committee on Publication for SA; Health Consumers Alliance; the Nursing and Midwifery Governance Council at the Flinders Medical Centre; the AMA; and some other individual submissions, in addition to those that have been referred to.

I was also advised that the Royal College of Nursing (SA Chapter), the Australian College of Mental Health Nursing, Nursing and Midwifery Executive Leaders and Directors—I am not quite sure who they are but, in any event, they deal with public and private sector hospitals—and the Australian New Zealand Council of Chief Nurses had been sent copies of the bill but had not put in any submission, which I found rather interesting given that the minister had told us that the Australian College of Mental Health Nurses Inc. had been very involved in providing and identifying areas for improvement. So, I did find that a little inconsistent, although perhaps there has been some oral contribution at some stage. Indeed, this bill has been out there for a long time.

I was also given a very extensive list of other important people, and I will summarise them: state government agencies, local government agencies, all the different divisions of general practice, and a whole list of private hospitals and aged care services—all of which are important. I will not detail them all, but it is fair to say that the government had sent copies of the bill to a number of people, and they are all there to be seen and noted.

What I find incredible is that there does not appear to be any consultation with, or even a copy of the bill sent to, the nursing agencies in South Australia. These are the people who in some instances in certain hospitals are providing 60 per cent of the nurses who are working on a given day. These are the people who are going to be further regulated as service providers and who have obligations in relation to insurance to protect their nursing and carer staff, and they have had no notice at all. They have not been consulted at all, and I will refer to that later because, to me, this is an area that opens up a whole level of failure to take into account the regulation and/or registration of the carer industry. I think that that is a woeful omission from this legislation and I think it needs to be addressed.

I will come to that detail later, but half a tick is awarded to the government for consulting those who have been identified as relevant; another cross for those it has either conveniently left off, or did not want to hear from. I can say that the opposition has consulted with some of them and, to a large degree, they support what will be imposed on them, I might say, and they do not have an issue with it. It is bizarre that a government would introduce a whole new set of rules for this industry, not just for the professionals, but for the industry that is out there every day, placing people in gaps in public and private hospitals and aged care facilities without telling them about it.

The first area of concern that I want to address is the training obligations, which are already in place to some degree under the umbrella of the existing act and which will be perpetuated in this legislation. I turn specifically—for those who will ultimately follow this debate—to clause 35 of the bill, which imposes conditions on nurses or midwives if they have not practised in their profession for five years. They may have undertaken other work, but not specifically in their profession. Under this requirement, if the board is satisfied that they have not practised for five years, it may give notice of the imposition of a number of conditions on the practitioner to practise in either a limited capacity or under supervision, or they may not be permitted to undertake that work if they have not actually begun practising.

It seems to me that there is a capacity to keep paying your registration fee but, if you have not been undertaking nursing duties or practising your profession for five years or more—I am unsure whether that has to be in a ward, or whether it could be in a car, moving from house to house taking blood, or in an office—then, under this legislative umbrella, the board can step in and

say what you have to do. We will ask some questions about that during the course of the committee. That is a good thing: if you are not practising your profession, there must be some kind of process to ensure that you are up to speed with your contemporary obligations.

I do not have any issue with that; that is important. It is like continuous education in any profession; whether you are a teacher, a lawyer, or an accountant, you need to be up-to-date with what is happening. If you are dealing with medical procedures and/or medications, it is important to be up to speed with the different types of approaches to situations. For example, what do you do when a suspected snakebite victim turns up at the surgery and a nurse asks, 'What are we going to do with this? Are we going to put a tourniquet on it, are we going to cut it, are we going to suck it, or are we going to do all those other things that we used to do in the past?' or 'What is the new thing that is now done to maintain and stabilise the victim until they receive medical treatment?' These things change and nurses have to be brought up to speed.

My understanding is that, if it less than five years, there is a 10 to 12-week refresher course that can be undertaken at a registered training organisation or at the Royal Adelaide Hospital or the Flinders Medical Centre. However, in other circumstances, they may need to do a re-entry course, which, I think, is a 16-week course available at either the University of South Australia, the Royal Adelaide Hospital or the Flinders Medical Centre. They are logical, and they are important.

What happens, though, when they have been out of the workforce for more than 10 or 15 years? This is common in the health industry for lots of reasons, not the least of which is that women still make up the bulk of the professional composition of the nursing industry and professional body. I expect that for some time that will continue, although a few more chaps are seeing the light of this being an important profession and nudging in on the statistics, and that is fine.

However, for as long as it is a highly feminised industry and for as long as women are the producers of children (and I do not think there is any reason why that will change in a hurry), they do carry out a large role of child rearing and therefore frequently there is a period of time in which they have child rearing responsibilities they want to undertake. Another area of frequent responsibility for women—more so than men at this stage—is the care of the elderly. I am one of probably many in this chamber who are in that sort of in-between generation, where it seems we end up with both: no sooner do you get rid of your children than you are looking after your parents—sometimes it overlaps.

There is a large desire on the part of a number of people who are in this profession to undertake other areas of family responsibility and who therefore disappear from the professionally-employed market for a while. That is fine, but what do we do with them when they come back 10 years later and say, 'Well, actually, now I would be very happy to go back and work four nights a week or do some work in a hospital'? We have this draconian idea that we must make them redo their whole qualification. I have inquired of the Nurses Board about this, which says, 'Well, of course, this is all part of the safety requirements for the public. We need to make sure that, after 10 years of being out of the workforce, they are properly skilled, and to do that, frankly, they will need to redo their degree.'

We may, between that 10 and 15 year period, give them some credit for the fact that they have been in a caring role, which would presumably maintain at least part of their skill and experience. That could be recognised and they could be given credit for it in terms of undertaking the sufficient modules (that is my language) or sufficient parts of the requalification for their degree. No other professional person that I know of (and I have searched a number) lose their qualification or the right to practise after they have been out of the workforce for more than 10 years. I think that is a scandalous practice. I do not care whether it is this or previous governments, it is unacceptable to me as a trained professional (but not in the health industry) and as a female that there be a reduction in the status of the qualification of these people by effectively wiping out recognition of that degree and requiring them to start all over again.

Some people will say, 'Well, look, it is still more important that we look at the safety and protection of the public.' However, we do not ask doctors, academic professors, lawyers or accountants to do it, yet we wipe out the recognised academic standard these people have. That degree or diploma they obtained is wiped off the face of the earth has having absolutely no recognition whatsoever. You have to do it all again.

People might say that that would rarely happen because most often there would be sufficient work they have done in the meantime to give them some recognition, so they may only

have to do 90 per cent of it. That is not the point. I have had the people concerned come to me—and why have they come to me? Because I am the opposition spokesperson for health. They come to me and say, 'I have raised my children, and my parents have died'—or whatever the reason—'I now want to go back into the workforce and do you know what I have to do to?' I say, 'What is that?' They say, 'Actually, I have to redo my whole degree.' They say that they cannot just do an extra extended refresher course but have to repeat the whole degree. They have to do their training in the hospital, where they might have worked 12 or 15 years before, and work for nothing and retrain to get their degree. That is a scandalous situation. Here we are in this state, in fact the whole country, desperate for nurses, yet we are putting up this barrier for those re-entering the workforce, and at the same time insulting the professional standing of these women, in particular.

In the last decade or so there has been a further expansion of men into the profession, so those numbers will change again in the future. Perhaps it will take men coming into the profession to note this and say, 'We will not put up with this; this isn't acceptable.' I do not know what will happen, but I want the government to understand that we in the opposition think it is unacceptable and want it looked into, because to me it is a total insult to women and the nursing profession in particular.

The person who raised this matter with me, as an example, had been out of the workforce for just over 15 years. She had raised a family of three children, undertaken other work—having done some volunteer work in health agencies during that time—and was required to repeat her degree. She said she thought it would be reasonable to do a six-month re-entry course—much longer than required at the moment—and to have an exam at the end and, if her professional competency was below standard, she would not pass and not be registered. She accepted that. That is an example of where someone says, 'I accept there must be standards; I don't want my degree wiped off as though it doesn't exist. I will accept a competency test or examination, but I think there's a better way to do this, especially when there's a drought when it comes to the workforce supply.'

The only fate for that person was to undertake a three-year registered nursing course—18 months as it was then, because it was a little while ago—as an enrolled nurse if she were to be recognised sufficiently for registration and to go back into the workforce. She did not do that. She went and got a job doing something else, and was probably paid more than she would have received as a registered nurse. She was ready, willing and able to line up and provide nursing services to South Australia, but she is out there doing an administrative clerical job in another industry altogether. She is lost to the profession. She is about 50 years of age and has plenty of working life left in her, I can tell members.

The other aspect is that, when it comes to the retraining component, it means that, when you give someone a refresher, re-entry or, in this case, a full degree, you need to find places for them to retrain. You need to find host surgeries, hospitals or facilities that will accommodate them to enable them to do this. Of course, they can have training on dummies on how to use new pieces of equipment, and they can have written examinations and those sorts of things, but for their practical retraining and trying out the new equipment that was not around before they left the workforce, these places are required.

One needs host facilities in order to do it. As they do in TAFE organisations, one way in which to do it is to have little rooms with dummies, as they do, also, for shopkeepers where they set up little shops and people pretend to be serving and there is a fake but, nevertheless, realistic provision of an environment in which to train.

One of the problems we have got already in accommodating traineeships is space in these facilities. Whether we fix up this issue or look at it from the perspective of overseas-trained people trying to get their skills up, or look at a much greater group coming into the workforce that we will need in the future, on anyone's assessment we will have to provide these spaces. I want to comment on two aspects of this issue because this has been the domain of the Nurses Board when it looks at its role in implementing the standards for training, in particular the legislative obligation which will be perpetuated in this act by clause 36.

I will give an example of the problem. A 36 year old mature-aged student contacted me last year. She had been undertaking a Diploma in Enrolled Nursing. Her training was with a private provider that provided a 12-month course whereas it was an 18-month course with TAFE. She had a young family. She had been out of the workforce for 11 years and she wanted to retrain to go back into nursing. She lived in the Modbury area and she was happy to work in any of the major hospitals in the area—either Modbury or Lyell McEwin. The Modbury Hospital had said that it would

take a number of students, but when she said that she had undertaken her training through a private provider she was told—and I quote—'We're no longer taking them from private colleges.' Her class was left without any placements. She was unable to find a position, and she told me about other class members in the southern districts region, not the north-eastern suburbs. She asked, 'What will I do about this,' and they said, 'There's a training spot available at Booleroo Hospital, if you would like to take it up.' This lady lived at Modbury. I wonder how these sorts of rule changes will enable us to embrace those who want to resume working in the nursing industry, rather than set up barriers for them.

I will give another example. Ultimately, the minister's office in this case was helpful in dealing with the matter, but essentially it involved an overseas trained nurse from Canada who came to Australia. Her husband was obtaining a masters degree. She was highly qualified with lots of experience and came from an English speaking country. She went to the Nurses Board to get her qualification recognised. On the website there was a reference to the fact that there would be a possible three-month delay in processing applications because they had so many people wanting their qualifications to be dealt with.

To some degree this is a resources issue, as distinct from a barrier, because no-one is suggesting there be a change of standards. But, what was evident—and this was a question of flexibility—was that the board had imposed a standard to recognise the fact that sometimes people can be overseas-trained at some institution which, frankly, is a bit dodgy and not up to a reasonable Australian standard, so it has to be properly investigated. Sometimes the applicants come from a country where English is a second language and there is the question of a language barrier and the capacity of that person to undertake their duties in the Australian system. That is a standard, and that is fine.

But here we have this one-size-fits-all approach where they wait in line. Someone from Canada, who speaks English as her first language and has years of experience, is waiting on a list under those who are waiting to come in from, say, South Africa or another country where there is not the same standard and where, clearly, inquiries need to be made. There is no question about that.

I wonder about the way we are operating and whether the government (which has the responsibility, through the department) and the nurses board (which is vested with this responsibility and that will be perpetuated under this bill) recognise that in the real world we need a lot of nurses, but we are treating those who have been in the workforce and gone out of the workforce with a high level of disrespect and making it as hard as hell, to be frank, for them to get back into the workforce by having this inflexible, one-size-fits-all approach. I think that needs to be reviewed. That must be done if we are to ensure that we have an adequate workforce in nursing and other specialty areas of nursing, which we all know are going to be with us.

The next matter that I move on to is the obligation that is proposed to be imposed on nurses of being a fit and proper person. However, before proceeding with this topic, I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 12:58 to 14:00]

WOODEND KINDERGARTEN

Mr HANNA (Mitchell): Presented a petition signed by 336 residents of Sheidow Park and greater South Australia requesting the house to urge the government to research and implement adequate 'pickup and drop off' carparking facilities adjacent to the Woodend Kindergarten in consultation with the City of Marion, the staff and parents of these facilities, and the residents of affected streets.

ANSWERS TO QUESTIONS

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

EMT AMBULANCE SERVICES

7 Ms CHAPMAN (Bragg) (16 September 2008).

1. Has EMT Ambulance Services been issued with a licence to transport patients by ambulance to and from health facilities and if so, when?

2. How many times have EMT Ambulance Services, while acting under licence, referred patients to SA Ambulance services between 1 April 2007 and 31 March 2008, as required by clause (d) of the licence dated 1 April 2007?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts): I have been advised:

1. EMT Ambulance South Australia has been issued with a license on 31 March 2008 for the period ending 31 May 2008.

2. SA Ambulance Service has one referral specifically logged from EMT Ambulance South Australia during that period. However, there may have been other referrals which were not identified to the call taker as being from, or arranged by, EMT Ambulance South Australia.

DEPARTMENTAL GRANTS

75 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). Why was there an acquittal of long outstanding grants by the department in 2006-07 and what are the details of this funding?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): I have been advised of the following information:

The question does not provide enough information for a response to be provided.

ECONOMIC DEVELOPMENT BOARD

81 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). What planning and infrastructure projects are currently before the Economic Development Board's independent development assessment panel and what are the details of each project?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): This question is identical to question on notice 378 (2nd session) asked of the Minister for Industry and Trade by Dr McFetridge. Please refer to the response tabled on 22 July 2008.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens) (14:03): I bring up the fourth report of the committee.

Report received.

Mrs GERAGHTY: I bring up the fifth report of the committee.

Report received and read.

ECONOMIC AND FINANCE COMMITTEE

Mr KOUTSANTONIS (West Torrens) (14:07): I bring up the 67th report of the committee, being the annual report for 2007-08.

Report received and ordered to be published.

PUBLIC WORKS COMMITTEE

Ms CICCARELLO (Norwood) (14:07): I bring up the 308th report of the committee on the South Road Upgrade—Glenelg Tram Overpass.

Report received and ordered to be published.

VISITORS

The SPEAKER: I draw to honourable members' attention the presence in the gallery today of students from Pembroke School (guests of the member for member for Hartley), students from Tabor Christian College (guests of the member for Ashford) and members of the Para Hills Neighbourhood Watch, who are my guests.

QUESTION TIME

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:09): My question is to the Treasurer. Is it his failure to responsibly manage Treasury over seven budgets which has left the government with little choice other than to slash spending on transport, prisons, education or health infrastructure in the face of an inevitable economic downturn?

In the past seven years, the Treasurer has received buoyant tax revenues which have increased government income from around $8 billion in 2002 to almost $15 billion within this estimates period. The Treasurer has increased taxes by over 65 per cent, with some property taxes, such as land tax, up by 247 per cent. The Commonwealth Grants Commission has described South Australia as working its tax base more than any other state.

The Treasurer's surplus is only 1.2 per cent of revenue. The Treasurer told the house yesterday that his net asset to liabilities ratio has exceeded 80 per cent—the highest in the nation and beyond the trigger at which Standard & Poor's would review the state's AAA rating. Budget papers further show that borrowings will reach $5.2 billion within the estimates period.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:10): I heard the Leader of the Opposition on the radio today saying that he could deliver a football stadium to South Australia—

The Hon. P.F. Conlon: A billion-dollar one.

The Hon. K.O. FOLEY: —for a billion dollars plus, without any taxpayer money, because that is what they did at the Telstra Dome. Honestly, is this guy seriously suggesting that he could manage the state's finances?

Mr Hamilton-Smith: You are a good-time Treasurer; that's it.

The Hon. K.O. FOLEY: A good-time Treasurer. For information purposes I have Budget Paper 3 of the 2008-09 budget—Treasury compiled documentation on the financial performance of the last government and this government—so let us just go through this and let an objective assessment of our financial performance give the picture.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The Hon. K.O. FOLEY: No; I am happy to acknowledge—

Mr Williams interjecting:

The SPEAKER: The member for MacKillop will come to order! The Treasurer has the call.

The Hon. K.O. FOLEY: I am happy to acknowledge the post-sale of ETSA period because, whether we agreed or disagreed (and obviously we disagreed with that decision), you sold ETSA. So, in fairness to the former government let us look at the budget performance post the sale of ETSA.

In 1988-89 the net operating balance under the Liberals was minus $208 million. The 1999-2000 budget result under Rob Lucas and the Liberals was a deficit of $330 million. The 2000-01 deficit was $297 million under the Lucas and Hamilton-Smith government, and in 2001-02 there was a $174 million net operating deficit under the Liberals. That is post the sale of ETSA, so let us put the State Bank behind us. They sold ETSA—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The Hon. K.O. FOLEY: Iain Evans, how are you doing up there? Are you reinventing yourself up there?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: When this government took office, in our first budget in 2002-03 there was a surplus of $448 million. In 2003-04 there was a surplus of $385 million, and in 2004-05 there was a surplus of $224 million. In 2005-06 there was a surplus of $202 million, and then in 2006-07 there was a surplus of $209 million. In 2007-08 there was a $373 million net operating surplus, and this year we are budgeting for $160 million. Of course, events have changed, with the surplus rising to in excess of $400 million in the out years.

It is a demonstrable fact that under Labor governments the budget positions of the state have been strong operating surpluses; under Liberals, strong operating deficits.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I can tell you, they are in good shape now.

An honourable member interjecting:

The Hon. K.O. FOLEY: He wants me to pay the teachers; 'Pay the teachers,' he says. The leader is out there saying we are spending too much money, and the genius over here says to give the teachers $2.5 billion. That is what they are asking for. There is no consistency of message—

Mr Pisoni interjecting:

The Hon. K.O. FOLEY: So, we pay them $2.5 billion?

Mr Pisoni interjecting:

The Hon. K.O. FOLEY: So, we pay the teachers what they are asking for?

Mr Pisoni interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The shadow education minister is saying that we should pay the teachers what they are asking for: $2.5 billion. Leader, do you agree?

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Do you agree with him?

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I call the house to order. I expect the house to come to order. The Treasurer.

The Hon. K.O. FOLEY: Thank you, sir. Well, we are clearly—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: I'm a clown? Well, do you agree with him?

Members interjecting:

The SPEAKER: Order!

An honourable member: He won't agree.

The Hon. K.O. FOLEY: Of course he won't agree. We have division on the frontbench of the Liberal Party over fiscal policy—over what they will pay teachers. I can say to the shadow minister that, if we were to agree to what the teachers are asking for, this state would be in huge deficit and would be in serious, serious financial difficulty.

Ms Chapman: We are already.

The Hon. K.O. FOLEY: Oh, righto. So, you agree with your colleague?

Ms Chapman interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition will come to order.

The Hon. K.O. FOLEY: I just find it hard to follow their line of argument. They are saying that we are spending too much—

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop will come to order.

The Hon. K.O. FOLEY: They say we are spending too much, but then we get these calls for a new stadium for $1 billion, and we have the genius over there saying we should give the teachers $2½ billion. I mean, honestly, they will walk both sides of the street. They will say whatever they need to say to whatever interest group they are talking to. But, when it comes down to proper, tough budget management, this outfit over there is left wanting.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: What I have said is that we have delivered surplus after surplus after surplus, and what did we recover under our government? The AAA credit rating. So, play all the politics you like, but the truth is that we have the track record, we have the performance, and we have the confidence of the people of South Australia.

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:17): I have a supplementary question. In light of his answer to my previous question, why has the Treasurer been unable to protect South Australia from an economic downturn by building surpluses, over seven years, adequate to avoid cuts to capital works whilst successive federal governments and most other state governments, even state Labor governments, have been able to do exactly that and plan to spend more, not less? You must be the worst treasurer in the country.

The SPEAKER: Order! The Leader of the Opposition has asked his question.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:18): If he wants to call me the worst treasurer in the country, so be it. I have to make a confession, Mr Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I have to make a confession, sir: I did not see this financial crisis coming—and I am there with Ben Bernanke, the Governor of the Federal Reserve in America, and I am there with the head of the Bank of England, and with Gordon Brown. Nobody in the world foresaw this.

Ms Chapman interjecting:

The SPEAKER: Order! The deputy leader is warned.

The Hon. K.O. FOLEY: The leader has been out there on radio today saying that I should have foreseen what we are now confronting. Had I done that, I would be a very rich man because I would have played the sharemarket and I could well have got out of this job and made myself a very wealthy man.

The Hon. P.F. Conlon interjecting:

The Hon. K.O. FOLEY: Do you know who else did not see it coming, sir? The Leader of the Opposition. His share portfolio is down 15 per cent. If he had seen it coming, do you reckon he would have got out of those stocks and gone into cash? He did not see it coming. So be it. The situation in the world today is one that I did not see coming with the severity that it did. As I have just said, the surpluses we have built up are the largest surpluses this state has probably ever seen. One would have liked them to be larger, but I would have had to argue not just with my parliamentary colleagues and ministers but with members opposite as to why we were running billion dollar surpluses when there was such pressure and need in education, in health and in community safety.

An honourable member interjecting:

The Hon. K.O. FOLEY: And pay the teachers. I do not expect sympathy but I cannot win either way. If the surpluses are too large, quite rightly my own colleagues, as well as members

opposite, would argue, 'You are just keeping those surpluses there because you want to; you've got a fetish with surpluses.' We actually have to engage and use our surpluses. I could accept some criticism from members opposite if they ever ran a surplus, but they never once ran a surplus. They had the luxury of selling ETSA and still could not balance the books. Come on!

Until you can reconcile with your shadow minister for education, who is saying we should adopt $2.5 billion of demands, you have no credibility. I ask the Leader of the Opposition a simple question—and I hope the media will follow this up—does he support the call by the shadow minister for education to accept the teachers' ask of $2.5 billion? Yes or no?

Members interjecting:

The Hon. K.O. FOLEY: He doesn't.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: He doesn't? We have further disagreement. We have all heard the shadow minister for education say, 'Pay the teachers.'

Mr Williams: That is not what he said.

The Hon. K.O. FOLEY: What did he say?

Members interjecting:

The Hon. K.O. FOLEY: Come on! Everyone heard it. The Liberal opposition is severely split down the middle and, until the Leader of the Opposition today resolves whether he supports his shadow minister or not, he has no financial credibility.

PUBLIC SECTOR SALARIES

Mr BIGNELL (Mawson) (14:21): Will the Treasurer advise the house of increases to the remuneration of senior police, teachers and ambulance officers during the 2007-08 financial year? Is he aware of other proposals for alternate remuneration levels for South Australians?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:22): I was surprised—well, I was not really surprised because this is an old political tactic but it is really one that I think the opposition should reflect on. The member for Goyder, the shadow finance minister, attacked the government for the number of executives or people, I should say—public servants, fat cats—earning more than $100,000.

Can I say that my hardworking staff did some research and found that 83 per cent of the people who received $100,000 or more (or somewhere in that vicinity of 80 per cent plus) were largely police; 498 police officers this year—that is, 40 per cent of the claimed increase—are police officers. That is a result, I am told, of the enterprise bargaining agreement which has seen average weekly wages for police officers increase by some 16 per cent over the three-year life of the agreement. SAPOL advised me that senior sergeants commonly have remuneration packages of $100,000. What you are doing is attacking senior sergeants. You are attacking men and women in uniform.

Who else has earnt more than $100,000 a year? Teachers—the very people that they want to pay more to.

Members interjecting:

The Hon. K.O. FOLEY: Teachers, non-executives—I am told—so we are talking about senior teachers. Do you know who else we are talking about?

Members interjecting:

The Hon. K.O. FOLEY: Yes; principals and senior teachers.

Members interjecting:

The Hon. K.O. FOLEY: So we should not pay our principals?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Are you saying principals are not teachers? Is that what you are saying?

Members interjecting:

The Hon. K.O. FOLEY: No; what I am saying is that senior teachers and principals are getting $100,000—not everyone.

Members interjecting:

The SPEAKER: Order! The house will come to order. The Treasurer.

The Hon. K.O. FOLEY: What I said is that 283 of those people, I am advised, in fact, come from the ranks of senior teachers and principals.

Mr Pisoni: Teachers—where? In the classroom?

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

The Hon. K.O. FOLEY: I do not really want to have to shout above them, if I can avoid it. I am advised that 109 ambulance officers are now earning $100,000 a year. So, I have to say, particularly coming from a member of parliament who is more than happy to take home his $100,000-plus salary—

Mr Hamilton-Smith: How much are you taking home?

The Hon. K.O. FOLEY: Well, I am not complaining.

An honourable member interjecting:

The Hon. K.O. FOLEY: Yes; I am well paid. I am not complaining but, for somebody—

An honourable member interjecting:

The SPEAKER: Order!

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: For somebody who himself is happy to take home in excess of $100,000, I would have thought that the last people he would be attacking would be senior sergeants, men and women in uniform, principals and senior teachers in our education system, and ambulance officers. They are people who have to go out there and do the ugliest work in society.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: So, a senior sergeant is a fat cat, is he? All right. The Leader of the Opposition chooses to call senior police officers fat cats.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Part of the question was: are there any alternative views? We dug up an article from 1998. The then member for Waite, a backbencher of the Liberal government, did a piece with Annabel Crabb.

An honourable member interjecting:

The Hon. K.O. FOLEY: It is good. The backbencher—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Get a photo of this guy, will you? The backbencher, Waite MP, Mr Martin Hamilton-Smith, said an agreement to lower wages would get interstate business 'flocking to this state'.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Yes; this is what he was calling for: 'a jobs pact between organised labour, employers and our government should aim to deliver such an outcome—that is, lower wages'. Mr Hamilton-Smith accused the Labor Party and the union movement of lacking the will to solve unemployment:

After all, it is nice to be able to beat the government with the unemployment stick, and unemployed people are not members of the trade union movement. We already know the cost of living in this state and the quality of life is superior to many other parts of Australia. Could we not contain wage growth in South Australia relative to other states to give ourselves a competitive edge?

Maybe you had better have a talk to your colleague over there.

He went on to call on the opposition (the then Labor government), unions and business to club together, band together, to make our wages lower so that they are so attractive that business will flock to the state from everywhere else in Australia to set up shop. The then government was asked to respond to this call by Hamilton-Smith for lower wages in this state. The then government enterprises minister, Dr Armitage, who was responsible for industrial relations, said, 'I am unavailable for comment.' The then employment minister, Unley MP, Mark Brindal, distanced himself from his colleague's proposal saying, 'Competition could be maintained without reducing wages.'

So, in 1998, the Leader of the Opposition's economic policy for this state was to have low wages, dumb down the state, become a low-cost state through low wages. This Leader of the Opposition will say and do anything to attract an audience—no economic or financial credibility—and he bumbles from one good idea to the next.

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:30): Why has the Treasurer relied upon a culture of unbudgeted revenue windfalls to balance his budget instead of controlling his expenses and exercising prudent budget discipline over seven budgets?

Members interjecting:

Mr HAMILTON-SMITH: Just listen. Read the Auditor-General's Report. It is a good report.

The SPEAKER: Order! The leader will get on with his question.

Mr HAMILTON-SMITH: The Auditor-General in his most recent report has described the failure to rein in blow-outs as 'a culture of expecting revenues to continue to support increasing expenses'. The Treasurer's surplus of 1.2 per cent of revenue is the second lowest buffer in the nation.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:30): I wish the Leader of the Opposition had asked then treasurer Rob Lucas that question when he was in government.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Well, he has acknowledged that Rob Lucas did preside over deficits, so at least that is something. He is saying let's forget—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Well, hang on, you raise the State Bank at every opportunity.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Apparently we cannot live in the past when they are in office, but they can live in the past when Labor was in office. This is a hard guy to follow; he is a hard guy to debate with. No, we have not relied on windfall taxation. Do you know why we have not relied on that and why I can prove it? It is because we bring a budget down that forecasts expenditure—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —and revenue. We have been fortunate, and I have never denied otherwise, in terms of revenue flow being strong. We had a simple choice, as I said earlier, and this is the point that people should remember. In our early years our surpluses far exceeded our budgeted surpluses, so a lot of that extra revenue in our first few budgets we took to the bottom line. Do you know what we did with that? We eliminated budget debt. Once you have eliminated budget debt, what do you then do with those surpluses? Do you then produce financial assets or do you pay off unfunded liabilities or do you reinvest in both tax cuts and increased services? When we have received those increased revenues we have put them to good use.

Mr Williams: You spend them.

The SPEAKER: Order!

The Hon. K.O. FOLEY: Yes. We have 900 extra doctors, 2,000 extra nurses, I think, and hundreds of extra teachers. In this term alone we will be putting an extra 400 police on the beat. I am not denying the factual basis of what the Auditor-General has said: he has made it very clear. The question was whether or not I relied on windfall taxes to rescue the budget, or words to that effect, and I say that that is not the basis on which we budget because when we bring the budget down we show a surplus.

Because revenue growth has been stronger through the course of the year, we have adjusted our spending through the course of the year, as well as paying off all debt. Early this year, or last year, we had actually eliminated budget sector debt. So, you either then spend the money or you give it back in the way of tax cuts, and we have done a variation of that. I am very proud of this government's financial management. We are considered to be a good government when it comes to financial and economic management.

Mr Williams interjecting:

The Hon. K.O. FOLEY: Well, I think your own polling might suggest that, from what I understand. I am happy to take the arrows from members opposite in the theatre that is question time, but the truth of the matter is that we are in a very strong position when it comes to the views of business, the broader community and observers about the quality of our financial management.

STATE BUDGET

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:35): I have a supplementary question. Given the Treasurer's answer to my earlier question, which was along the lines that in his budget, he accurately estimates income and expenses—

The Hon. P.F. CONLON: I rise on point of order. If the Leader of the Opposition wishes to make comment or explain his question, he should seek the leave of the house, not turn it into some species of grievance.

Members interjecting:

The SPEAKER: Order! I will listen to what the leader has said. I think he was only indicating the nature in which the question was supplementary. The Leader of the Opposition.

Mr HAMILTON-SMITH: Thank you, sir. Given that the Treasurer has argued that he accurately estimates revenues and expenses in his budget, how can he explain that, according to the budget papers and the Auditor-General, this Treasurer has underestimated his revenues (from 2002 until 2008) by a massive $3.7 billion in successive years, that he has got it $3.7 billion wrong on revenue over seven years and that his expenses have been wrong every year?

Members interjecting:

The Hon. P.F. CONLON: I rise on a point of order.

The SPEAKER: Order! Now that is debate. Treasurer.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:36): Did he actually call you a girl before? What sort of playground interjection is that, calling you a girl?

The Hon. M.D. Rann: Who said that?

The Hon. K.O. FOLEY: Marty called Patrick a girl.

The SPEAKER: The Treasurer will get on with his answer.

The Hon. K.O. FOLEY: What sort of childish interjection is that?

The Hon. M.D. Rann: Well, it's sexist.

The Hon. K.O. FOLEY: And sexist.

The Hon. P.F. Conlon: I take it as a compliment. I like to get in touch with my feminine side.

The Hon. K.O. FOLEY: What a horrible thought! Maybe members can help me here (and I will check the *Hansard*), but I do not believe that I said that I accurately forecast revenue and expenditure: because I do not.

Mr Hamilton-Smith: Yes, you did.

The Hon. K.O. FOLEY: No, I did not. What I said was that we bring down a budget each year that forecasts what we consider to be the expenditure—and we can control that pretty well—and our revenue, but if you honestly think that I am such a genius that I can somehow accurately predict—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: That is just such a silly question. I can't. I can't forecast what revenue will be, just like you can't forecast what your share portfolio returns will be.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Exactly; nor could I do that with my property in Sydney. To suggest that somehow—I do not know what I am guilty of—I am receiving $3.7 billion of extra revenue, which we have used to wipe out debt, which we have used to pay back in tax cuts, and which we have used to put more nurses, doctors, police officers and vital public services into place, and to double the capacity of our hospitals—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. Conlon: You didn't build a stadium. You squandered it.

The Hon. K.O. FOLEY: Spending a billion dollars on a stadium would have been squandering it; I agree. That is what the Leader of the Opposition would have us do. I really think that, if the leader wants to get enraged and get that red face and berate me, can he just put a little gravitas and substance into his questions?

MOTOR ACCIDENT COMMISSION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:38): My question is again to the Treasurer. Is the Motor Accident Commission on the brink of insolvency; what losses have been incurred to date by the agency; and what is the risk of a call on the taxpayer to bail out the enterprise?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:38): Scaremongering and terrifying people—

Members interjecting:

The Hon. K.O. FOLEY: No, that is not what he says at all. To suggest that the Auditor-General is saying that is just plain wrong. The solvency rate of the Motor Accident Commission when I took office, at 30 June (having been under the Liberal government), was a solvency of 103.3 per cent. Today, I am advised, as of 30 June this year, just prior to the most recent report (and I will come to this current data), it was 101.5 per cent. So, within two percentage points of where it was when we came to office. As of 30 September, with the sharp collapse in equities, it is 98.4. In terms of comparison to WorkCover, it is fully funded.

Under the Liberals—the five years leading into 2002—to 30 June 1998, it was 110.9 per cent; 30 June 1999, it was 107 per cent; 30 June 2000, 108 per cent; 30 June 2001, 108.5; and 30 June 2002, 103.3. What did I get when I came into office—this advice. The advice states:

> The Motor Accident Commission presently has assets sufficient to cover the claims provision calculated in the way to produce a small positive net asset position (about $100 million). To maintain the present position, Motor Accident Commission must be able to operate at break even. To improve its position MAC must be able to make a profit.

It is important that people listen to this because this really underlines what we inherited from the opposition. It continues:

> In order to restrain the rate of increase in compulsory third party premiums, the government—

that was the Liberal government—

has directed the Motor Accident Commission to charge premiums which are below those determined by the Third Party Policy Committee. As a consequence—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Well, we will come to that. I continue:

As a consequence, the premium level—

that was the then Liberal government in 2002—

now in force is sufficient only to enable the Motor Accident Commission to break even. Unless it is able to outperform consistently on its investment returns, the Motor Accident Commission has no capacity to generate profits. Unless future increases in claim liabilities are fully funded by future premium increases, the Motor Accident Commission will enter a period of declining net assets. This will pose serious risks to the continuing viability of the scheme and ultimately to the government's budget position. A policy of allowing financial assets to decline or allowing unfunded liabilities to grow is equivalent to running budget deficits. It is inconsistent to adopt a policy of balancing budgets while, at the same time, directing government entities to run down their assets or accumulate unfunded liabilities.

That is the advice we had coming into office. What did we then do? We instigated a more significant—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Yes. When we came to office, I accepted that advice, and we increased the prudential margin that I wanted Motor Accident Commission to achieve to ensure that we had a hell of a big buffer for when something like we have seen in recent months occurred. When we came to office, we bit the bullet. We were advised to increase third party premiums to catch up to the Liberals. We better have a quick look.

Back in July 1997 (the election year), they were advised to increase premiums by 8.2, they lifted them 5. The next year they were advised to lift them 12.9, they lifted them 8. In July 1999, they were told to lift them 10.8 to keep it solvent, they lifted it 2.6. In 2000, they were told to increase it by 7.8 and they increased it 2.6. In 2001, treasurer Lucas, I assume, was told to increase premiums by 13.7 because they were getting so far behind and the entity was at such financial risk. They only increased them by 4.7.

The cumulative effect of that was that the system, as I was advised coming into office, was in severe financial trouble. What did we do? We were told to increase premiums by 21.7 per cent in our first year on coming to office.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: When we came into office, we found 21.7, the cumulative neglect of the last government, a bitter pill to swallow, so we did not increase it by 21.7 but we increased it by nearly double the previous record increase (in recent years), that is, by some 15.5 per cent. I remember that. That was a tough call and all of us on this side felt that it was a very hard decision, but we were in the business of making hard decisions that the Liberals could not and would not. In 2004, we were told to increase by 0.5 per cent and we increased it by 0.5 per cent. Then, what I can say happened—

An honourable member interjecting:

The Hon. K.O. FOLEY: No; what I am giving you is a comparison between our management and your management. Come 2005, the solvency level of the Motor Accident Commission, through our tough decisions, reached approximately 160 per cent. Do you know what that enabled us to do in 2005? On the advice of the Third Party Premium Committee we reduced premiums by 2.6 per cent. The next year—

An honourable member interjecting:

The Hon. K.O. FOLEY: The solvency level was above the prudential requirement that I had put in place; I think it was 160 per cent, give or take a few per cent. There were similar figures in 2006. The Third Party Premium Committee said, 'Your buffer is so large, you don't need to increase premiums any more,' so we decreased them by 1.1 per cent. The reality is that, from 160 per cent solvency, when the world has suffered the most severe financial collapse and crash in history, all but for the depression—

Mr Williams interjecting:

The Hon. K.O. FOLEY: Well, I have no control. Just like the leader has no control over his share portfolio, I have no control over the independent advice I am given as to where we invest our shares, our money. The stock market has thundered down at a rate and to a depth nobody predicted, nobody could foresee. But, do you know what has saved the financial viability of that entity? It is because it had 160 per cent solvency; it had a buffer so large it could withstand the biggest meltdown the world has seen since the 1920s on capital markets.

I wear as a badge of pride that this government ensured that the Motor Accident Commission, fully under its control—levies under its control, assets under its control and free of legislative constraints—was able to keep that entity incredibly solvent, so in its position today it is able to ride through this period. When equity markets recover, what do you think? If we are at 100 per cent—and, hopefully, we are at the bottom, we may not be; we may go a little lower—and when the markets recover, the Motor Accident Commission's asset base will see it go back to prudential coverage well in excess of what anyone has ever seen under the Liberals in office, and it just shows how well we have managed that entity.

MOTOR ACCIDENT COMMISSION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:47): As a supplementary question, in light of the Treasurer's answer to my previous question, how does he reconcile his claims that the Motor Accident Commission is in good shape with the Auditor-General 's finding that its situation had deteriorated to a point where 'it was risking not meeting solvency requirements', and will he rule out an increase in the Motor Accident Commission's charges to the public to meet that solvency risk?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:48): This is a man who wants to be the treasurer of this state. Think through what he just said. I have not disagreed with the Auditor-General. The Auditor-General has made a correct statement of fact that we are in breach of our solvency targets. I have said that. What I said is that my solvency target has its funding somewhere north of 140 per cent in good times; we got up to 160. And that gave us the buffer to withstand the attack and assault that we have seen on the sharemarket globally that has brought this down. But, then he says, 'Oh, but will you now agree not to increase premiums to address the solvency position?' We have only one revenue flow into the third party comprehensive—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —third party scheme, and that is motor accident. That is what we charge. We do not have any other income streams. I do not know what else he is suggesting we should do, or is he suggesting that we should cut benefits to injured drivers?

An honourable member interjecting:

The Hon. K.O. FOLEY: Should we cut benefits to injured drivers? Well, as I said earlier in my speech, if you had not ignored the advice of the Third Party Premium Committee under your tenure in government, we would not be where we are today because there would have been accumulated assets that would not have meant—

An honourable member interjecting:

The Hon. K.O. FOLEY: When we came to office, we were asked to increase premiums by 21.7 per cent because they refused to increase them. This is where the Leader of the Opposition walks both sides of the street: 'What are you going to do about your solvency levels? But are you going to increase premiums?'

This year we increased premiums. The Third Party Premium Committee recommended that we increase them by 10.9 per cent, and we authorised a 7.2 per cent increase. We did not pass on the full increase but we passed on a substantial increase—and in excess, by a large margin, of any increase (bar one year) that the Liberals ever passed on. Each and every year the Third Party Premium Committee gives its advice, independent as to what increases are necessary to maintain solvency levels. It is then up to the government to choose to either accept that or vary it. In most cases we have agreed to accept it—with some slight variation on one or two occasions—and, in two years, on the advice of the Third Party Premium Committee, we reduced

rates. We have done so because we have acted with proper due diligence, with proper financial scrutiny, and with proper financial understanding of the impact of what we were doing.

The Motor Accident Commission is a well-run organisation chaired by Roger Cook, who has worked on both sides of politics for governments of both persuasions. I know the Leader of the Opposition has a high regard for him, and I think we can all be very thankful that he is in that job. There are also still members on the board who served under the former Liberal government, such as Kym Weir, and others (I am not sure if Yvonne Sneddon served under the previous government).

I can also say that the recently retired general manager of the Motor Accident Commission, Geoff Vogt, who I thought did an outstanding job as the general manager—

Mrs Redmond interjecting:

The Hon. K.O. FOLEY: A stock market collapse; funny that. I wish I could have either predicted or stopped the Wall Street crash; I would be very rich man if I could have foreseen that.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Geoff Vogt was a very good manager of the Motor Accident Commission for a long time. He was appointed under the former government and was a former ministerial adviser to the Liberal treasurer Dale Baker, and he did a very good job.

An honourable member interjecting:

The Hon. K.O. FOLEY: Treasurer of the Liberal Party. So it is a good entity, and well run. We have acted on the advice, and that is why it is such a sound and solid organisation today.

The SPEAKER: The member for MacKillop.

The Hon. P.F. Conlon: Keep this going, please.

SA WATER

Mr WILLIAMS (MacKillop) (14:54): I will. My question is to the Treasurer. Why is the Treasurer forcing SA Water to borrow money to pay dividends to the Treasury? The Treasurer has received $2 billion from SA Water as cash payments, dividends and capital returns to general revenue over seven budgets. The figure is expected to rise to $2.5 billion within the estimates period. This year the Auditor-General has again raised concerns that SA Water is borrowing money to pay its dividend to the Treasurer. The Auditor-General also notes the adverse impact this has on SA Water's capacity to invest in water infrastructure.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:54): Those of us who have been here long enough will remember that the Liberal Party, when it came into office in 1993—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Apparently it is okay for him to mention the State Bank from 1989 or 1992 or whatever it was, but I cannot mention when they came into office. I mention it not by way of criticism, but by way of compliment.

As Greg Kelton would certainly remember, and some of the younger tackers from the media up there—John, you are old enough but you probably were not around here—the Liberal government had an audit commission. One of its key recommendations was that the government's then-owned utilities (such as ETSA and the water company, the E&WS) should be corporatised and operate as companies would, as publicly listed entities, in an economy. In doing so they should both return dividends to shareholders that are comparable to what a public corporation would deliver to shareholders and also pay tax equivalents to the federal government as if they were public companies.

What followed on from that was the National Water Initiative, introduced, I think, largely under the Howard government, which then also put them under a much stronger framework, where water pricing had to start to reach a point where it properly reflected the true cost of the commodity—and we are working our way through that—and the water utilities had to maintain an

appropriate level of gearing. I say that by way of context because these were the entities that were created in the early to mid-1990s, and we supported that.

A few years ago, we reworked a policy paper (an agreement with, in the end, the SA Water Board, Land Management Corp and, I guess, Forestry Corp), and that was essentially a dividend policy and the requirement of dividends to be paid back to shareholders—and I think, in most cases, 90 per cent of after tax profits, and I could be wrong there. It is an appropriate framework that all entities agreed to. It is then up to the corporation—

Mr Williams: They all agreed to it?

The Hon. K.O. FOLEY: Sorry?

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop will come to order.

Mr Williams interjecting:

The SPEAKER: Order! I ask the member for MacKillop to come to order.

The Hon. K.O. FOLEY: So, this is where they again try to work both sides of the street. If they are honestly saying that we should not take a dividend from SA Water, what will they then do with the black hole that will emerge in public finance? Since day dot, SA Water has provided dividends to government—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: This was a framework that then minister John Olsen put in place to which we agreed, and it has been operating under both sides of politics, under both governments—

An honourable member interjecting:

The Hon. K.O. FOLEY: It has.

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop.

The Hon. K.O. FOLEY: This has been operating under both sides of politics. It is then up to the corporation to manage its internal cash flows to meet the requirements of the shareholder and if, on any given year, it chooses to spend more on its cap X and borrow to meet its dividend requirement to government, they are operational issues. The gearing level of SA Water is very low—some would argue that it is lower than it should be.

I have just remembered something—and my colleague the then shadow minister for energy may remember this. The Liberal government, before it privatised ETSA, from memory, does anyone recall them shifting half a billion dollars of borrowings? They used ETSA to borrow half a billion dollars and put it on to ETSA's balance sheet—they are not listening to this; this is a bit of history they do not want to hear. From memory, and I could be wrong, they actually borrowed half a billion dollars and put it into ETSA to get it off their balance sheet. So, they were in the business of trickiness, when it came to their cash accounting methods and methodologies. These entities are properly structured, with a proper board and a proper delegation of management authorities, and there is nothing untoward in what they have done.

TRANSPORT, ENERGY AND INFRASTRUCTURE DEPARTMENT

Dr McFETRIDGE (Morphett) (14:59): Why has the Minister for Transport failed to ensure that his department has met audit requirements resulting in a refusal by the Auditor-General to sign off on his department's budget and finances? In his most recent report, as in previous years, the Auditor-General has raised serious concerns about the minister's department's failure to lodge its financial returns in time to enable the audit to be completed and signed off.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:59): The member for Morphett, as always, is a little careless with the facts. He asks one question and explains it with an explanation that does not bear any relevance, or the explanation is more accurate than the question. My understanding is that one area—

Dr McFetridge interjecting:

The Hon. P.F. CONLON: Then he says the department. Of course, there are—

Dr McFetridge interjecting:

The Hon. P.F. CONLON: Aren't you glad to be here today to hear the debate in this chamber and have a choice? I wish everyone was here to make a choice about whether they want Kevin Foley to be Treasurer or Martin Hamilton-Smith.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: What abysmal economic ignorance. He can bark all he likes. He can bark all the way to the election, but he will never be the treasurer of this state. He will never be the treasurer of this state.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Hey mate, let me tell you: I did a sum the other day and worked out that my ministerial career is already about 140 times as long as Martin Hamilton-Smith's—and he is calling me a failure! The member for Waite—the alternative premier—has demonstrated a complete lack of any understanding of the financial position of the state. I will not go over what has been said, but—

An honourable member interjecting:

The Hon. P.F. CONLON: He says the Auditor-General is wrong. That was one of their catchcries, was it not? Do you remember when the Auditor-General had to come to parliament to ask us for a law to make Liberal ministers cooperate? He wants to talk about us and the Auditor-General. Goodness me!. They treated the Auditor-General with disdain and he had to ask for a law of this parliament to make Liberal ministers cooperate—and he wants to talk about us.

Dr McFetridge interjecting:

The Hon. P.F. CONLON: The member for Morphett says 'your department'. I am not sure which one he means. There are audit reports—

Members interjecting:

The Hon. P.F. CONLON: Are you finished? There are audit reports in there.

An honourable member interjecting:

The Hon. P.F. CONLON: You are not? Mate, I have all the time in the world. How are you going? I have all the time in the world. No doubt you will still be a young man in 2014 or 2018, Mitch; just watch your health because you are going to need a very long life before you ever get what the other two Independents got. What a successful crew they were: 'two out of three ain't bad'—that is what they say: two out of three ain't bad.

Members interjecting:

The Hon. P.F. CONLON: No; you never will. I agree with you: you never will do what they did—and praise the Lord for that!

Members interjecting:

The Hon. P.F. CONLON: It is not for sale, of course, because of his undying loyalty to the Liberal Party. He was in, then out, and then in, and who knows next year?

Members interjecting:

The Hon. P.F. CONLON: You were not bought because you were never offered, so don't kid yourself. Mate, we look for quality not quantity. It was quality and, in your case, it would be 'Never mind the quality, feel the width.'

The SPEAKER: Order! Today's question time has been, I think, probably the worst in my term as Speaker and has just been disgraceful. I direct the minister back to the substance of the question and ask all members to cease disrupting the member on his feet.

The Hon. P.F. CONLON: Thank you, sir. It is my fond desire to get back to the question. I apologise for being distracted by the most aggravating interjections from the other side. This is a matter of small ambit. There is one section of detail (I think safety and regulation, from memory) which was unable to provide some information which did not allow the Auditor-General to provide the report with the rest of his report and it will be provided in an interim report. It is not the case that the department is not able to pass audit. That is simply untrue. As is so often the case, many of the things that the member for Morphett raises are not true.

Dr McFetridge interjecting:

The Hon. P.F. CONLON: You would think a man who had the good fortune to see me in lycra (as he claims) would be so buoyed up by the—he certainly did not think I was a girl! There will be an interim report, it will be provided, and then the member for Morphett can try to mislead the chamber about what is in that.

AUDITOR-GENERAL'S REPORT

Mr O'BRIEN (Napier) (15:04): My question is to the Treasurer. Can the Treasurer provide an explanation of the net debt and servicing of this debt as discussed in the Auditor-General's Report?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:05): I thank the member for Napier for his question. I listened with interest. Again, the Leader of the Opposition has said let's not talk about history but he goes back, like all Liberal leaders have done in the past, and brings out the State Bank. He has been out there making wild allegations that we are somehow as severely indebted as the government of the day was back in the State Bank days. You just come to a point where you have to correct the record, and I would hope that in terms of—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Let's just see what the Auditor-General says of that. Today's dollars—what is the net present value of those dollars in 1989-90 dollars?

Members interjecting:

The Hon. K.O. FOLEY: Well, he has no concept of finances or economics. It is just extraordinary.

Members interjecting:

The Hon. K.O. FOLEY: No, you are right, and I know you have referred to people that apparently I am a real dunderhead because I never completed high school. Apparently the leader has told journalists that, because I left high school halfway through year 11 at 16 years of age to go out and work, I am not qualified to be treasurer. You know what I didn't do? I didn't use my time as an opposition backbencher and taxpayers' money to go off and do my MBA. I actually did my job in here.

Mr Koutsantonis: Government backbencher.

The Hon. K.O. FOLEY: Government backbencher. I did my job in here.

Mr Hamilton-Smith: Or any other time in your life.

The Hon. K.O. FOLEY: No, I haven't; you are right. Apparently I am having to cool my arrogance because I am admitting I do not have an education, and yet he is proudly presenting the fact that he has an MBA. Good on you. Well done. I am pleased for you.

Members interjecting:

The Hon. K.O. FOLEY: Exactly. I have done all right with a limited education when you think about it.

Members interjecting:

The Hon. K.O. FOLEY: Hey, let's concentrate. Let's hear what the Auditor-General has said. The Auditor-General has stated that he has examined the issue of the budget's net debt in Part C of his report at page 50. He sought information from the Department of Treasury and Finance on the matter of state debt. His report states:

In response DTF advised that although it recognised that a responsible level of net debt may be a subjective term, it was considered appropriate for reasons including:

- net debt remains at historically low levels
- increases in net debt reflect the major infrastructure program, aimed at improving the social and economic efficiency of the state and which results in an increase in net worth
- it is supported by strong operating surpluses
- when considered as part of recognised reporting ratios (eg net financial liabilities to revenue) support the continuation of the State's triple-A rating.

I refer to comments that the Leader of the Opposition made on radio today. This is what he said, referring to me, and he never has the decency to call me the Treasurer. He calls me Foley and whatever else. He said, 'He has run debt up. It is going to be $5.2 billion in this estimated period. That is almost twice the State Bank.' Before he said it was half the State Bank. Five minutes ago—and I urge observers here to read what he said in *Hansard*—he said that we were about half the level of the State Bank debt, yet on radio today he said we were double the State Bank debt. When are we going to put this leader under the scrutiny he should be put under? He said on radio today that we have double the State Bank's debt but, in here, five minutes ago, he said—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: We have half the level of State Bank debt. He just says whatever comes into his head, whoever the audience is, whatever the purpose of the comment is. This man cannot be trusted when it comes to what he says on financial matters. Have a listen to this: the Auditor-General disagrees with what the Leader of the Opposition is running around. In his report, he concludes:

I note that the increase in net debt forecast is not comparable to the increase experienced from 1991 principally from the collapse of the State Bank as that increase reflected the write-off of assets associated with the collapse. I also note that net debt, as then measured, peaked at 26.9 per cent of gross state product in 1992 and 1993.

In his report, the Auditor-General stated that at the end of 2007-08 total public sector net debt is estimated to be 2.7 per cent of gross state product. So, that puts a lie to the outrageous allegations that we are back to State Bank debt levels. The Auditor-General states, and I repeat, that the increase in net debt forecast is not comparable to the increases experienced between 1991 and latter years, principally as a result of the collapse of the State Bank.

In 1992-93, state debt peaked at 26.9 per cent of gross state product. In 2007-08, it is 2.7 per cent of gross state product. From this day forward, the Leader of the Opposition has no credibility to say to the media or state in this place that we are taking the state back to State Bank debt levels because, if he does, that is untrue, misleading and an absolute fabrication of the true state of the net debt and worth of this state.

MARJORIE JACKSON-NELSON HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:12): My question is also to the Treasurer. Is it now likely that the PPP proposal on the Marjorie Jackson-Nelson Hospital will be abandoned in favour of a debt-funded taxpayer build, and on what date does the Treasurer intend to make a decision on this matter and how will it be funded? Yesterday, the Minister for Health said publicly:

The hospital will be built through a PPP arrangement and that means it will be constructed by 2016.

However, in a media interview on the same day, the Treasurer said:

When we get to the point of actually going to the market, if that is not the best delivery model then we won't do it.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:12): And your point is? We should do it if it is not the best delivery model?

Mr Hamilton-Smith interjecting:

The SPEAKER: The Leader of the Opposition will come to order.

The Hon. K.O. FOLEY: The government has consistently said that—

Ms Chapman interjecting:

The SPEAKER: The Deputy Leader of the Opposition will come to order.

The Hon. K.O. FOLEY: —it intends to deliver the new Marjorie Jackson-Nelson Adelaide Hospital as a public-private partnership. We are going through the most significant financial crisis that the world has seen since the Great Depression. That will have an effect on decisions at the time. The latest advice I have, as early as this morning, is that we still expect the PPP delivery vehicle to be on track.

What you do with a public-private partnership is you have what is called a public sector comparator: a very sophisticated piece of modelling that compares the value for money of a private sector delivered vehicle with that of a government procured vehicle. If the PPP does not meet the benchmark of a publicly delivered project, you do not do it. That is standard operating procedure.

We have three bids in now for our schools project, which we are proceeding with. I cannot deliver any information to parliament as yet as to the status except to say this: they are three very good bids. I am told that the finance is locked away. We are doing due diligence on that to make sure that what we are being told is correct. Notwithstanding these financial times, I am told that finance is able to be provided by those consortia, and each and every one of them (I am told) is within scope in terms of the public sector comparator, so they can be delivered via a public-private partnership vehicle. That is normal procedure, and I do not expect anything to be different with the Marjorie Jackson-Nelson Hospital.

The Leader of the Opposition attacks anything. I think he was on radio today saying that he's now trying to 'ratchet these projects up', that he wants our grandchildren to pay for it, that he wants to get the benefits now for something that others will pay for, and that now the Auditor-General is saying that 'it is all coming unstuck'. Well, the Auditor-General is not saying that. He is merely making an appropriate observation that, given what has happened in the financial market, these things are becoming riskier.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: You don't think I read it?

Mr Hamilton-Smith: No.

The Hon. K.O. FOLEY: What he said was that, 'These things have become riskier. There may be a significant risk to the fundamental premise of whether a PPP provides a net benefit to the public compared to the conventional public sector procurement.' I have said that that is exactly the criteria and the measurement that we take with the public sector comparator at the time of deciding whether or not to proceed with the private sector bid. That is exactly what we do and, if it does not meet the public sector comparator, you do not procure it in that way. I have never said anything different. This notion that these publicly privately financed initiatives are bad is going against, not just the Labor government's approach to procurements, but the Liberal government's procurements.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I think I am right, Minister for Infrastructure, that when we came to office, even though it was your good work that delivered the PPPs on the prisons and the courthouses, wasn't that preliminary work undertaken by the former Liberal government?

The Hon. P.F. Conlon: And their bridges were going to be a PPP, but they weren't going to cost anything.

The Hon. K.O. FOLEY: And their bridges were going to be a PPP. Apparently the state's only delivered public-private partnership to date was a project whose genesis was under the last Liberal government, under treasurer Rob Lucas. So Rob Lucas thought that a PPP approach to police stations and courthouses was an appropriate delivery vehicle.

The Hon. P.F. Conlon: It was. It was a very good delivery vehicle with an excellent outcome.

The Hon. K.O. FOLEY: And it was a very good one, but not for the leader, because he wants to throw mayhem and nonsense out there. I have no doubt that Colin Barnett in WA will deliver a number of projects via PPP processes, and I have no doubt that should there be other

conservative governments, in the decades and years to come, they will do the same. The federal Liberal Party, of course, supports PPPs. They are an eminently sensible delivery vehicle, provided they can give you value for money in excess of what it would be to deliver under state-owned infrastructure.

As for this comment that we are hocking up our grandchildren for years to come, it is as simple as this: if we did not do a PPP, we would borrow $1.7 billion from the capital markets. We would borrow and build a hospital and that would be paid back over years. That is actually what you do in funding infrastructure. Today's taxpayer should not have to pay for infrastructure that will be used by people for 40 years or 50 years (four generations). I do not know how you would do it, how you would fund a $1.7 billion hospital out of, say, two or three budgets, without plunging your budget into deficit (which is borrowings anyway), or by ripping the guts out of every other area of government expenditure. This silly notion that he has, that he has been able to get away with, when he says that we should be funding capital work from our recurrent income—

Mr Hamilton-Smith: We will be paying far more for a PPP.

The Hon. K.O. FOLEY: He would be the first treasurer on God's earth, in all time, that would have ever been able to do that. And he has just made the accusation that we will pay much more under a PPP.

Mr Hamilton-Smith: We will.

The Hon. K.O. FOLEY: Is that a fact?

Mr Hamilton-Smith: Yes.

The Hon. K.O. FOLEY: How do you work that out?

Mr Hamilton-Smith: We are waiting for you to explain that to the taxpayers.

The Hon. K.O. FOLEY: What have you said to the private consortia that have met with you?

Mr Hamilton-Smith: That I want to ask the question of you.

The Hon. K.O. FOLEY: Do you? Do you reckon when Macquarie Bank and Leighton Holdings and Plenary Group and ABM Amro, and all of these companies come and beat a path to his door—as they should, as I have encouraged them to do to keep the opposition in the loop—do you reckon the Leader of the Opposition sits there all bravado and says, 'Oh, you're going to rip off the taxpayer and—'

The Hon. P.F. Conlon: He does, once he's got off his knees.

The Hon. K.O. FOLEY: 'Welcome, welcome, welcome!' Yes, I can just imagine, they walk in and he says, 'Oh, you blokes have ripped the taxpayers off and PPPs are dearer than the normal procurement processes of government.' Of course he doesn't do that. People have told me that you have actually listened to them and you have agreed that these are good concepts. I don't know whether that is true.

Mr Hamilton-Smith: Who? You made a claim, who?

The Hon. K.O. FOLEY: Who, who, who?

Mr Hamilton-Smith interjecting:

The SPEAKER: Order! The Leader of the Opposition will come to order.

The Hon. K.O. FOLEY: So you haven't told anyone.

Mr Hamilton-Smith: You made a claim, who? Name them now.

The Hon. K.O. FOLEY: I have just said, 'I've been told.' Now whether I have been told the truth, who would know.

Mr Hamilton-Smith: Who was it? Come on, who? Name them now.

The SPEAKER: Order! The Leader of the Opposition will come to order.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order! I have instructed the leader to come to order.

Mr Hamilton-Smith: It was untrue.

The Hon. K.O. FOLEY: So, you have told business people that you think it is a crap idea. Do you think it is a crap idea? You have told people.

Mr Hamilton-Smith: You made a false claim. Either state your facts or admit that you—

The Hon. K.O. FOLEY: I apologise. I obviously have wrong information; I apologise.

Mr Hamilton-Smith: Here you are, caught out.

The Hon. K.O. FOLEY: You are telling me that you have not said it. Who am I to believe? I don't care.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Look at the laughing twins up there. Have a look at them.

Mr Hamilton-Smith: You cannot be believed.

The Hon. K.O. FOLEY: I can't be believed. He tells untruths wherever he goes. The Leader of the Opposition has no credibility, he will just say whatever he needs to say at any given time and—

Mr Hamilton-Smith: You were just caught out.

The SPEAKER: Order!

The Hon. K.O. FOLEY: No, I haven't been caught out. I said that I have been told that you have been supportive of PPPs, and I have said that, if I have been told something wrong, I apologise. You are opposed to them. Have you told business you are opposed to them?

Mr Hamilton-Smith: I ask the questions.

The Hon. K.O. FOLEY: He won't answer that question, will he? Have you told business that you are opposed to it.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Have you told business?

The SPEAKER: Order! The Treasurer will take his seat. The Treasurer asking questions of the opposition does not assist me in my keeping order of the chamber.

EDUCATION DEPARTMENT SALARIES

Mr PISONI (Unley) (15:22): My question is for the Minister for Education. Is the minister having difficulty managing responsibly the financial affairs of her department? The A-G's Report has shown that the number of DECS employees earning over $100,000 a year has jumped from 605 to 888 in just one year, an increase of 283 (that is almost 47 per cent). The Auditor-General also noticed a decrease in the overall DECS staffing levels by 169 and a decrease in students attending government schools. So, fewer teachers, fewer students, but more fat cats.

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (15:23): Yes, I feel the member for Unley was not listening to the Treasurer. He started off this afternoon explaining that, over the past few years, there has been what one might call bracket creep or increases in salary—

Mr Pisoni interjecting:

The Hon. J.D. LOMAX-SMITH: This means that policemen and teachers now can earn more than $100,000.

Mr Pisoni interjecting:

The SPEAKER: Order! The member for Unley.

The Hon. J.D. LOMAX-SMITH: I for one say how pleased I am that the most experienced teachers, the best leaders in our schools and our best teachers, earn more than $100,000. It is a

fabulous piece of information. For those of you who have not had an opportunity to look at the Auditor-General's documents—and I am sorry it will take me a while to find the exact page—it is quite apparent that the number of executives in DECS in 2007 was 32. And do you know how many executives there were in 2008—31. And so, the increase in the number of people earning over $100,000 were teachers. They were leaders, they were people at the coalface. Now I understand those opposite—

Members interjecting:

The SPEAKER: Order!

Mr Pisoni interjecting:

The SPEAKER: The member for Unley I have called to order. I warn him.

The Hon. J.D. LOMAX-SMITH: Those opposite do not support teachers earning more than $100,000. They do not want our leaders to be recognised, they do not want our principals to be properly remunerated, and the irony is that they have the nerve to criticise these people. Remember whom they have criticised: policemen and teachers. They are not criticising executives, who do not go near teachers; they are criticising people at the coalface—the workers. So it is absolute nonsense and total hypocrisy for them to come in here and suggest that the Treasurer pay the entire claim of teachers, because they do not support the workforce whatsoever. It is totally despicable.

On top of that, there is a difference in the number of employees from time to time in any large department—a $2 billion-plus department with many thousands of staff. The day that the Auditor-General counts heads—it is literally a head count, not full-time equivalents—those head counts were different, because I understand that on the day when they did that headcount there were fewer temporary relieving teachers. There was fluctuation, so it is meaningless, but they will take every opportunity to attack our teachers, who really are the backbone of our education system, who every day work hard. And now, for political reasons they will attack the teachers. All the time they criticise; and, what is more, they criticise public education.

MODBURY HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:26): Why did the Minister for Health fail to ensure that his department exercise due diligence in the monitoring of the stocktake of goods when the government bought back the management of the Modbury Hospital?

The Auditor-General has revealed that the stocktake was completed by the previous private manager of the hospital, Healthscope, with an inventory, as at 30 June 2007, to the value of $926,808. It was listed on the invoice provided to the department, that is, what we bought back. The Department of Health failed to provide a representative—anyone—while the inventory was prepared to check the integrity of the stocktake.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:27): I thank the deputy leader for the question. She started off by making comment in the way she phrased the question, of course, which is par for the course for the Deputy Leader of the Opposition. The Auditor-General's Report does, in fact, contain a comment from the health department saying that it should have had a representative there when this occurred. So, the answer to her question is, in fact, in the Auditor-General's Report.

HOSPITAL ADMISSIONS

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:28): Will the Minister for Health confirm the figures printed in the Auditor-General's Report yesterday which showed that there were 19,000 fewer admissions to SA metropolitan hospitals during 2007-08 than the previous year? The figures show a decrease from 300,464 inpatient presentations in 2007 to 281,297 in 2008.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:28): I do thank the deputy leader for this Dorothy Dix question, because she has highlighted the fact that our policies to transform the nature of the health system are working. We are investing millions and millions of dollars in out-of-hospital care: divergent strategies, the GP Plus Health Care strategy, the *healthdirect* telephone system, advertising to keep people out of emergency departments when they do not need to be there—and, guess what? It is actually working; we have had a reduction in the number of admissions. This is

absolutely great news, and a piece of news that should be celebrated by the opposition rather than condemned.

GRIEVANCE DEBATE

NATIONAL RIDE TO WORK DAY

Dr McFETRIDGE (Morphett) (15:29): Today is National Ride to Work Day. As I said during question time, the Minister for Transport and I were at Victoria Square this morning—

Ms Chapman: And me!

Dr McFETRIDGE: The member for Bragg was there. I missed the member for Bragg, but, certainly, the minister was there. This is one of those events where there certainly is bipartisan support. National Ride to Work Day is a great event, and last year over 2,500 bike riders assembled in Victoria Square for a breakfast put on by a number of volunteer groups. There were other organisations there, including Bicycle SA, and the member for Norwood was there, as well as the Attorney-General (although I missed him this morning). It certainly is a great event, and it is good to see South Australian cyclists being supported by members of parliament as well as by a number of volunteer organisations.

I apologise to the Mayor of the City of Marion, because there is also an event down there. I did not go last year and she got into me; this year I went to the Victoria Square event again, so I have to apologise there.

However, this is a terrific event. The fact that Adelaide is the flattest capital city in Australia makes it perfect for bike riding, and my wife and I certainly enjoy riding our bikes along the foreshore from Glenelg to Henley Beach or down to Kingston Park for a coffee. It is a great pastime, and the health benefits of cycling are more than evident from the changed shape of the Minister for Transport. Although the lycra look is not one I would wear, I must admit that Tim Noonan from the ABC did acknowledge the fact that the minister was preserving his modesty by wearing shorts over his lycra this morning. However, I congratulate the minister for turning up. He does need to recognise that we have to do more for cyclists in South Australia.

In London recently I saw bike lanes in downtown city streets that were separated from vehicular traffic by a concrete plinth, and it was interesting to note that they were two-way bike lanes on the sides of the street in London. We could investigate something like that here to give cyclists that extra bit of security when they are mixing with traffic. Just this morning I had a couple of near-death experiences going from Parliament House to Victoria Square. In heavy traffic you have to have your wits about you and make sure—

An honourable member interjecting:

Dr McFETRIDGE: Part of the ride. That ride is in heavy traffic, and you need to be careful not only of cars but also of pedestrians. Coming back from Victoria Square to Parliament House this morning a long bus pulled in front of me and pushed me onto the kerb. Fortunately, through my skill and agility, I was able to jump off the bike and not be flattened. However, cyclists are in danger and need to be protected, and we need to look at what is happening with our cyclists on the road here.

Cycling is a healthy pastime and it is one we should be encouraging by providing the infrastructure. The bike path over South Road with the tram overpass is a good addition to that piece of infrastructure. It should not have been necessary because it should have been designed differently there in the first place, but to miss out on a bike lane initially but then add the bike lane later is at least a positive move—because at last count there are, I think, something like 40,000 new bikes sold in South Australia every year.

The organisation Bicycle SA encourages those with bikes to make sure that they are well informed when they are on their bikes. They put out a Travel Smart brochure and a Simple Guide for Everyday Cycling, they put out a Cycling and the Law and a Share the Road booklet, and they also put out numerous other pamphlets. One thing I do not think we have in South Australia (and I have made inquiries of the RAA) is a service like that in Victoria, where the RACV has a roadside assistance service called Bike Assist. This service is designed to assist cyclists in the event that their bicycle cannot be ridden because of an accident, mechanical problem or puncture. It is $24 a year for single cover and $33 a year for family cover, and if your bike is beyond repair it provides, as part of that membership, a taxi ride up to the value of $50 to transport you and your bike to your chosen destination. I encourage the RAA to look at something like that, because one of the

downsides of riding a bike is that things do go wrong, you do get punctures and you may be stranded. We certainly do not want that.

I encourage the government to keep up positive attitudes to cycling. We in the Liberal opposition will certainly be supporting the biking fraternity in South Australia, and if the RAA could provide that service it would be an extra bonus. However, congratulations to all those involved this morning—particularly the volunteers—and congratulations also to the media for supporting the event. It is a great one, and it should be supported by everyone in this place. Perhaps next year we could have most members of parliament there.

PARLIAMENTARIANS NETWORK FOR CONFLICT PREVENTION AND HUMAN SECURITY

Ms SIMMONS (Morialta) (15:35): In the last month, I have been invited by the East West Institute, which is an international task force on preventative diplomacy, to join the Parliamentarians Network for Conflict Prevention and Human Security, which is a group of parliamentarians from around the world. The East West Institute has for 28 years highlighted an unacceptable gap, which continues to exist, between the international community's rhetoric about conflict prevention and its responsibility to protect people from catastrophic human rights violations and the reality of its efforts. The shameful record of human misery caused by violent conflict is testimony to the chronic lack of political will to respond collectively to new and emerging threats to peace, including environmental stress, around the world.

The ineffectiveness of many global efforts at preventative diplomacy is evidence that traditional diplomatic approaches, including the use of force, simply may not work in time to stop people from dying. Early and effective political action is lacking in too many cases where there is an awareness of the threat of violent conflict. Furthermore, in crisis situations, a lack of effective international response mechanisms, added to a lack of political will, limit the potential for action.

The network will this month meet for the first time in Brussels (I am very disappointed, of course, not to be present), and its role will be to pledge to a set of guiding principles to build the capacity of governments to respond to the emergence of potential conflict situations; build international cooperation in sharing strategies for conflict prevention; influence legislation to commit resources to conflict prevention, bind governments to report promptly to parliament in cases of pending conflict, and improve conflict prevention structures; produce and disseminate information and increase awareness among decision makers, the media and the public about the necessity and cost-effectiveness of preventing conflict; and institutionalising and mainstreaming conflict prevention.

There is currently a paucity of strategies, experienced personnel and financial resources directed to the prevention of potentially violent conflicts. We realise that the settling and reconciliation of acute conflict is essential. However, to steal a health analogy, prevention is always better than cure. We all know that conflict has a devastating impact on human suffering, misplaced life opportunities, education, economies and reconstruction costs. In South Australia, we have first-hand experience over the last 50 years hearing the stories of many of our migrant population. I have constituents from Sudan, Sierra Leone and East Turkistan, to name just a few countries, and I have listened to their horror stories, and I often despair at the ability of some human beings to destroy generations of other human beings.

I strongly believe that those of us living in stable countries enjoying democratic governments have a duty to prevent violence in fragile societies across the globe. Violent conflict will be transformed into sustainable peace only if all stakeholders work together. The international community, the global public and all interested and affected parties must work towards removing the incentives for violent conflict by addressing the root sources of tension within and between societies, states and regions.

In the last decade, more than 15 million people have lost their life to war; 40 million people have been forced to flee their homes; and genocide and mass atrocity crimes have again stalked parts of the world. This reality is at complete odds with the international community's pledge to free our societies from the scourge of violent conflict. I encourage members of both houses to join this parliamentary network and provide a leverage point for change, to work to influence legislation, provide access to the media and the public, to place emphasis on preventative measures and to reframe traditional security policy.

SCHOOLCHILDREN, INAPPROPRIATE BEHAVIOUR

Mr PISONI (Unley) (15:40): I rise to speak about a fairly concerning issue that relates to my portfolio responsibility as the shadow minister for education. I was approached, through a colleague's office, by the parent of a child at a category 1 school. It is probably best if I read into *Hansard* the letter that was sent by my colleague to the minister, asking for an explanation. It states:

> ...Currently there is a five year old boy who attends the school with an unusual sexual interest in other children. He has been asking other boys for sex and has asked other children to touch his penis. The boy allegedly has urinated on [my constituent's son] and has been generally bullying him.

The minister's response came back some six months later (by the looks of it) and the allegations about the sexual behaviour of the child were completely ignored. The minister had some handy advice for my colleague. He states in his letter:

> I am informed that this child needed specific training about the appropriate use of a urinal which is not uncommon for boys from single-parent families who may have never seen one before.

The minister's response to an alarming claim of the learnt sexual behaviour of a five year old is that he does not know how to use a urinal. This raised alarm bells for me as a parent. It raised alarm bells for me as someone who has spent eight years on the Unley Primary School council and someone who was concerned about what I had read, particularly because of my portfolio area of education.

My colleague put in an FOI request and we received a reply from the department some months later. I will give you an idea of the time line. The initial request was dated 12 December 2007 and on 1 October we received a reply from the department that identifies (in 2½ pages) similar behaviour by other students. The names have been blanked out for obvious reasons, but the students are identified by a number. There appear to be four different numbers. Chris Robinson has written a letter in which he states:

> These incidents of inappropriate behaviour are of significant concern to me. Murraylands district office continue to work with the students and teachers involved to ensure an improvement in behaviour.

The FOI released what those offences were but I am a bit reluctant to read some of them into *Hansard* because I know that if I say the slightest controversial thing in this chamber the Attorney-General runs to the Greek community in my electorate and says, 'Look, Pisoni is not fit to represent you.' I will not read out the graphic language in here, but I will raise some of the issues. For example, there is a report here of a child exposing himself to others at swimming and asking girls for oral sex (in a more graphic term). This is a primary school.

Other incidents reported here include continually touching boys in the groin and even the case of a plastic penis being taken to school and used to harass other students. The disturbing thing about that is that the child, at a very young age, not only knew what it was but knew what to do with it. This is all learnt behaviour: Freda Briggs has said that it is learnt behaviour. The FOI also revealed that the punishment for these children was that they were removed from the classroom and had to do yard duty for 10 or 20 minutes. That is how the school appears to have dealt with this situation.

We are still trying to establish whether Families and Communities has been involved and whether it has interviewed the parents of these children. In my opinion, these children are victims of child abuse themselves and they have now become the instigators of child abuse amongst other children.

Time expired.

PROJECT DOLPHIN SAFE

Ms BEDFORD (Florey) (15:45): On 3 October it was my honour to represent the Premier at the fundraising dinner for Project Dolphin Safe (PDS). The dinner, which was very well attended, is the principal fundraiser for this fantastic voluntary organisation. Event coordinator and Project Dolphin Safe secretary, Tiffany Cowling, and her team organised a great night and thanks must go to the wonderful group of sponsors—too many to name.

PDS is the lifeline for injured marine wildlife, and the great band of dedicated volunteers who serve this state in marine rescue are ably and passionately led by Aaron Machado. Since 2003, I have admired his total dedication to this cause and have been continually amazed by the great leaps in services and facilities this group now provides.

In November 2007, I attended the opening of the newly constructed Seabird Rescue Wetland Rehabilitation Facility. Built in 14 months, this 200,000 litre seawater wetland facility became possible through 18,000 volunteer working hours, $26,000 of funding through the ALMR and NRMB, fundraising functions worth about $30,000, and Aaron's own personal substantial contribution. So, for about $55,000, South Australia has a facility worth in excess of $500,000, all possible because of AGL and its commitment, initially through Martyn Pearce.

The facility at Torrens Island was opened by Jason Ferris and he and his wife were able to travel to Adelaide for this year's dinner. Jason's dad, Lance Ferris, was the inspiration for the project. In a devastating blow for all the pelicans and marine wildlife throughout the nation, Lance died suddenly only a few weeks before the official opening. Lance founded the Australian Seabird Rescue (ASR) over 16 years ago after finding a pelican entangled in 'active' fishing tackle. Sadly, active fishing tackle remains a great problem here in South Australia.

At that time, Lance borrowed a vessel to check the area where he found the bird and saw that almost half of the 70 birds in the resting site were entangled or hooked in some way by active fishing tackle. Overwhelmed by what he saw, he began what is now known nationwide as ASR. He rescued over 1,200 pelicans during this time and personally trained hundreds of volunteers across the nation to monitor, rescue, rehabilitate and release seabirds. The Pelican Man, as he became known, also spoke to tens of thousands of school students. He was also Aaron's inspiration and the impetus for the culmination of PDS's work here.

I know how grateful they were that Jason could come over to open the facility last November. They will be forever grateful that they had the privilege and pleasure to know Lance, and he lives on in their work here. On my many visits to Torrens Island over the years, I have seen some fantastic and miraculous recoveries. The expertise that has been built up is amazing. Aaron has assembled equipment from X-ray machines to operation tables, and I know how grateful he is for the continuing help and assistance from the Adelaide Zoo's vet staff. This sort of cooperation has been invaluable and seen many happy endings, none more remarkable or satisfying, I imagine, than the female broad shell tortoise that had two fishing hooks embedded deeply in her stomach and successfully had them removed after a 6½ hour operation.

During the fundraising dinner this year, a DVD was played showing highlights of PDS's years of service to the community. It reminded us of the initial clean-up in 2003 at Pelican Point and Mutton Cove. That removed 36 vehicles in various states of disrepair and decomposition with the help of a crane and A&J Haulage and Metal Corp who did the recycling. An additional 18 vehicles were also removed and, with the help of sponsors and 35 volunteers, other rubbish—including tyres, washing machines, fridges, motorbikes—was taken away, totalling 11.7 tonnes.

I am proud of the work of Project Dolphin Safe and I am sure all members here would benefit from a visit to the Torrens Island facility if they have not already been. I urge everyone here to support this amazing group wherever possible. I know they have been able to visit schools in my area when schools have had projects on marine wildlife and have been very grateful to Aaron for his many hours of community service. I know he could not do this work without his volunteers and he is very grateful to everyone who contributes time and money to the vital work which now looks after council areas throughout Adelaide and all marine wildlife.

EASLING, MR T.

The Hon. I.F. EVANS (Davenport) (15:49): I wish to continue my remarks about this matter. Today, I wish to speak on inducements given to witnesses by investigators and assistance given to witnesses by government agencies. In particular, I refer to the claimant who was first interviewed in the car on 8 July where he made no allegations against Mr Easling. Then, on 10 July, he was interviewed again and five times was asked whether Mr Easling had abused him, and five times he said that Mr Easling had not abused him.

The transcript of the court case shows that the investigators made it clear to the claimant that, if he could help them, they could help him. The reason that is important is that this particular claimant's phone had been cut off, he needed food, he had a significant back rent issue and he had a significant gambling habit.

On 14 July, the claimant went to court on a charge of DUI and illegal use of a car. On the way home from court he was picked up for outstanding warrants, in other words, fines that had not been paid. So, this particular claimant had significant financial pressure. The court transcript shows that the investigators themselves, or one investigator in particular, gave this claimant cash. I am not sure whether, under the government's protocol for investigations of child sexual abuse,

investigators are allowed to give potential witnesses cash. The investigators also bought the claimant a mobile phone: they were in constant contact.

Then on 26 July, the claimant and the investigators spent a significant amount of time together, some 3½ hours. During that time the investigators took this claimant to Bank SA, the Commonwealth Bank, LJ Hooker and the Department for Families and Communities and picked up a cheque. It was on that particular day that the phone was purchased. They spent something like 3½ hours together in the vehicle. There is no record of what was discussed in the vehicle on that particular day.

At the end of that 3½-hour period the claimant was dropped at the police station so that he could make a statement against Mr Easling. So, after being asked on five occasions had Mr Easling done anything to him and the answer was no, after receiving that level of assistance, that is, cash from the investigators, a new phone and assistance from the government agency, the witness changed his mind and then made allegations against Mr Easling.

Interestingly enough, that particular claimant had received no government assistance from the Department for Families and Communities between October 2000 and 2004. The reason for that was that he did not qualify because he was employed, and during all the time that he received the assistance that I have outlined to the house, he was still employed. So, on what basis did he suddenly get that assistance, other than he was a claimant or a witness against Mr Easling in a child abuse case?

My understanding is that between 26 July 2004 and 30 November, this particular claimant received $1,200 cash from the agency, he received white goods for his home, he received furniture, that is, a mattress and bed, he had the rent paid, his electricity account paid, he received cash from the investigators and his Housing Trust debt had been dealt with. So, all those matters have suddenly been dealt with in the context of him being a witness against Mr Easling.

I say that the government needs to have an investigation so that we can clarify whether the investigators put any pressure on the government agencies to offer assistance, on what basis the assistance was given, and on what basis the investigators are buying mobile phones and giving cash to witnesses in a child abuse case.

This is another area where I think this case is worthy of an investigation. I do not think it is acceptable for government investigators to be giving personal cash to witnesses in a case that they are dealing with. I certainly do not think it is right that they are travelling around for 3½ hours in a car, unrecorded and with no notes taken. Who knows what was discussed? I think there needs to be some scrutiny on why, after four years of no assistance, all of a sudden there is a great deal of assistance given to this particular claimant as soon as he became a witness in the Easling matter, and having changed his mind.

Time expired.

CONFUCIUS INSTITUTE, ADELAIDE UNIVERSITY

The Hon. L. STEVENS (Little Para) (15:54): Last week I had the honour and pleasure of leading a delegation of school principals to China, under the auspices of the Confucius Institute of the University of Adelaide. The delegation spent most of its time in Jinan, the capital city of Shandong province with whom South Australia has a sister state province relationship.

The purpose of the visit was to offer principals a tour of schools currently teaching Mandarin Chinese or that are about to embark on the teaching of Chinese to their students. The purpose of the visit was to, first, give them a first-hand introduction to China and Chinese culture and, secondly, to make contact with Chinese schools in order to set up contacts for future relations.

The members of the delegation came from a range of different schools which I will name: Salisbury High School; Trinity College North Campus; Thebarton Senior College; Highgate Primary School; Magill Primary School; St Peter's Collegiate Girls' School; Stradbroke Primary School; and Craigmore High School—a good mix of high schools, middle schools, primary schools, private schools and state schools. It was a very successful tour, indeed.

I will speak about three things, in particular. First, the main activities of specific value for the future involved a visit to Shandong University. Shandong University is the partner university with the University of Adelaide in relation to our particular Confucius Institute. It has 50,000 students, it is one of China's top universities, and it has a very large college of international education.

During the visit, delegates sat in on Chinese language classes. We had to divide into smaller groups to go to various Chinese language classes that were being scheduled where we witnessed teachers of the university teaching English to students from a wide range of countries: Asia, Africa, Russia and Europe. We were informed that that university has hundreds of people coming to learn Chinese from across the world. The other interesting thing about the university is its move to teach courses in English.

I will mention two visits: to the Hongjialou No. 2 Primary School and the Licheng No. 5 Middle School. Both were excellent visits of four to five hours each and, during those visits, teachers observed classes and noted that there were 64 students in the middle school classes for English and 36 students in the primary school classes, and, of course, methodologies that were constrained by that number.

As a result of those visits, a whole range of contacts have been made and I am very confident that, in future years, we will see student exchanges, teacher exchanges and a lot of good relationships being established between those particular South Australian schools and Chinese schools. This is the first of such visits provided by the Confucius Institute and I know that they intend to do more into the future.

Time expired.

STATUTES AMENDMENT AND REPEAL (TAXATION ADMINISTRATION) BILL

The Legislative Council agreed to the bill without any amendment.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (CLASSIFICATION PROCESS) AMENDMENT BILL

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

No. 1. Clause 4, page 3, after line 18 [clause 4]—

After subclause (1) insert:

(1a) Section 4—after the definition of *advertisement* insert:

advertising scheme means the scheme determined from time to time under section 31 of the Commonwealth Act;

No. 2. Clause 4, page 3, after line 21 [clause 4(2)]—

After the definition of *approved form* insert:

authorised television series assessor means a person authorised in accordance with the scheme determined under section 14B of the Commonwealth Act to prepare assessments of television series films;

No. 3. Clause 4, page 3, after line 26 [clause 4]—

After subclause (4) insert:

(5) Section 4(1)—after the definition of *submittable publication* insert:

television series film means a film that comprises—

(a) 1 or more episodes of a television series; or

(b) 1 or more episodes of a television series and series-related material if that material does not appear to be self-contained and produced for viewing as a discrete entity;

No. 4. New clause, page 3, after line 26—

After clause 4 insert:

4A—Insertion of section 19AA

After section 19 insert:

19AA—Consideration of television series films

(1) The Council or the Minister may, for the purposes of the assessment of a television series film within the ambit of this section for the purposes of classifying the film, take into account an assessment of the film prepared by an authorised television assessor and furnished in the prescribed manner.

(2) A television series film is within the ambit of this section if—

(a) at least 1 of the episodes of the television series film has, before the making of the application, been broadcast in Australia on a national broadcasting service, a commercial broadcasting service, a subscription broadcasting service or a community broadcasting service; and

(b) the applicant for classification is of the opinion that the film would, if classified, be classified at a particular classification that is R 18+ or a lower classification.

(3) An assessment prepared by an authorised television assessor must satisfy the requirements specified in the scheme established under section 14B of the Commonwealth Act.

No. 5. New clause, page 4, after line 19—

After clause 5 insert:

5A—Substitution of section 22

Section 22—delete the section and substitute:

22—Classification of films or computer games containing advertisement

An unclassified film (the *first film)* or unclassified computer game (the *first game*) must not be classified if it contains an advertisement—

(a) for a film or computer game with a higher classification than the classification the first film or first game would be given if it did not contain the advertisement; or

(b) for an unclassified film or unclassified computer game—

(i) that has been assessed in accordance with this Act or the Commonwealth Act as being likely to have a higher classification than the classification the first film or first game would be given if it did not contain the advertisement; or

(ii) the likely classification of which has not been assessed (either under this Act or the Commonwealth Act); or

(c) that has been refused approval (either under this Act or the Commonwealth Act).

No. 6. Clause 8, page 5, after line 4 [clause 8]—

Before section 23B insert:

23AB—Revocation of classification of television series films

(1) If—

(a) the Council or the Minister has classified a film taking into account an assessment prepared by an authorised television series assessor under section 19AA; and

(b) the Council or the Minister (as the case may require) is satisfied that—

(i) the assessment was misleading, incorrect or grossly inadequate; and

(ii) if the Council or the Minister had been aware of the respects in which the assessment was misleading, incorrect or grossly inadequate before the classification was made, the Council or the Minister (as the case may be) would have given the film a different classification,

the Council or the Minister (as the case may require) must revoke the classification.

(2) The regulations may prescribe circumstances in which an assessment is misleading, incorrect or grossly inadequate for the purposes of subsection (1)(b).

(3) To avoid doubt, the regulations are not to be taken to limit the circumstances in which an assessment is misleading, incorrect or grossly inadequate.

No. 7. New clause, page 5, after line 40—

After clause 9 insert:

9A—Insertion of Part 3 Division 4

Part 3—after Division 3 insert:

Division 4—Assessments of likely classifications of unclassified films and unclassified computer games

27A—Person may apply for assessment of likely classification of unclassified film or unclassified computer game

(1) A person who is, or proposes to be, the distributor, exhibitor or publisher of an unclassified film or an unclassified computer game may apply to the Council for an assessment of the likely classification of the film or computer game for the purpose of advertising the film or computer game.

(2) The application must—

(a) be in writing; and

(b) be in a form approved in writing by the Council; and

(c) be signed by or on behalf of the applicant; and

(d) include any information, statements, explanations or other matters required by the form; and

(e) be accompanied by any other relevant material required by the form; and

(f) be accompanied by the prescribed fee.

27B—Council may assess likely classification of film or computer game

(1) This section applies if an application has been made under section 27A for the assessment of the likely classification of an unclassified film or an unclassified computer game.

(2) The Council may assess the classification that, in the opinion of the Council, the film or computer game would be likely to have if the film or computer game were classified, having regard to the material and information available to the Council when making the assessment.

(3) The Council may refuse to assess the likely classification of the film or computer game if the Council considers that the material and information available to the Council is insufficient (whether or not the Council has made a request under subsection (4)).

(4) The Council may request that applicant to give to the Council, within the period specified in the request, further information for the purpose of enabling the Council to deal with the application.

(5) The Council may decline to deal with the application, or decline to further deal with the application, until the information is given to the Council in accordance with the request.

(6) To avoid doubt, this section does not require the Council to obtain further information under subsection (4) for the purposes of the Council's assessment.

27C—Revocation of assessment

(1) If, after making an assessment under section 27B of the likely classification of an unclassified film or an unclassified computer game, but before the film or computer game is classified, the Council is of the opinion that—

(a) the film or computer game contains, or will contain, material of which the Council was unaware when the Council made the assessment; and

(b) if the Council had been aware of the material before making the assessment, it would have assessed the film or computer game as likely to have a higher classification,

the Council must revoke the assessment, and must also revoke the approval of any approved advertisement for the film or game.

(2) The Council must revoke an assessment under section 27B of the likely classification of a film or computer game, and must also revoke the approval of any approved advertisement for the film or game, if the applicant for the assessment makes a written request that the Council do so.

(3) The revocation of an assessment or approved advertisement takes effect—

(a) when written notice of the decision to revoke is given to the applicant concerned; or

(b) if a later day is specified in the instrument of revocation—on that later day.

27D—Notice of decisions

The Council must give written notice of a decision under section 27B or 27C to the applicant for the assessment or advertisement concerned as soon as practicable but not later than 30 days after the making of the decision.

No. 8. New clause, page 6, after line 21—

After clause 11 insert:

11A—Amendment of section 67—Certain films, publications and computer games not to be advertised

(1) Section 67(1)(a)—delete paragraph (a)

(2) Section 67(1)(e)—delete paragraph (e)

(3) Section 67—after subsection (1) insert:

(1a) A person must not publish an advertisement for an unclassified film otherwise than in accordance with—

(a) the advertising scheme; or

(b) a transitional Commonwealth regulation.

Maximum penalty: $5,000.

Expiation fee: $315.

(1b) A person must not publish an advertisement for an unclassified computer game otherwise than in accordance with the advertising scheme.

(4) Section 67—after subsection (2) insert:

(3) In this section—

transitional Commonwealth regulation means a regulation under Schedule 1 Item 13 of the *Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008* (Commonwealth).

11B—Amendment of section 68—Screening advertisements with feature films

Section 68—after its present contents (now to be designated as subsection (1)) insert:

(2) A person must not screen an advertisement for an unclassified film in a public place unless the advertisement complies with the advertising scheme.

Maximum penalty: $2,500.

Expiation fee: $210.

11C—Amendment of section 70—Sale of feature films with advertisements

Section 70—after its present contents (now to be designated as subsection (1)) insert:

(2) A person must not sell a classified film (the *feature film*) that is accompanied by an advertisement for an unclassified film unless the advertisement complies with the advertising scheme.

Maximum penalty: $2,500.

Expiation fee: $210.

11D—Amendment of section 71—Advertisements with computer games

Section 71—after its present contents (now to be designated as subsection (1)) insert:

(2) A person must not sell or demonstrate a classified computer game (the *main game*) in a public place that is accompanied by an advertisement for an unclassified computer game unless the advertisement complies with the advertising scheme.

Maximum penalty: $2,500.

Expiation fee: $210.

NURSING AND MIDWIFERY PRACTICE BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 412.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:03): Before the luncheon adjournment, I was referring to the training impositions of this legislation on people in the nursing profession who leave the workforce for a period or stop undertaking their professional duties, and the onerous requirements and lack of recognition. In fact, the imposition, after certain periods, of the requirement to redo the whole degree. That is alien to any other profession in South Australia. I do not know of anywhere in Australia where that is required. That is unacceptable in respect of the academic qualification and its recognition for nurses.

Members interjecting:

Ms CHAPMAN: The interjections indicate that there is a requirement in respect of non-registration to reregister. What happens is that people keep up their registration during the course of their time. In fact, let me give you an example. The previous member for Hartley (who, of course, will soon be back here as the next member for Hartley), Mr Joe Scalzi, remained a teacher during his glorious time in this parliament. As a registered teacher, he remained a member of the Australian Education Union throughout that time and, indeed, upon his leaving the chamber in 2006, was snapped up by Glenunga High School and resumed his teaching duties without requiring a shred of re-education after a decade of service to this community.

The interjections are patently wrong. I think it is important to understand the distinction between a discontinuance of registration and a discontinuance in relation to undertaking the professional duties during a period of time which introduces this imposition. I want to make that position absolutely clear. No other profession completely nullifies, effectively, the recognition of a prior degree as does the process for nurses.

During the debate this morning, I received a further response to the invitation to make a submission that the opposition had presented. In terms of this issue, I mentioned that one of the parties consulted by the government and, indeed, the opposition, was the Maternity Coalition of SA. During the pre-luncheon debate I received a response from Ms Lareen Newman, who is the state president of the Maternity Coalition and a member of the organising committee of SA Birth Matters, both important organisations in respect of the advocacy for and aspirations of those in the midwifery profession, soon to be recognised in the title of this new legislation.

I will tell the minister (and I am sure he will be pleased to hear it) that they endorse the addition of their name in the title. They like that idea—not surprisingly—and we, of course, support it. They are also pleased to have a dedicated midwifery-trained person on the new board, and that is great. We expect that they would support that. But here is something very interesting that just demonstrates what I was referring to prior to the luncheon adjournment, that there is a lack of genuine consultation and even feedback to the relevant stakeholders on this issue. She states:

> I also thought that the original draft bill introduced prescribing rights for midwives, although, despite repeated readings, I cannot see this in the current version.

This tells us a number of things. One is that, in previous versions, there was an attempt by the government to introduce prescribing rights for prescription drugs for members of the nursing profession; in particular, this representative is referring to midwives. That tells us the first thing, which we knew.

The second thing that it tells us is that, on the day that we are debating this bill, an important advocacy representative group, in this case midwives, does not have a clue about the fact that this issue has been dumped from this bill—not a clue. In fact, she is still rereading it, trying to find it. She cannot understand why it is not there; nobody has told her.

Now, why would that happen? I can tell members of the house why it would happen. It is because the government does not want to have any trouble with this bill going through. The government wants to get this bill through. It has done a deal with those who oppose prescribing rights for non-medically trained people to ensure that this bill gets through.

I state for the record that the opposition's position has been and remains that a non-medically trained person should not have prescribing rights for medication. There are a number of reasons for that, and I do not need to go into them for the purposes of this debate. Suffice to say, that is something for which the opposition believes there must be specific training. There is specific training, for example, for nurse practitioners to undertake some of those duties. They have training for that, and their training is acceptable to the opposition. They have some power to administer drugs, but the prescription of drugs by a non-medically trained person is not something that is endorsed or supported by the opposition.

But, we are honest about it. We tell people, when they are lining up to seek recognition for this and for the opportunity to do it, what our position is. We do not do a deal with the AMA or any other body which says that we oppose this and then drop it out of the bill. We tell them the truth.

The Hon. J.D. Hill interjecting:

Ms CHAPMAN: Interestingly, the minister interjects to suggest that there is some reference in the act to cover this. When we conferred with the AMA this morning, we found that its

understanding is that there is no change. In my office last week, it was confirmed by members of the department and, indeed, the Chief Nurse, that there is no change to the law which currently provides for the distribution of drugs other than in the Controlled Substances Act, and that is simply replicated from the Controlled Substances Act in this bill. One would ask, 'Is this necessary?' We do not take objection to whether it is repeated on the undertaking that has been given to us that there is no change to that application as to who can do it, under what authority and what qualifications they require. That remains the same. That is what we have been told and, if it is not the truth, we want to know the truth. I have no reason to disbelieve it. Interestingly, that is why the Maternity Coalition said to us (it came through at 11:56 this morning) that it could not find the section in the bill.

This bill has now been out in the community for some time and, not surprisingly, the relative stakeholders have quite properly negotiated and put their best position, and the government has come up with a draft that it can live with. The honest thing to do is to say to the stakeholders, 'This is the decision we have made,' not conceal it. That is what is not acceptable. In fact, we agree with the government's decision. It is entitled to make a decision and bring into this house a bill that it considers is in the best interests of the people of South Australia. However, let us be honest about it. That is what the minister failed to do throughout the negotiation stages of this bill, and that is not acceptable to us.

I feel very disappointed for those stakeholders who have taken the time to put in their submissions and who have been sold down the river on what they want. At least have the decency to have the person making the decision about what comes in or out of this parliament—irrespective of whether or not we fiddle around with it—tell them the truth about what is going on.

Interestingly, along with the debate and the public statements that have been made on this question of the expansion of personnel who may have the right to write prescriptions, there have been statements made on this legislation by various players at the South Australian level. Will they get extra rights or not? There have been comments by the AMA state president and the like, all putting their particular case. We also have a new player on the health legislation scene and that is, of course, the new federal health minister, the Hon. Nicola Roxon. She made a statement about this. That dried up pretty quickly, but her statement (made on 11 June 2008) was that she wanted to move to ease the workload of doctors by enabling nurses to be given the power to not only write prescriptions but also to make diagnostic tests. She was out there publicly making that statement.

Well of course that was, probably predictably, received like a ton of bricks by the President of the Australian Medical Association, who said that it would put patient safety at risk. There were a number of other statements made about it, but in essence there has been silence. We have not heard about that issue again from the federal health minister, and it seems the issue is dead for the moment. However, be under no illusion; that is what some people wanted. Quite reasonably, the government considered it and rejected it, but it failed to be honest about transmitting that to the very players who had made a contribution. I suppose it could say, 'Well, they'll see it in the paper when this bill goes through; they'll soon know when it's law, and that should be good enough for them.'

The other matter I want to raise on the issue of training, before I leave that third topic, is that there is also a difficulty for nurses who are training and who work in country regions. Another case that came to me this year related to a graduate registered nurse who resided at Tumby Bay on the West Coast. The member for Flinders—excellent member that she is—brought this matter to my attention, because this was a situation where a recently graduated nurse—who had successfully completed her three-year registered nursing degree at the Whyalla campus of the University of South Australia (highly regarded in this field) and who was registered with the Nurses Registration Board—was not able to get a position because there were very few nurse graduate positions available. Now, until she had done her six months' experience in a hospital she could not be employed as a nurse without being fully supervised.

Again, this highlights the reality of what is happening with a number of people coming through who have been encouraged back but who cannot get a training spot, and who are therefore unable to be accepted into the workforce, which is in urgent demand of them. They can undertake lower level duties or supervised level duties, but that means that they are not being used to their full potential. Interestingly, a number of statements were made in relation to funding to assist nurses to graduate, but nothing seems to have been done to deal with this question of training.

So, we have this training placement issue and this retraining imposition, and at the moment we have what appears to be an overburdened Nurses Board lacking the resources to process—and an inflexible ruling as to the applications process—applications from overseas-trained nurses, and we have received many such applications, which we welcome and which we need. So, I think the government needs to look at that issue.

I move now to the provision of the fit and proper person clauses, as they are sometimes described. This is a requirement now for any health professional who wants to treat a patient, whether they are registered or enrolled under the act. To be eligible for registration and, indeed, to remain registered, they have to report any incidence of medical unfitness or unprofessional conduct to gain that registration—that registration, remember, being the access prerequisite for them to practise their profession. The provision is quite lengthy and it imposes significant financial penalties of some $10,000 if you either fail to, or fail to adequately, report either of these two things. There is some detail, but, with respect to guidance as to what medical unfitness or unprofessional conduct is required to be disclosed, that is absent in the definition of the act. So, we have this general sort of fitness.

In principle, the opposition agreed, and remains in agreement, that for the medical profession, which currently has this requirement, it is appropriate, and that it is also appropriate that a standard be imposed to ensure that, in the case of someone who wants to undertake work as a nurse in the treating of a patient (that is, someone who is employed in a ward or a surgical facility or the like, rather than in an office or as an adviser to the minister or whatever), a standard must be imposed. The process that is proposed by the government, which is consistent, to some degree, with the medical profession obligations and is also monitored by their professional board, is a self-disclosure. When you have self-disclosure, the very least that should be provided is some guidance as to what you are expected to disclose. Sadly, there is not much help in the bill as to what that comprises.

If I were a newly graduated nurse and I was applying for registration, I would expect that, if a registration regime was in place with this condition that was necessary for me to comply with, I would want to be able to go somewhere to get some guidance as to what I am expected to disclose. One condition that is commonly referred to is that an applicant may have a communicable disease (say, HIV), and they are applying to be registered to be able to undertake treatment of a patient and there is a risk (and, quite obviously, in this example a serious risk potentially) that a patient or patients may contract that condition, which would be undesirable. That is an obvious situation and I think it would be hard to imagine that someone applying to be a nurse would not understand and appreciate that it is necessary to disclose. That is pretty obvious.

However, what if they have had some other sexually transmitted disease like chlamydia or gonorrhoea. What if they had had unprotected sex in the last 20 years and they do not know if they are HIV positive? What then is the obligation on the applicant to disclose their own sexual history? These are the sorts of things that the applicant should be able to have some guidance on as to what the level of expected disclosure should be.

There are other obvious things. If someone has a medical condition (not a contagious disease but, for example, a serious muscle problem) and their strength was significantly less than that of the average person, if they were to undertake nursing duties, as in the treatment of a patient, and they were so weakened by their own disability that they could not actually lift anything other than a piece of paper, it seems to me to be logically something that they would disclose. It would be clear that, if the board decided that they were still able to undertake nursing duties, they would not be expected, for example, to handle a patient on their own or to, in any way, be responsible for the lifting of a patient unaided. Clearly, they would not physically be able to undertake that duty.

This is something that, surprisingly, I cannot get any information about. Who is going to provide this information? Who should provide it? What are the guidelines going to be? I am a little surprised, to be frank, that the Australian Nursing Federation has not raised this or has not started preparing a list itself to try and identify what would be reasonable to educate its members, or prospective members, as it is a significant player as an advocate on behalf of members of the nursing profession.

I think it is important that we have some guidelines here. The ANF may say, 'It is not up to us. It is really a matter for the board. If the board want disclosure (which is imposed on them as a result of this legislation) then it should come up with a list of guidelines, or the department should prepare a draft, or somebody.' All I am saying is that it is unreasonable to expect this as a new

imposition unless we have some indication as to what it is. Let me say for the record that there are big penalties here if you do not comply, if you do not disclose matters and make things absolutely clear. I say that is important. For all those who are lining up to be registered or to maintain their registration, this is very important.

The fifth matter I wish to raise is what I describe as the demotion of the mental health nurse. What is proposed in this bill, as I understand it, is that we are to have a register of nurses, both registered and enrolled, a register of nurse practitioners, and a register of midwives. At present the annual report tells the parliament every year how many enrolled nurses there are, how many general nurses (that is the description used), how many mental health nurses, midwives and nurse practitioners.

However, we are going to move to a model where a nurse has an asterisk next to their name, as I understand the process, to identify whether they have a specialty. It is fair to say that we have developed a number of areas where nurses have their initial qualification and then obtain other experience and recognition—for example, as a cardiac nurse or an aged care nurse—which is commensurate with and in recognition of their experience in the profession, but it is not specifically an extra qualification.

Mental health nurses are going to be put on a list which tells us that they are a nurse and then somehow or other we can identify, by looking at individual ones, whether they have a mental health qualification as well. Bear in mind that mental health nurses do another year of qualification after their nursing qualifications to become a mental health nurse. This is not some add-on. This is not six weeks down at Glenside campus for on-site work and then they return. This is about a significant extra qualification.

Since at least 1999—it may have been before but I am reading the current legislation which is the Nurses Act 1999—they have had that recognition. We know, for example, that of the 28,000-odd nurses that we have registered in South Australia 1,738 are mental health nurses. These are the special nurses who have this qualification. One of the reasons that it is important that that data be available, not just to us, but also to governments, is to allow us, along with any stakeholders who are interested in mental health and wellbeing, to appreciate that, arguably, mental health will be one of the biggest health demands of the future, and we will have a ready identification of the current workforce and be able to make some assessment of what will be needed in the future.

Let me give you an example of why that is so important. At present, the current Labor government proposes to undertake a redevelopment of the Glenside Hospital campus and, arguably, a significant number of mental health nurses are the people who make that campus in the professional contribution that they make in managing some of our sickest and most challenging patients in terms of behaviour who require help. From memory, about 10,000 South Australians a year access mental health services. There are 800 regular clients and patients at the Glenside campus, so nurses are significant players. It is the only stand-alone campus for psychiatric services in South Australia where they undertake their role.

As a result of the government's announcement, it is proposed that about 56 aged patients (that is, over the age of 60) who currently reside at the Glenside campus are going to be relocated to other facilities. There is a bit of controversy about where they will go: who should go to specially dedicated pods built at aged care homes while others go back into the community. Some will be put into dementia wards within existing aged care facilities. That is fine to the extent that, if the psychiatrists for these patients and their family support and agree to it, then that can happen over a period of time.

However, one of the issues that has been proposed by the government in transferring these people off the campus is that wherever they go they are going to be supported by mental health trained nurses; they will have access to that specialty service that they have now. So, if a specially dedicated pod for six or eight people is built next to a nursing home, it will be staffed by mental health trained nurses, not by registered nurses who are not mental health trained, not by someone who has done a six-week aged care course, but by psychiatrically trained nurses.

One of the reasons this is so important is because these people do have very special needs over and above issues of frailty and physical deterioration as we age, those who are now in aged care facilities and nursing homes who are very much at the frail-aged end of the market, and therefore because they have these special needs, it is particularly important in the protection of staff if they do not know how to manage them, and of the safety of other residents in aged care facilities.

Mental health nurses say to me, 'We are really concerned about this issue. We are concerned that there may be an attempt to have non-mental health trained people undertake those duties.' Now, I hope they are wrong, because we are going to have a seriously dangerous situation if that is the case. It is terribly important that we get this right.

I am now (proudly) the shadow minister for mental health as well as health, and I think that this is one of the huge challenges of health for our community in the next couple of decades. The minister has raised others, obesity of children, heart disease and so on, and there are a lot, I grant that, and I accept what he says in that regard, but mental health is way up there and we need to understand that we are going to need very specially trained people to look after them. That is the current ones, let alone the future demand that is there.

What I do say is that I do not think there is any reason why mental health nurses should not be retained in the data reported to us annually in recognition of that. I think that is terribly important. One of the reasons given as to why this is no longer necessary, and that they can slip off the list as a dedicated group, is because there are these other areas that are developing in their specialty, and this is no disrespect to those at all, but there are not any of them yet who have the level of qualification separately to mental health nurses.

In the categories, I think, of some 60 that has been explained to me of different areas of speciality and experience that are recognised, and that is great, but we should not be pulling down mental health nurse status, removing them from a dedicated area and yet at the same time saying we are going to recognise midwives, whom we totally support, to be elevated to having an independent qualification.

The nurse practitioner, and there are only 28 of those, are extra qualified. They have to have a certain number of years experience and other qualifications before they are actually approved to be practitioners. They are higher skilled in that regard and they are quite appropriately recognised and retained separately in the act for the register of those, so I do not see any justification for their demise.

When I have asked them, and other associations that represent them, they say that they have been told that with the national registration of nurses proposed there is going to have to be some sort of consistency between the states, and that if we all fall into line with this, as some of the other states have done, then we would be consistent with them, and this would be easier for the purposes of the national registration proposal. Well, we will not hold our breath as to when national registration might come in, but that is another issue.

The point I make is this, if we have a system that is good and we have a system that is better than another state, and I understand Queensland is also in the same position where its mental health nurses are not too happy about being pulled off the list, if we and Queensland, not that we have much in common very often, have a system that is better than the rest then we should be advocating that they change, not us. Let us bring them up to the standard to recognise this and be able to advocate that.

We are not going to hold up the bill because of it, but what I do say is, if the minister presses this registration, which frankly is an electronic registration, and it is not that difficult to have this kept as a separate register, I would ask that the government agree to at least request that the board provide us with a breakdown in the annual report—it will not be imposed on the legislation to do it because it will have a new register arrangement—and that we be given that information, because I think it is very important information.

Another matter I raise is that, when I have raised this previously with organisations, including the Australian Nursing Federation, one response that I have received is that, whilst it has not specifically indicated to us that it wants us to move any amendment or the like, it has highlighted to us the concerns that it has for the vulnerability and exposure of our current mental health workforce in their current working conditions. I raise this because I think it is terribly important that the board ultimately understands the importance of recognising the specialty.

Recently the ANF itself conducted a survey of all the mental health nurses who are members of that union. I assume that a mental health nurse working at Adelaide Clinic, for example, was not involved in this survey. It states that the findings show of these nurses that:

> They are placed in circumstances which do not allow them to provide quality care to clients, they are frequently exposed to bullying in the workplace, nepotism is a feature of the organisation in which they work, they are not consulted over directions of the mental health system and are ambivalent about the direction of the reform agenda.

They are the very damaging survey results of the Australian Nursing Federation, and this is the issue which I think highlights the importance of understanding that this part of our nursing workforce is under huge pressure. They are clearly crying out for help. They are saying that their situation is not being adequately addressed and that they are very concerned about it, obviously. In fact, the Australian Nursing Federation is also concerned about this. We have an ever-expanding demand for the services of mental health nurses, and this is not confined to someone who might be working on a mental health ward—C3 at the Royal Adelaide Hospital, at Glenside Campus, at Cleland House, Margaret Tobin Centre, ward 17 or ward 18 at the Repatriation General Hospital. These are all services where our mental health nurses are under pressure. That is why it is so important, and they need help and they need support.

In addition to those services, of course, we have community nurses who are carrying a huge burden as well, because they are dealing with an even bigger number of people in the community who need mental health support with what are pretty much inadequate services. Coupled with the lack of suitable housing for many of our mental health sufferers in the community, it is a big problem.

I also bring to the attention of the parliament one of the initiatives of this bill that was referred to in the minister's contribution—which I raised during briefings—namely, the expansion of the corporate providers' liability. I think some slightly different rules will now apply to the corporate providers, the service providers. This may be answered in due course by the minister and I will raise some questions in committee as to who it applies to, but I assume that this is any private hospital that employs them, any aged care service where they are employed, or a nursing agency that provides on a daily basis thousands of nurses, personnel or professional people under this category in public health facilities.

I have mentioned the fact that, from our consultation with the private nursing agencies, they have not been asked about this at all. However they say, in general—and I will not go into all the detail—that they do not have a problem with having an obligation both to retain information (keep records) and also to provide that information to the board. There is some provision in there for an indemnity in relation to loss. That is all contained in clauses 39, 40 and 41. We will ask the minister to clarify that, but assuming for the moment that this requires some bookkeeping on the part of these providers, my understanding is that, from what they have heard about it, they do not have an objection to that and they fully support the registration system of the professionals and the obligations for nurses and carers, for example, to have their police checks.

They also have very significant obligations in respect of insurance for their liability at an occupational health and safety level when their agency nurses are undertaking work in a home, hospital, or other service. They do not have a problem with that. However, it highlighted to me that there is this aged care industry. We do not have direct control over the funding of it. That is a commonwealth funded service in Australia. As a state, our state health department has responsibility in respect of a number of aspects. One of them is the qualifications of the people working in them. The nursing and carer employees in these services are very important.

Obviously, most of our nursing home clientele are the frail aged. Some of them are middle aged and/or younger because they suffer from early dementia or conditions which, as there is no other specialty service for them, means they are placed in an aged care facility, but largely they are the mature aged and frail. Some are still ambulant and some are bedridden. The qualification for nurses, both registered and enrolled, is well-known and that is obvious. The qualification for aged-care carers is an aged-care certificate. For example, I think a Certificate III is a 12 to 16 week full-time course—and that varies depending on the institution—or you can undertake a TAFE certificate course for a year. I may be wrong on the exact detail, but it is significantly less than what nurses (registered or enrolled) undertake.

They do many things in nursing homes, not the least of which is having the physical care of many people who are either impeded in their mobility or sometimes completely immobile. One of the important functions which they tell me they do to ensure the health of the residents is to regularly turn residents who may be sitting in a chair or a bed. It is important to relieve pressure to ensure that they do not get irritations, bed sores, or other things. I do not know all the medical aspects, but it seems logical to me that, if someone is bedridden, in a wheelchair, or the like, this is something which they have to do. They have to fill out forms to say that they have done it regularly.

One of the qualifications or criteria that is necessary for aged-care facilities to qualify to have their accreditation under national rules is to ensure these things are done. They fill out these forms saying, yes, they have turned Mrs X every quarter of an hour, and the box has been ticked. I

am sure the minister also gets this information from time to time—I get it—where an aged carer will say to me, 'Look, we're under such pressure in the aged care home that we actually don't always have time to do that but we still fill in the box.' That rings some significant alarm bells about the integrity of the process of managing the supervision of this, of course.

It is concerning when—fortunately, on a fairly infrequent basis, but, sadly, once is too often—we hear of the death and/or a circumstance in which someone who is in a nursing home suffers. That is always a tragedy. The fact is that carers, apart from having police checks and apart from having a certificate, do not have to be registered. As I understand it, the public therefore does not have the same umbrella of protection, for which this whole structure is designed, namely, to protect them against bad nurses; that is, a whole registration process, the capacity for a board to discipline, to impose conditions, to suspend and to de-register, as a punitive process to make sure that we weed out any bad or non-performing staff.

And it is not just nurses; of course, there is a whole myriad of other health professionals. We do not have this service at all for the protection of the public, which is what this is supposed to be all about, in respect of carers. You can not tell me that carers are any different to any other group in the community. There will be a few bad ones. There will be a few who actually do not do the right thing, and yet they do not have any structure upon which they can be held accountable. I am concerned about that because it is not just in aged care homes that these people are working. I want to be absolutely clear so that the house can understand this.

I have been informed of one case where a public hospital has rung an agency early one morning and said, 'We really urgently need 12 registered nurses.' That would not be unusual, obviously, because sometimes people do not turn up to work, and in big public hospitals especially this is a regular occurrence. During the week I was told by one agency that the day before his agency was unable to fill 200 applications for a nurse or carer. His estimate was that half of those were for nurses in public hospitals. We do not need to argue the point of that, other than the fact that it is a reality that we have to rely heavily on agency nurses at the moment, and it is a multimilliondollar expense for state governments to provide that in public hospitals.

The point I make is this: he gets this call to seek 12 registered nurses. 'Sorry, we just don't have them. We don't have them available to provide for you.' And this is 8 o'clock in the morning. At 9 o'clock he gets another call from the same institution which asks, 'Well, can you send 12 enrolled nurses?' 'Sorry, we don't have any enrolled nurses; we just cannot fill this with you.' Obviously, they ring around other agencies, and nobody is there. Come 10 o'clock he gets another call, 'Look, have you got eight carers?' Hospital services employ carers to provide for what I reasonably (I think) suspect is a safety and surveillance job in a hospital, to hold the fort together in a circumstance where there is an inadequate level of staffing.

When I made further inquiries about this particular case—and I have no reason to believe that that is unusual—I was told that this in fact happens quite a lot. It happens in public and private facilities where there is no registered person available. When I covered education we often had this issue in relation to child-care centres. If you could not get a qualified person to do something, you then had to line up to the minister and get exemption as an organisation in order to have more babies than the allowed formula to be able to have an non qualified person to do that, so there is a procedure to undertake in order to do it.

The process that is clearly being undertaken by public and private hospitals under pressure to obtain agency staff as its backfill is that, when there are not enough of them, of the qualified variety, they move down the ladder. Many would argue that at least they are not leaving patients unattended. Even if they are bringing a carer into a ward of four or five people at a major public hospital, at least they are there and are sufficiently trained to be able to identify when a patient becomes distressed or turns blue, or there is something that requires a trained person to immediately attend to them, and, if necessary, call in other high-level support—equipment or medically-trained personnel.

It is happening. These people are working in our hospitals, they are working in centres of acute medicine, and they are providing a service to people in an acute state. If this is legislation genuinely designed to protect the public and not just another registration procedure that costs money, if this is a process that we are to undertake in order to maintain the safety of the public, then I ask: why are carers not included? They are in increasing demand, there are many more of them, and we know that they are undertaking at least de facto surveillance in acute services. That needs to be attended to, given that this level of professional training is far inferior to that provided through a degree or other training offered to registered or enrolled nurses.

It is not acceptable that we allow a situation like this to prevail, even if someone says that it is a cheaper way of providing a workforce. I do not think a serious government could, in all conscience, follow that regime. However, it does concern me that this is occurring.

I am told that Certificate IV carers need an extra 12 weeks. There is a question regarding whether we should be encouraging the training and graduation of Certificate IV carers because, as I understand it, they can give some medication to patients—not prescribe it, but at least physically administer it to the patients. I presume that means handing them their pills or putting in a drip or something; it may just be that they can hand out pills or fill in records regarding medication that has been administered. However, if we have to rely on less skilled people then we need to have clear rules about what they will do in our acute services and we need to have a clear understanding about what supervision they will receive. At the moment we have a de facto system, which can only be a recipe for disaster if we do not deal with it.

The next matter to which I wish to refer is the purported attempt to introduce more transparent and accountable reporting of the board. My understanding is that back in 2004 (it may have been the former minister) a review of the Nurses Board was authorised. It was a Statutory Authorities Review Committee inquiry into the Nurses Board chaired, I think, by the Hon. Bob Such, the member for Fisher. In any event, it provided a final report in 2005, and in 2006 the current Minister for Health provided a response to that report—in particular in response to the recommendations made by the committee. There were many recommendations, but recommendation 5 stated:

> The Nurses Board include in the curricula a stronger practical component of the university undergraduate courses, leading to a higher standard of nursing and a decrease in the shortage of nurses.

There was quite bit of information in the minister's response and, as it is on the public record, I do not want to waste time reading all of it. He said:

> The evidence does not indicate that hours of practical training can be directly related to competence, and the MBSA is seeking to have competent graduates present for registration. The linkage of hours of practical training in an undergraduate program to a higher standard of nursing and a decrease in the nursing shortage would appear to be tenuous and unsupported by research.

That was his response, and he may be absolutely right. He then goes on to say:

> The following recommendations [in respect of this recommendation] are largely or wholly outside the legislated role and function of the Nurses Board.

He refers to recommendation 1, which is about offering a Bachelor of Nursing course at the Warrnambool campus of Deakin University. That is not relevant for the purpose of our debate, so I will move to recommendation 2, as follows:

> The minister extend the number of TAFE nursing cadetships by increasing the number of funded places available in country and regional areas and expand the cadetships to the metropolitan area.

The minister's response was as follows:

> The availability of cadetships in rural areas is reviewed on an annual basis within the Department of Health. The committee's recommendation will be considered in line with the demand for places and capacity for sites to support places. Extension of the program to metropolitan areas is not considered appropriate at this time as the vacancies for enrolled nurses continues to be small in metropolitan areas, and the programs for enrolled nurse education are already oversubscribed.

Admittedly, this response was given in 2006, and perhaps the situation was not as dire in 2006 as it is today. However, it alarms me that, in a time of workforce crisis and at a time when we are clearly filling the gap in acute services in our acute institutions by less than adequately qualified people, we have a recommendation that has obviously been ignored, in particular, for cadetships for enrolled nurses.

I take the view—and it may be completely naive—that, if someone is willing to enter the health profession industry—is trained to do so, particularly in the field of nursing, and they are attracted to the profession when they are a year 12 student at the Wallaroo High School and they can get a cadetship up at Port Pirie to become an enrolled nurse and they have shown interest, having done some work experience at the local hospital while they are at school—and gains a qualification as an enrolled nurse and works up at the Port Pirie hospital, that is a great coup for the nursing workforce.

Furthermore—and, again, I might be naive—my understanding is that you would at least then have a chance to show them that this is a profession that is personally rewarding, if not

financially rewarding, and that they would belong to a profession that is a very important part of the health community. It would give them a taste of the profession, which would encourage them to go on to undertake the extra qualification to become a registered nurse. I would have thought that at least you had them in there, but, no, the government's view is, 'We don't have enough spaces and we're not going be opening any more.' I find this completely inconsistent with not only the demand but also the recommendation (after a full inquiry) that there is this one chance to open up this opportunity.

People much wiser than me in relation to health matters, with their professional training and expectations, have undertaken these reviews, listened to all the evidence and had all the players before them, and they have put recommendations as to how this might assist the situation, and then the recommendations go unanswered, when there is some way of resolving this. There is an opportunity with these young men and women—and some more mature-aged men and women who are wanting to retrain to get back into the workforce—to some degree, instead of letting them zip off into aged care or some other service, to make sure that, where we have a shortage, we give them an opportunity to come through and start at that level and develop.

I was most concerned about this at the time. It was an educational issue that I was covering at the time. I wrote to the chairman (the member for Fisher) about this because I was concerned that first, the Nurses Board—whose future powers we have under consideration today—did not have the power to even deal with these matters. This was outside their role and function and that is a concern in itself. I ask that this issue also be brought to the attention of the government, so that it might help to get more numbers on to the registration than it has in the past. I will move on to the extra transparency and accountability issues, if you grant me leave to continue my remarks.

Leave granted; debate adjourned.

WATER (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 14 October 2008. Page 394.)

Mr GOLDSWORTHY (Kavel) (17:01): I am pleased to continue my remarks from yesterday evening. I understand I have about five or so minutes to continue with my contribution to this very important piece of legislation.

The principal changes, as a consequence of the bill, will be: (1) to transfer the powers and the functions of the Murray-Darling Basin Commission to the Murray-Darling Basin Authority—the authority that was set up under the commonwealth Water Act 2007; (2) to mandate the critical human water needs that will form part of the Murray-Darling Basin plan; and, (3) the basin water charges and water market rules will be regulated under the act, with the ACCC playing a vital role in determining or approving regulated water charges and developing water charges and water market rules.

The claimed benefits for South Australia will be formalised access to upstream storages; the formalising of water-sharing rules under normal, low or extremely low flow scenarios; and the formalisation of water flows for critical human needs. While we are talking about this formalisation issue, there are no actual guarantees in relation to this particular process so that, in practice, there will be little difference. The inclusion in the act of the basin water charge and the market rules merely gives legislative power to the 1994 COAG agreement, and the amendments formalising risk assignment do the same for the National Water Initiative Agreement.

As I outlined to the house yesterday, this legislation could have been brought to the parliament a lot sooner than it was. If the Victorian Premier (Mr Brumby) had not held up the agreement to the Howard government's initiative, things would have been well and truly in place and much further down the line in addressing the extremely serious issue that is gripping the nation in relation to the Murray-Darling system. We have heard from members on this side of the house in particular, with the shadow minister highlighting a whole range of issues and concerns that he has about the government's dealings in this matter, and also the federal government's plan and the issue of the veto at the ministerial council level.

In the documentation supporting this legislation, there are some processes in place which will not allow the veto to go on indefinitely and that it has to be referred back to the authority. Once that happens, I understand it again needs to go to the ministerial council and then on to the

minister. However, the problem is that the body which has the final responsibility is a political one. Under the Howard government's plan, the final decisions were to be taken away from politicians.

We understood that the Premier called for a body to manage the Murray-Darling system which would have the independence, the authority and the powers of something like the Reserve Bank board. However, what we have seen, as the result of failures of both state and federal Labor governments, is that the final decision lies with a politician—it lies with the minister. The current minister is a South Australian senator but what happens if the minister is a lower house New South Wales member of parliament? If we were running up to a federal election do you think that person would make decisions that would affect his or her state? I do not think so. Again, this highlights the flawed nature of the federal government's proposal. As a final comment, we are prepared to support the legislation but with some pretty severe concerns.

Time expired.

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (17:07): The opposition supports this bill and the one that follows with considerable reservation. My colleagues have gone through methodically the few strengths and the many weaknesses of this legislation. I think it is a bill which signals failure. This is the number one issue the state is faced with; let there be no question. Our water security, the River Murray, alternative sources for water supply to Adelaide are all the number one issue we face, and it will remain so not only between now and the next state election but well beyond into the future. That is why we need an urgent, workable solution. This bill is neither urgent nor workable.

The main reason for that is that it is based on a flawed starting point—the agreement on the Murray-Darling Basin reform signed by COAG on 3 July 2008. When you read through the bill, you see that it legislates to enact the substance of that agreement and, of course, there is little substance to that agreement. That is the essential problem. In reading both bills, I find the legislation very complex and confusing and I know a number of my colleagues will be raising this. I was chatting about it earlier to my friend the member for Heysen. I defy almost anyone to read this legislation, to fully comprehend and understand it and to see through its complexities without myriad briefings, exhaustive consultation, and thorough and most complete research. It is not a bill which is expressed in simple language or which delivers a simple, understandable plan. For that reason alone, it is flawed. I think we could have come up with something far simpler.

I want to make some principal points and I will start by explaining to the house my understanding of what must be done, then I will explain why the memorandum of understanding fails to do it and, therefore, why the legislation will not achieve the outcomes it presents as achievable. First of all, we know that for 107 years the states have been arguing amongst themselves about what must be done with the river. We know that, before Federation was enacted, South Australia expressed concerns about this very issue and argued that the commonwealth should have control of the river. We also know that the other states successfully argued at the time of Federation that the river should remain the province of the states. In doing so, there was failure in 1901 and that failure is now to be reinforced in 2008.

We simply need a new approach. The approach of the past 107 years has been proven a failure and evident during a number of droughts, but never more evident than this most severe of droughts at this most severe time of climate change and other uncertainties regarding our water security and our water future. So, what we needed was complete change and a new approach. The reality and the truth of it is that this river with all its tributaries, including the Darling heading north and all those tributaries leading into the river, is a national resource. The water in it is no more owned by the irrigators of Cubbie Station or Toorale Station or those diverting water in the upper reaches of the Darling than it is to the rice irrigators of Leeton and Griffith, no more owned by the dairy farmers of New South Wales than it is by the fishermen of the Lower Coorong or the small businesses with permanent plantings—the orchards and vineyards of the Riverland and other areas along the river's length.

It is equally owned by all Australians and it must be shared by all Australians in a responsible and proper way. That is why it must be managed wholly and completely by the commonwealth on behalf of all Australians, not by state governments or any ministerial council or body set up which is there simply as a cohort of state governments. The only way we will get a river that is managed responsibly is if Canberra is fully empowered to manage it. The brutal truth is that the states must either give up completely their powers over the river or those powers must be seized by the commonwealth. Former prime minister Hawke tried to do it over the Franklin and was successful. Why can't this Prime Minister do it in regard to the Murray and show the leadership that

is needed? Why can't state premiers agree to relinquish that river and their powers over it so that it can be genuinely managed by Canberra?

The fact is this must be done. Being a realist, I know that does not guarantee that South Australia will be advantaged. I fully recognise that. It may well be, even if the commonwealth does manage the river, that they will make decisions that South Australians do not like. That is true, but I think our faith is better put in Canberra than it is in Melbourne, Sydney or Brisbane. The truth is that we are at the end of the river; 93 per cent of the water is used upstream; the upstream states control it. I think the commonwealth government would be more likely to ensure that the environment is protected, that the river flows and that all states get their fair share. There is no guarantee for South Australia; it is an act of faith, but it must be done. We know that the current arrangements have not worked.

The memorandum of understanding fails to do exactly that. The minister and the Premier are pretending that it does, but the minister knows that is not true, as does the Premier. We are involved in a massive public relations exercise. Let me quote from the memorandum of understanding, which I think will be an appendix to this bill, and essentially it is a platform for the bill. Part 3.2.7 of the memorandum of understanding is as follows:

> State water shares prevail unless agreed to change by consensus of the basin states.

Isn't that lovely? I read part 3.2.9 of the memorandum of understanding and the agreement. I am talking about your agreement, the agreement on the Murray-Darling Basin reform, dated 3 July 2008, the agreement in which the minister sold not only her constituents but the people of South Australia down the river. Clause 3.2.9 states:

> The parties note the considerable body of decisions and practice that determine the operation of the River Murray system. As part of the delivery of water under state water shares, the authority will continue these arrangements unless otherwise agreed by all parties through the Ministerial Council or the basin officials committee, as appropriate.

I go to part 3.2.10 of that Murray-Darling Basin Agreement:

> The parties agree that South Australia will have access to storage capacity in the Hume and Dartmouth dams for the purpose of private carryover, subject to this not affecting upstream states' water availability and storage access.

Subject to the other states agreeing. This agreement is awash with qualifications. It is awash with terms like 'will use our best endeavours to' or 'if there is a disagreement it will go back to the Ministerial Council comprised of ministers from the states'—

Mrs Redmond interjecting:

Mr HAMILTON-SMITH: Exactly. Essentially, it perpetuates the veto arrangements and complicated management structures of the past 107 years, even when it talks about the basin officials committee. There are so many structures set up by this agreement. Part 3.3.13(g) states:

> The basin officials committee will be responsible for monitoring the asset management plan approved by the Ministerial Council and implemented by the authority.

So, there are so many fingers in this pie that there is nothing left to eat. It is completely spoilt, and that is the truth of it. The agreement of the Murray-Darling Basin reform was a complete and utter failure.

What this bill is attempting to do is to con the people of Australia into thinking that the governments (both federal and state) have genuinely set up a strong independent authority. They have set up something they are calling an independent authority; they have just forgotten to emphasise or point out to people that it will be responsible to state ministers and state governments.

They have also forgotten to mention to the people of Australia and South Australia that the powers over the river remain with the states. So, essentially, if this drought gets worse, if the situation becomes even more critical than it is today, there are dozens and dozens of ways to obfuscate or frustrate the intent of this bill and the claimed goals of the memorandum of agreement.

The Hon. K.A. Maywald interjecting:

Mr HAMILTON-SMITH: Yes; perhaps I should have, because any minister on this side would have done a better job than the minister did. If the member for Chaffey wants to interject, I was up at the field days in Chaffey a couple of weeks ago and she ought to hear what her

constituents think about what she has done for the River Murray. They remember the promises about Teletrack. They remember all the things they were promised. They were told a lot of things that have not been—

Mr KOUTSANTONIS: I rise on a point of order: relevance. Are we talking about Teletrack now?

The SPEAKER: There is no point of order, but the Leader of the Opposition should not respond to interjections.

Mr HAMILTON-SMITH: Thank you, Mr Speaker. If the minister will just listen quietly I will not respond to interjections. It is a two-way street. The reality of it is that the agreement and the bill that we are now debating is a massive public relations exercise. In various states we are going to pass this bill, which will then generate all this publicity, and the idea is to con the people of South Australia and Australia into thinking that we now have strong independent governance of the river, and that the states have somehow referred their powers. Well, the states are referring their powers in this bill, as qualified by the memorandum of understanding or the agreement on the Murray-Darling Basin reform, dated 3 July 2008, which, as I have explained, has that many holes in it even Qantas could fly a 747 through it. The fact is that the referral bequeathed in this bill is so qualified as to be meaningless.

Mr Koutsantonis interjecting:

Mr HAMILTON-SMITH: The member for West Torrens, who after 12 years in this place is still on the back bench, they call him a Labor power broker, but in 12 years he has managed to move how far? Not one seat. He is still sitting back there twiddling his thumbs hoping that one day someone will kiss him on the hand and say, 'Here, have a job.'

If the member for West Torrens has something constructive to say when he makes his contribution—has he made a contribution yet? Do the people of West Torrens care about water security? If they do, I suggest he makes a contribution, because if he does not then the opposition will ensure that every letterbox in West Torrens knows about it, now that he has interjected, and it will include my remarks today. So, if the member for West Torrens has no idea about the needs of his constituents on water security, then let it be known to them.

Mr Koutsantonis interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: Here he goes. Is he a chihuahua or a carefully groomed poodle? I am not too sure. Here he goes. Is he finished? Hang on, is he finished?

Mr Koutsantonis: Good boy. Roll over, Marty.

Mr HAMILTON-SMITH: Is that it now?

Mr Koutsantonis: Roll over.

Mr HAMILTON-SMITH: Can we go on now?

Mr Koutsantonis: Roll over. When you finish rolling over.

The SPEAKER: Order! The member for West Torrens will cease interjecting.

Mr HAMILTON-SMITH: Well, it is one of his more intelligent contributions to the debate. I have heard many over the past 12 years and I think that is—

The SPEAKER: Order! The leader will get on with it.

Mr HAMILTON-SMITH: Very well, Mr Speaker. I am sorry. Sometimes I am overcome by the intellectual basis of the interjections made by members opposite. Sometimes it is a case of something is better than nothing, and I think this is an example. I think that something is better than nothing. This is the Rudd government's and the Rann government's attempt to con the people of South Australia into thinking that they are doing something about the Murray. Let them be judged on it. Let us see if it delivers a result. It says that we will not get a plan until 2011, but we need a plan now. There are so many holes in it that it is not funny.

I make the particular point that not the least of the flaws, with the positions agreed to between the states and the commonwealth with the management of the Murray, has been the lack of urgency. Having wasted over 12 months between the Howard government's announcement that

we needed new governance arrangements and a single government responsibility, the proposed authority, in addition not to being completely independent, has been given until 2011 to come forward with a whole of basin plan. Why have the South Australian government and the Rudd federal government failed to insist that an interim plan be promulgated forthwith and that the interim plan contain the caps agreed to in 1995, that is, diversions at 1993-94 levels, and that the interim cap recognises the impact of groundwater allocations and floodplain harvesting on surface flows? They should institute an immediate interim cap as a starting point for a basin plan to guarantee sustainability of the system.

Similarly, why do South Australian irrigators of permanent plantings currently have vastly different allocations from their counterparts in New South Wales, where high security licensees are enjoying up to 95 per cent of entitlement in the Murray Valley and the Murrumbidgee Valley? These are questions to which the minister and the government have no answer. The fact is that South Australia will continue to get a rotten deal under this bill and under this agreement: nothing is more certain.

I can tell the government what it needs to do: it is in our own policy on this. I congratulate the shadow minister for water security who has been out there with sensible policies on the River Murray well before the minister, going back 18 months if not sooner. In fact, we are setting the agenda, not the government. It is playing catch-up and doing a pretty sloppy job of it. What we need and I offer this advice—

The Hon. K.A. Maywald interjecting:

Mr HAMILTON-SMITH: I offer this advice to the member for chirping. We need a new agreement on the Murray-Darling Basin and if I were her, I would be urgently seeking that it go before COAG yet again. It needs to do a number of things. First—

The Hon. K.A. Maywald interjecting:

Mr HAMILTON-SMITH: Can anybody hear her? I do not think that anybody in the seat of Chaffey is listening to her any more, but can anybody hear her? No, they cannot. You need to ensure that the constitutional powers over the river are genuinely handed to the commonwealth. Leave the states out of it altogether. There is no need for ministerial councils that have veto powers; give the powers fully to the commonwealth. Then ensure that there is an authority that uses those powers to genuinely manage the river in the best interests of all.

Call it a Reserve Bank Board type body, call it what you will, but let it govern the river in the best interests of all, having used the powers ceded to the commonwealth or seized by the commonwealth. Then ensure that more urgent action is taken on genuinely securing alternative water sources for Adelaide. You need to move more quickly on desalination, on stormwater catchment and reuse, and you need to do more on wastewater. You have done virtually nothing and you are trying to take the credit for what councils are doing. You need to genuinely secure our water supplies. Then we need a plan by 2009, not by 2011.

This bill is a massive public relations exercise and it does very little. The minister and the government need to start again. Victoria has won—Brumby and Bracks have won—and Rann and Maywald have been defeated roundly. Members over on the back bench there know it because their constituents in marginal seats are ringing them up and telling them so. Try the member for Mawson. I know what his vignerons are saying. Try the member for Light. I know what the vegetable gardeners in his seat are saying. They are sending a message this government will not hear.

Time expired.

Mrs REDMOND (Heysen) (17:27): I rise to speak on this bill now because I have been trying to get my head around it for a couple of days, and, quite frankly, I think that no matter how long I keep trying, I will not be able to understand this bill.

The Hon. K.A. Maywald interjecting:

Mrs REDMOND: The minister says that I should have come to the briefing. I am sure that, if I had the opportunity to spend hours dealing with this bill, the minister would not have been able to answer the questions that I have. I say at the outset that I absolutely accept the need for urgent action in relation to the Murray-Darling Basin, particularly for South Australia, and the dire circumstances in which we find ourselves. I think that many of those dire circumstances relate to successive governments over many years in all states having overallocated water, and I think that

there is also a significant issue with the theft of water. When combined with the significant drought that we are experiencing at the moment, yes, we are in dire circumstances and I believe that there is a need for urgent action.

I also believe that it is appropriate for the commonwealth government to be empowered to take that action because it is quite clear to me that the system that we have at the moment, which was appropriate probably when we entered into the constitution and federated Australia in 1901, is not so in this day and age. Given the amazing overallocation that has occurred over the past 107 years, we really have created a problem that we need to take urgent action to address.

I put on the record at the outset that I absolutely endorse the idea that the commonwealth should have the power. What worries me about this legislation is that I am not satisfied that the parliament understands what it is doing. The bill before this chamber is brief, indeed. It comprises only seven relatively short clauses, covering five pages and, of course, page 1 is just the title page.

The bill before the house is short, indeed. Even then, it is not all that easy to understand, but the essence of it is that, effectively, we will give certain powers to the commonwealth and, in much the same way as when the corporations power went to the commonwealth, each state is to be expected to pass similar legislation. What has happened is that we have had a tabled text of the federal government legislation placed before us via this very short bill.

As is my habit in these matters, I always like to try to understand what it is we are actually dealing with. It is the habit of a lifetime. I started work in the Crown Solicitor's office when I was still a teenager and in all that time, all those years, I have spent a fairly large proportion of my life reading legislation, bills and, indeed, even working on amendment of bills, new legislation and so on, so I have a reasonable degree of experience in dealing with the detail of legislation. The member for Morphett reminds me that, for a certain birthday some years ago, he presented me with a magnifying glass and a fine toothcomb such is my penchant for liking to examine the detail of legislation that comes before this house.

Therefore, I got hold of the actual document, which is the tabled text, the Water Amendment Bill 2008, which comprises (I think) 304 pages. To be honest, I gave up trying to get through it because it was so complex and so convoluted as to be indecipherable. There are numerous examples, but let me give members one. There is a clause on the meaning of referring state. This is basically in the definitions clause, although the definitions clause goes for many pages and has within it all sorts of subsections. A referring state is defined as:

> A State is a referring State if the Parliament of the State has referred the matters covered by subsections (3) and (4) in relation to the State to the Parliament of the Commonwealth for the purposes of paragraph 51(xxxvii) of the Constitution.

Section 51 of the constitution merely sets out all the detail of the various things that the commonwealth will have control over and paragraph 51(xxxvii) is the one that states:

> In addition to all the itemised things it will include control over anything that is referred by the States.

When we set up our Federation in 1901, the idea was that each of the colonies agreed to give certain powers to the commonwealth. What did not go specifically to the commonwealth resided with the state and then, at some future time, if they decided they wanted to refer it, then off it went, and that was the clause that allowed them to do that. Subsection (2) then goes on to state:

> A State is a referring State even if a law of the State provides that the reference to the Parliament of the Commonwealth of either or both of the matters covered by subsections (3) and (4) is to terminate in particular circumstances.

Subsection (3) states:

> This subsection covers the matters to which the referred provisions for the State in question relate to the extent of making laws with respect to those matters by including the referred provision in this Act.

Now did everyone get that? Precisely. The minister asserts that she understands that. I just wish that we were going to have what we should have when we are dealing with this sort of legislation; that is, the opportunity to ask questions—three questions per clause per member—about the detail of the bill. However, not only do we have a seven-clause bill, which is quite straightforward, but also a 304-page attachment—and I cannot tell members how many clauses because most of it is schedules—about which, in my view, we should be able to ask questions.

What concerns me is that, with all the years of experience I have had in reading legislation—and I have spent some hours now trying to get my head around this—my view is that, if

I cannot get my head around it, then I reckon a goodly proportion of the people in this chamber probably cannot get their head around this.

Mr Koutsantonis interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop.

Mrs REDMOND: I have, as I said, a concern about what this parliament is doing here. I am not suggesting that what we are doing is wrong. What I am suggesting is that it makes me exceedingly nervous when we are making decisions about what I think could probably be one of the most important things which we will do as a parliament and which we as individual members of parliament will do in our careers in here. This idea that we are going to give up certain powers and place them with the commonwealth government is an important step. Personally, I have some pretty significant reservations about the likelihood of a Queensland prime minister really having the best interests of South Australia, the Riverland and the Lower Lakes in his heart.

However, that said, the problem I see is that, even if I had great faith in that, we still end up with a situation where we are being asked to pass legislation with, I consider, undue haste, given all the notice that this government has had about how significant the problems were and how long we have been calling for this government to do something positive to resolve the problems. Given all that, then for us suddenly to be confronted with the bill and for the minister to be saying that not only does she want it through this house but she wants it through the other place this week as well, strikes me as being not only suspicious but a highly dangerous thing.

I cannot point to anything in this bill that makes me say, 'This is wrong.' I can point to certain things where I think that some of these things are going round and round and up and down, and they really make no sense to me. For instance, a protocol made by the authority under a schedule to the agreement is a legislative instrument, but neither section 42, Disallowance, nor part 6, Sunsetting, of the Legislative Instruments Act applies to the protocol. Here we have a situation where there is a provision that says that we are setting up this new authority, and if they make a protocol, that has an effect just like a regulation would have, except that we are deleting the power to disallow it. Is there a problem with that? Well, there could be. I do not know whether there is because I do not have my head around 304 pages of this tabled text, but I do have a concern with a whole range of these provisions.

I will give you one other quick example of what I call 'bureaucrat bingo'. I do not know whether any of you know about this game of 'bureaucrat bingo', especially any bureaucrats who are here. I make a list of the current buzzwords that bureaucrats are using, and when I go into a meeting I take that list with me. As they use the buzzwords I cross them off; so, when I jump up and say 'Bingo!' they are a bit startled as to what I could possibly be thinking and doing. Let me give you one example. This is a discussion about various provisions of the basin plan in section 86C. Subsection (1)(c) provides:

> ...the risk management approach for inter-annual planning relating to arrangements for critical human water needs in future years.

Well, sorry, I do not get it. There are problems like this in terms of what we are doing all through this bill. Some things look as though they might be fairly good, for example, the arrangements referred to in paragraph (1)(d), which specifies the basin plan for tier 2 water sharing arrangements. That appears to relate to carrying our water allocation, if we have not used it all, and keeping it in storage. The arrangements referred to in that paragraph must '(a) recognise South Australia's right as provided for in clauses 91 and 130 of the agreement to store its entitlement to water'. And I thought, well, that is good; at least I understand. That sounds reasonably sensible, and I think there could be some good things in this bill.

One of the other things that concerned me when I was trying to get my head around it, though, is that there is a discussion about tier 1, tier 2 and tier 3 allocations, effectively. Tier 3 states 'emergency unprecedented situation'. For the life of me I cannot figure out why we would not instantly be declared to be in an emergency unprecedented situation.

But then I got to this amazing part where I literally seemed to be going round and round in circles. I just want to read the bit it was talking about. It might have been in the explanation. After a while of trying to get my head around the full 304-page text, I gave up on that and thought maybe

the explanatory memorandum, which is a mere 44 pages, will make it clearer to me. That is where I became even more confused, because it states that they are going to establish the Murray-Darling Basin Authority, a single institution, but, in fact, we already have the Murray-Darling Basin Authority. What they are doing is getting rid of the Murray-Darling Basin Commission and putting it into the Murray-Darling Basin Authority. So, the authority will have additional functions, which are basically the functions that the council used to have. It provides:

> The Authority is to consist of six members...a part-time chair, a full-time chief executive and four other part-time members.

Fair enough; I understand that. We then have a new ministerial council. It is established under the revised agreement and it has an advisory role. Its advisory role is 'to advise on the preparation of the basin plan by the authority'. Section 16 of the supposed explanation states:

> The authority will provide the proposed Basin Plan to the Ministerial Council. The council can refer the proposed Basin Plan back to the authority once for reappraisal if it disagrees about certain matters. The Ministerial Council can then provide its views on the proposed Basin Plan to the commonwealth minister. When the Basin Plan is first made, the authority must also advise the council on the socio-economic implications of any reductions in the sustainable diversion limits in the proposed Basin Plan.

I am only guessing at what that might mean, but for a start, that sounds as though we are going from the authority to the council and back to the authority and back to the council, and then at some point it flings off out into the ether. We then add into that the Basin Officials Committee. Normally, when you are reading legislation, of course, if you come across a term that you have not heard before you just whip back to the definitions, and when you read the definitions they will explain to you what it is that they are talking about. But, none of that occurs in either the explanation or the tabled text itself.

I then got over the page in this explanation, and it became even more concerning when I saw that part of this plan is to refer the control of some of this to the ACCC. That organisation is so dysfunctional in the first place. I am just bewildered by the ACCC, which seems to be powerless to do anything about petrol prices for we motorists. No, it cannot do anything about that. It cannot do anything about a whole range of things. But, the states will hand over certain controls over the regulations, supposedly to provide a uniform approach to regulation. Clause 23 of the explanatory memorandum provides:

> The water charge rules will be able to provide that the ACCC determines or approves all regulated water charges in the Basin, other than charges relating to urban water supply activities beyond the point at which the water has been removed from a Basin water resource.

Now, I hope you all got that as well, as to what the ACCC will cover. Furthermore, they are offering to extend this so that people who are not even in the basin states can in fact opt into this wonderful system with the ACCC managing it. We then get to a provision which talks about the allocation of risks in relation to reductions in water availability. It states:

> The bill will give effect to the commonwealth's commitment in the reform IGA [Intergovernmental Agreement] to take on a greater share of the risks relating to future reductions in water allocations in the Murray-Darling Basin (arising from a reduction of the long-term sustainable diversion limit but not from a change in water reliability resulting from other aspects of the Basin Plan) and to bring forward the date on which the new knowledge component of that risk becomes a commonwealth responsibility.

Quite apart from the fact that that is just bureaucratic gobbledygook, that actually seems to suggest that the commonwealth will have some sort of responsibility. However, all it says is that it will take on a greater share of the risk. What is the greater share of the risk that the commonwealth gets out of this? I genuinely hope this works but, from the little I have been able to understand of it after hours poring over these documents, it seems to me that there is still provision for things to go back off to the ministerial council, and within the ministerial council system there is provision for any one state—maybe Victoria—to veto things.

I believe that we should have had time to assess, in great detail, the aspects of this whole tabled text, to consider the pros and cons of each section of it from the South Australian perspective and the pros and cons of it looking from the perspective of the other states, so that we can see where is our risk. It concerns me, as a member of parliament, that we are being asked to pass legislation that we do not fully understand. As I said, if I have spent the time I have on it but still do not fully understand it—and I nowhere near understand it—how many people in this place will pass it simply because that is the easy thing to do? We were promised a solution, we will be given a solution, we will pass this legislation—and we are all hoping like heck that it does actually work.

If it does not, then be aware that we should have given this far more consideration than we have. We should have had far better explanations, far more opportunities to question the whole detail of the 304-page tabled text document and its 44-page explanation so that, as members of parliament, we can feel confident, as we pass the bill from this house to the other place, that what we are doing is in the best interests of the state of South Australia.

Mr KOUTSANTONIS (West Torrens) (17:47): I was interested to hear the last two contributions because they are very different. The Leader of the Opposition started off by saying that he did not think this is a good bill, but that he would vote for it; he did not think this bill would achieve the outcomes it set out to achieve, but he would vote for it. He then went on to say that South Australia should refer all its powers, all authority over the river, to the commonwealth—yet he flies off to Queensland, New South Wales and Victoria to get agreement from his fellow leaders of the opposition and he cannot get that agreement.

I think there is something inherently wrong with the opposition's approach to this bill. The member for Heysen, who is usually very sensible, says she does not understand the bill; she has read it, but she does not get it. The minister offered a briefing, but I understand that no member of the opposition attended that briefing. I could be wrong, I stand to be corrected, but I understand that the member for Heysen did not attend—yet she says, 'I don't understand it.' She then went on to detail all the reasons she thinks the bill will fail. The member for Heysen thinks that the bill will not achieve its intended outcome, but she ends by saying that she will support it.

Mr Williams: I think you are wrong in what she said.

Mr KOUTSANTONIS: Well, we will wait and see. It is a very simple argument, member for MacKillop, if you think the bill is no good or if you think it is flawed. Members of parliament do have independent thought processes, and those independent thought processes are championed by the Liberal Party—because the Liberal Party is the party of individualism—'We are a group of individuals working together, not a collective like the ALP'! So I would imagine the member Heysen would move an adjournment for more time to think about the bill, so that she can ponder it Buddha-like on a mountain top, and consider whether it may or may not work. She should move amendments to make sure that she gets the outcome she wants.

The Leader of the Opposition wants a full referral of powers but cannot convince his own party of that, and then one of his shadow ministers—not 30 seconds after he finished speaking—said that she did not trust a full referral of powers to the commonwealth. The Leader of the Opposition even said that he supported the commonwealth seizing our powers through the High Court, or referring them. Then a senior shadow minister, who sits only three seats down from him, says that she would be uncomfortable with that.

If you want to govern, if you want to lead the state, you have to have a clear, concise message; one leader, one view, one message. You cannot tell fruit growers in the Riverland that you support full referral of powers and then have your shadow minister say something else. You cannot be all things to all people; you have to make a decision. It comes back to temperament. The man is not fit to lead because, first, he cannot control his own shadow ministry, and, secondly, his message changes all the time.

The other thing that really got my attention was when he started accusing the minister of 'chirping'. Earlier in the day he accused the Minister for Infrastructure of being a girl—as if that were an insult—and later he accused the Minister for Water Security of 'chirping'. I think he was trying to make some sort of inference regarding the way her voice sounded. Her voice sounds perfectly normal to me, but for some reason the Leader of the Opposition thought, 'I know what I'll do. I'm losing the argument here because I'm saying that this bill is no good but I'm voting for it, that this bill won't work but I'm voting for it. It's not my fault if it doesn't work, even if I'm voting for it. I'm offering no amendments, I'm not offering a solution; I'm just saying it's not going to work but I'm voting for it anyway. But, by the way, your voice sounds funny.'

What we are getting here is, 'I can't win the debate, I can't win the argument, I can't offer an alternative; I will attack you personally, because bullies win.' Well, bullies do not win. By nature, bullies are one thing—cowards. If this bill is no good, the Liberal Party should show some courage and vote against it—or how about adjourn it, or bring in its own bill? No, members of the Liberal Party will vote for it because they are political cowards. They are afraid that someone might say to them, 'You're filibustering. You're not helping us on the River Murray.' So, they vote for it. Yet, while they are voting for it, they are throwing the cheap shots, such as 'You're a girl,' or 'You speak

funny,' or 'This won't work. Refer all the powers.' For a different target audience, they say, 'No, no. They are the states' rights; we can't refer any powers.' Well, which one is it?

Liberal Party members are schizophrenic. They do not know what they stand for and, quite frankly, that applies to all the conservative parties all around the world. They cannot define who they are and what they stand for. Are they the party of states' rights, or are they the party of federalism? Do they wish to refer all their powers to the commonwealth, or do they want them to be seized? The Leader of the Opposition, in one speech, said he wanted them seized; he wanted them referred; and he wanted them by agreement. He is behaving, politically, like a schizophrenic, or he is a hypocrite. He has one message for people in the Riverland and one message for the people in the Lower Lakes; he has one message in Sydney, one message in Victoria and another message in Adelaide. This is a time for leadership; this is a time to govern. This is a time not to make petty, personal attacks on the minister.

We all know the leader goes up to the Riverland and makes up things and makes promises he is never going to keep. He says he wants full referral of powers, yet he says, 'We don't go far enough, but I seek no amendment.' It seems to me that the Liberal Party has lost its way. If Liberal Party members are truly unhappy about this bill, they should show some political courage and vote with their conscience. Certainly, I have not heard anyone get up so far to say, 'This bill is fantastic.' What they do is get up and say, 'This bill is flawed', 'This bill is no good,' or 'We need more time'—and they vote for it.

They will vote for it—carping, whingeing and sniping from the cheap seats all the way through this bill's passage through both houses of the parliament. Then, after it has passed, they will say that it will not work, and they will blame us for it. Yet they will fail to mention to anyone who will listen that they all voted for it, much like when they criticised us on WorkCover and moved all these motions condemning members who voted for the same thing they had voted for.

So, it seems to me that the Liberal Party should do one thing first, and that is grow a spine and, after they grow a spine, they should use it. If they think this bill is no good, they should vote against it and bring their own bill into the house. If you want to refer powers to the commonwealth in the way in which the Leader of the Opposition wants it done, do it. Move the bill, and let's have a debate. If you need more time, move the adjournment and say, 'We don't want to vote on it now; adjourn it.'

Mr Venning interjecting:

Mr KOUTSANTONIS: He is our principled member, the member for Schubert. Principle, loyalty, standing by your friends—things he is renowned for! Just ask the member for Davenport. He can tell you about your resilience under pressure. When the whistle goes, you are the first one over the top.

Mr Venning: Who, me?

Mr KOUTSANTONIS: Absolutely. You are not on the beach eating cucumber sandwiches and drinking cups of tea. You're in the trenches, cutting through barbed wire to get to the front. I do not want to take up all of my time. I will just say this: I heard two speeches tonight, and in both of those speeches the first thing they said was, 'I will be supporting this bill.' However, insert 'hypocrisy, hypocrisy, hypocrisy' and then, at the end, 'I support the bill.' Well, grow a spine and vote against it if you think it is no good. The Liberal Party has lost its way, and that is why it will lose the next election. I support the bill.

The Hon. R.G. KERIN (Frome) (17:57): Obviously, I will make my speech in two parts, given the time. I will try to explain to the member for West Torrens why we would support the bill but be disappointed with the content. Basically, it is not so much what is in the bill that we disagree with; it is what is not in the bill. In saying that, I have to say that the minister does actually understand most of the issues, and I have no doubt that she fought hard. The disappointing part is that we did not get as far as we wanted with the other states and, in that spirit of federalism the Prime Minister was demanding, perhaps we have not been critical enough of the other states for our not achieving a greater level of agreement than we currently have.

I am aware of the old situation, and I have read the new agreement several times, and I think the big winner out of the new agreement is the Basin Officials Committee. I encourage everyone to read appendix B of the COAG agreement, which goes through all the functions to do with the river. It sets out the role of the federal minister, the ministerial council, the authority and the Basin Officials Committee when it comes to each of those decision-making matters. In my session

after the dinner break, I will go through those powers. What has not been well documented or referred to by the many commentators participating in this at the moment is that, although it may be an independent authority, I will show, by going through those powers after the dinner break, that it does not have any powers whatsoever. It actually takes instruction on a whole range of things from the federal minister, or the federal minister is the final decision maker; or, in some cases, it takes its instructions from the Basin Officials Committee.

What worries me about the Basin Officials Committee, having sat through six years of those ministerial councils, is that there is no doubt that there is a power there for the ministerial council to refer the decision on many of the agenda items to that committee, which will become a very powerful committee indeed . If there has been a shift in the powers of anyone involved with control of the river, it is from what was the commission and from the ministerial council to the Basin Officials Committee, and that will become evident because, after the dinner break, I intend reading through the powers and indicating what the authority does with each of the decision making areas.

The big disappointment is that, while the advertisements, etc., that we have seen suggest that the independent authority will run the river for us, that is certainly not the case. It might be an independent authority, but all its staff has actually been transferred from the commission. As you go through the powers, which I intend doing, you will see that it is a doer. Yes, the authority is headed up by some independent people, but it is basically the commission as it is now, and what the authority does is things such as prepare the basin plan. So, yes, the authority will have its opportunity to put in there what it wants, but the final decision maker on the basin plan is the federal minister. You will see with a range of other things, as you go through all the individual powers, that there is not one power you can circle and say the authority is the decision maker. The authority is actually the work horse.

[Sitting suspended from 18:00 to 19:30]

The Hon. R.G. KERIN: In speaking about the role of the authority, the COAG agreement states that the authority will have two roles: one role will be to prepare, implement, monitor and enforce the basin plan, including the environmental watering plan, as provided for in the act. However, as you will notice when I get to the appendix, it is very clear that the federal minister is the decision maker. The other role, as spelt out in the COAG agreement, will be the responsibility for implementing the decisions made by the ministerial council and the Basin Officials Committee, which does not confer powers on the authority.

To get to the specific powers (and this is all about the operation of the river system), schedule B of the agreement spells out what are the programs and what are the roles of each of the groups. As far as the basin plan goes, which is probably the biggest responsibility of the authority, the authority prepares the plan, consults with the basin states, the Basin Officials Committee, basin community committees and stakeholders but, as I said, under the heading of 'Commonwealth Minister' it has the decision maker as the commonwealth minister.

The authority's role in the basin plan implementation is spelt out: it undertakes monitoring, reporting and enforcement activities related to the implementation of the plan. Again, the commonwealth minister is the responsible minister but the Basin Officials Committee is responsible for resolving the operation, management and delivery inconsistencies that arise between the application of the basin plan and states' management. The big problem there is that there will be one appointee from each of the state governments on the Basin Officials Committee, and I would think that in most cases it will be the CEO of the responsible water department. I think that was one area where the authority, in having the power to make some of those decisions, would have been incredibly useful as far as getting to the stage of actually resolving any of those particular issues.

It is up to the authority to do the basin plan review but, again, it is not the decision maker. With any amendment to the basin plan, the authority could prepare an amendment but, again, it has to be the commonwealth minister who is the decision maker and adopts any amendment to the basin plan or an amended basin plan. In regard to water resource plans, the authority makes recommendations to the minister about accreditation of water resource plans submitted by the basin states. However, again, it is the commonwealth minister who either accredits or refers back those resource plans prepared by the basin states.

Water charge and water market rules is going to be a very important area, under which the authority has no role at all listed. It is the commonwealth minister who makes the rules, having

sought and taken account of advice from the ACCC. Again, the sustainable diversion limits are prepared as part of the basin plan by the authority but the agreement clearly sets out that the commonwealth minister is the decision maker.

The matter of state water shares—to determine shares available to the states—goes back to the ministerial council. Again, that is a major worry. That is one of the things we would have liked to see, if not go to an independent authority, at least go to the commonwealth minister. The ministerial council retains the decision-making on state water shares and the determination of the shares available to the states; it is either the ministerial council or it can delegate that to the Basin Officials Committee. Again, one would have hoped that an independent authority would take that role, but that has not been the case.

As to River Murray water operations, the authority implements the decisions of the Basin Officials Committee decisions. Regarding asset management, the authority prepares an asset management plan, but that is back to the ministerial council for decision; it approves that. With the Basin Salinity Management Strategy (BSMS), the authority implements the Basin Officials Committee decision on matters relating to existing programs, and the commonwealth minister is the decision maker as part of the basin plan.

For the BSMS Salt Interception Scheme, the authority prepares the asset management plan, but it is actually the ministerial council that approves it. When it comes to water quality, the authority prepares a water quality and salinity management plan as part of the basin plan, but the decision maker is the commonwealth minister. The authority does the Sustainable Rivers Audit but, at the end of the day, the decision maker is the commonwealth minister. As to the Native Fish Strategy, the authority implements decisions of the Basin Officials Committee so, as I said before, it is more the doer than the decision maker.

The authority undertakes the Integrated Basin Report but the commonwealth minister is designated as the decision maker. The way the Living Murray program, which has several programs within it, has been set out within the COAG agreement is also a major worry. The authority's role is spelt out as implementing the decisions of the Basin Officials Committee. When you look at where the power of the decision making actually sits, it is with the ministerial council but, on that, it states 'may delegate implementation to Basin Officials Committee'. The Basin Officials Committee has its power listed as 'high level decision making as per ministerial council delegation', so the author of this has made the assumption that they have with a couple of others, such as that the ministerial council will actually be delegating a lot of these powers straight to the Basin Officials Committee. As someone who sat on ministerial council, I see that as a major concern, and I think we will see that happen many times.

The Basin Officials Committee has a major role in setting the agenda for the meetings. At a lot of these meetings, particularly in the Eastern States, ministers are in a hurry to get home. They just want to get out a communiqué and, basically, it worries me what level of decision will actually be delegated off to the Basin Officials Committee. Back to the programs and the Risks to Shared Water Resources program, the authority identifies the risks and strategies to manage them, but again the commonwealth minister is the decision maker. As to water trade, the authority has an opportunity to include trading rules within the basin plan, but that is not binding; that goes to the federal minister for decision, so the decision maker again is the commonwealth minister. With the Northern Basin program, we have the authority implementing the Basin Officials Committee decisions, and the high level decision making on that was meant for the ministerial council, but the author of this has again assumed that that will be delegated to the Basin Officials Committee.

I am concerned that the authority has no teeth at all. I think that, with all the decisions that matter, they have gone back to the federal minister, the ministerial council and, very worryingly, to the Basin Officials Committee, which is representative of the federal government and each of the basin states. That is far from what we have been told about the independent authority and the ads which would hint to us that the independent authority has a lot of powers. That is just not the case. It is very disappointing that this is where we are. I know that the other states play very hard ball—been there, done that.

I want to pick up on a couple of other issues. One is the disappointment that I feel about the way the federal government has reacted to some of the calls recently and has turned some of its focus to buying up water on the Darling River. I have spoken to people up there about the decision to buy the property up near Bourke, and it will almost destroy the viability of the Bourke area. I know that the local shire is over $1 million out of pocket because of that decision. It does not make a lot of sense to a lot of people up there: they are scratching their heads. I implore the federal

government, if it is going to go out and buy water, to try to help the Murray into the future and not go up the Darling, because most times when we are in drought the water from the Darling will not flow to the Murray, anyway. So, if it wants to solve the long-term problems that we have, the federal government making a focus of buying water from the Darling is an absolute nonsense.

The other issue that is of major concern is what was picked up in the MOU, where the Victorian government—to get it to sign the MOU in the lead-up to COAG—actually had included in the MOU itself the details of one specific project, the Food Bowl project in Victoria. For some time I have followed that project. I have read what has been made available from the Victorian government about that particular project and the level of savings that will be made, and it really concerns me that somehow the Victorians have been able to obtain at least initial agreement to go ahead with that program.

Between stage 1 and stage 2 of the Food Bowl program, it talks about savings of 425 gigalitres of irrigation water. What it has done—and this is an absolute mystery—is it has allocated 75 gigalitres of that to a pipeline to Melbourne, which is wrong anyway. It has also allocated environmental water to the wetlands and the tributaries of the Goulburn River. Absolutely incredibly, it has then basically committed to the irrigation communities up there that it is going to create a whole lot of new allocations, which at a time when we are not allowing people with allocations to use their allocations, for the Victorian government to be granting new allocations up in the Goulburn River area, makes no sense.

On paper what it has then said is that the last 100 gigalitres of that 425 gigalitres can go to the Murray. The problem with the arithmetic and the problem with the science of it all is that, when you read the Food Bowl project papers made available by the Victorian government, the bulk of the savings that it identifies—which it is starting to give out like Father Christmas—relate to seepage. Anyone who understands the river system would understand that most seepage is not what you would call net savings, because the seepage actually goes back into the river.

It is very hard to come up with figures. I know there is some very poor metering up there that the Victorian government has turned a blind eye to for years, so there will be some savings with metering, but most of the savings are from seepage and, in reality, they will not be real savings, because that is water that was not saved anyway in the past. So, in respect of the 425 gigalitres that is being talked about, a lot of that was not losses in the past because a lot of that seepage was finishing up back in the river system.

My major concern is that we get the Victorian government to agree that it will not make any new allocations until we know for sure that the Murray has its 100 gigalitres. The problem that I see is with pulling the water out for Melbourne, the environmental projects up the Goulburn River and the new allocations to irrigators. I cannot see how the 425 gigalitres of savings will eventuate when so much of what they talk about in their own paperwork is savings related to seepage. So, that is a major concern.

I hope the federal government will hold them to the first priority there. The 75 gigalitres to Melbourne will be gone. I do not think we can do anything about that, but the first priority has to be that 100 gigalitres for the river. Giving away new allocations until we know for sure that we have that 100 gigalitres would be foolhardy. It could put us in a position where a lot of the federal money spent to save the river may actually result in a negative outcome for the River Murray in terms of water.

It makes no sense. I can understand how it happened. It was put on the table very late by the Victorians. I hope the bureaucrats have been able to have a damn good look at all of that and find a way of making sure that the river gets its dividend and that that happens as a priority, rather than the Victorians giving out new allocations of water at a time when we cannot deliver the allocations that irrigators already have. We have seen the devastating effect that has on areas with permanent plantings.

I support what is in the bill, but I am disappointed that we are not taking a few more steps towards independent control of the river. What we will finish up with by way of a central decision-making body I am concerned is not a step forward. A lot of it will come back to the basin officials group and they are state and federal people, and I hope if that is the case that our state and federal governments can appoint some terrific people to that body.

Mr PISONI (Unley) (19:46): How fine you look up there, Mr Acting Speaker. I rise to make some points about the bill we are debating in the house tonight. As a metropolitan member of the parliament representing Unley, when I was out doorknocking last week the issue of water in South

Australia was the No.1 issue in my area. It is a huge issue for my colleagues representing people in the country, but I stand in solidarity with my country colleagues, understanding the concern for water in South Australia, as was made clear to me when I was doorknocking just a week ago.

I raise some questions on the bill. Other speakers have said that it is not so much what is in the bill but what is not in the bill: namely, the lack of truly national referral of powers; the lack of an effective early basin plan for allocation and identification of priority water efficiency sites; and, identification of communities at risk from ad hoc buy-outs and the need of support. We saw an example of that with what has happened in the Riverland in South Australia, at a time when the Victorian government is boasting about the expansion of its food bowl and when massive investment is going into infrastructure for water coming out of the River Murray, including the water pipeline. I had the privilege last week to visit the Victorian parliament and sit in on question time, and the Victorian government is boasting heavily and strongly about the great deal it has got out of this for Victoria.

What did we get in South Australia? We have an interesting comment in the *Murray Pioneer*, which quotes Mr Rann as follows:

> I have been personally negotiating with the Prime Minister and federal agriculture minister, Tony Burke, for the exit package since June this year. It is understood the vast majority of irrigators to benefit will be from South Australia's Riverland.

Here we have Premier Rann, the local member and minister Maywald's solution being to reduce our capacity to produce food and push people off the land while the Victorians are expanding their area.

Members interjecting:

Mr PISONI: The members for MacKillop and Hammond acknowledge that. They have had a strong interest in this and have been working with their constituents and they shake their heads in unison at the lack of detail and strength for the nation as a whole in this bill. As I and other speakers have said, it is what is not in the bill that is the problem and not so much what is in the bill. In particular I refer to the abolition of structural adjustment funding, the failure to begin real on-farm water efficiency projects. The member for Frome, former premier Rob Kerin, was right in talking about seepage. I do not know much about farming and irrigation, but I do have a garden and I know that, when I over-water, what the garden does not use ends up in the gutter. So, I imagine that the same situation would occur with the seepage of water in channels and so forth, and that is that it would end up back in the river.

We hear the Victorians saying, 'We're going to utilise that, we're going to stop that seepage.' In other words, 'We're going to stop that going back into the river and we're going to use it.' We heard that the Victorians have been granted new allocations, while in South Australia we have a dying lake and we have Riverland fruit farmers who are pulling up their vines, etc. They are the people who have been supplying fresh fruit and vegetables in South Australia for generations.

This is at a time when we are very conscious about food miles; that is, the distance that the food travels and the contribution that makes to greenhouse gasses and carbon footprints. The Riverland is quite close (two hours away), which means that South Australians know that if they buy Riverland oranges or Riverland apricots, this footprint is very small. Probably to generate a footprint which is slightly smaller than that would be achieved only if they themselves grew the produce in their own backyard, but now we will see that that distance will be even greater. Now the fruit could be coming from Victoria, from New South Wales, or even from California.

Of course, the recent drop in the dollar means that we are going to see, if we are relying on more fruit coming in from the United States, a higher price for fruit and vegetables which will flow through to our consumers in South Australia. But maybe the Victorians will save us. We have given up here, but the Victorians might be able to save us. They might sell us some of the fruit and vegetables from their food bowl. They might let us have it.

Ms Chapman: At a price.

Mr PISONI: At a price, of course, as the member for Bragg suggests. They are not bad business people in Victoria. They are certainly good at taking advantage, there is no doubt about that.

Something else I will talk about is the fact that there is $12.9 billion of federal money to spend on this. Although I have been in this place for only 2½ years, I have had an interest in politics for quite some time. I think one of the most fascinating interviews I ever saw was the

interview that Kerry O'Brien had with Peter Costello, when he produced his first budget surplus after coming into office, having found that there was nearly $100 billion of debt that he had to pay off and having had to bring down deficit budgets.

His second or third budget was one involving a surplus of approximately $2 billion. I remember Kerry O'Brien saying, 'Mr Costello, how are you going to spend the money?' to which he had a great answer and said, 'Isn't that fantastic? What a great problem to have!' It is indeed a fantastic problem to have a surplus and to be wondering how you are going to spend it! The Howard Government spent the last 11½ years paying off the nearly $100 billion of debt that was left by the previous Labor government, but the fact that we have $12.9 billion there to spend on this project is a result of the work of Peter Costello, his Treasury team and the Howard Government—all of them very good managers.

Just remember that the Labor Party opposed every single Treasury and financial measure that Peter Costello tried to get, or got, through the Senate, and yet they tell us that they are fiscally conservative and responsible. We saw an extraordinary thing this week, of course, which was the stimulus package, with half the budget surplus having been spent, or to be spent, by the end of this calendar year.

Of course, another important thing to remember is that the money was there. It is completely different from what is happening in South Australia, of course, because we do not have that money there; we do not have state budget surpluses. We are cutting expenditure and capital projects because we are living on borrowed money. There has been an enormous increase in the budget from $8 billion to $15 billion in the budget estimates period, and the Treasurer has spent virtually every cent of it. The money has been coming in and the government has been getting fat on income and the Treasurer has just let out his belt and enjoyed the trimmings of office during the most prosperous economic times in living memory. During that time we have trailed other states in all key areas, whether it be in economic growth, employment or education, or other areas.

Of course, there was a time when we punched well above our weight here in South Australia, but the problem is that we actually ended up with Mike Rann as Premier—and that has dragged us behind. Every time I go to Sydney or Melbourne, I see more infrastructure being built and public transport operating perfectly. I see people using public transport. People in my electorate cannot catch a bus in the morning from about bus stop 4 on Duthy Street—sometimes on Unley Road or King William Road—because the buses are full and will not stop. There has been well documented evidence of that on websites and ABC Radio and in the local press. The management of this government leaves a lot to be desired.

The recycled water project into the Parklands is a great concept—and we fully support it—but I was shocked to hear in the Public Works Committee that we will still be sending more than half that almost drinkable water into the gulf, when for at least four months of the year the River Torrens is closed at regular times because of green algae which is caused by a lack of water flowing into the river. I asked why we could not pump that extra water into the Torrens in order to enjoy the lovely ambience of the Parklands of which we are so proud. Rowers on the water, people using the paddle boats and *Popeye*—an icon of Adelaide—cannot use the River Torrens for long parts of the summer because it does not have a flow of water.

I was told that the water is not suitable to go into the River Torrens; it is not clean enough to go into the River Torrens. However, part of the plan to bring this water into the Parklands is to connect it to air-conditioners. So we can actually breathe in this water but we cannot pump it into the River Torrens. It is too polluted to pump into the River Torrens. That is a bureaucratic mess. It would make a great skit for *Yes, Minister*. 'Yes, we will use it for air-conditioners. No, you can't drink it because it's not safe enough to drink. You can pump it into air-conditioners and breathe it in, but you can't put it into the River Torrens because it is not clean enough.' I am not a scientist, but it does not make sense to me. I am a fairly practical sort of person.

We are in the position where we can spend $12.9 billion on this project. We are pleased that money is being spent on preserving and protecting our Murray, but, as I said when I first stood up to speak, it simply does not go far enough.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (20:00): Water is important to every South Australian wherever they live, and it is no less significant in my electorate of Bragg, which covers the eastern metropolitan area from Rose Park to Mount Osmond—and I hope to represent the people in the Adelaide Hills at the 2010 election when the boundary changes are implemented. Indeed, in a survey of Bragg residents recently, the No. 1 issue for them out of 10

was the River Murray. It was the same four years ago when I did the same survey. The No. 2 issue is water generally. The No. 3 issue is health, and I can list a number of others.

Overwhelmingly, this was the most significant issue. It is not that they are reliant on it for food production, although certainly they have felt the effect of the restrictions imposed by the government as a result of a shortage of water resulting from the drought and, I would suggest, a lack of other alternate protection through the development of infrastructure to ensure that we did not have to have restrictions, but because they understand how important it is for South Australia.

Not only do they want to help and to participate in the debate as to what we do to ensure an equitable distribution of water in this state between township and urban living for food production and environmental protection but they also want to ensure that they are part of the remedy of how we deal with it. The most pressing issue that is on our plate is the Water (Commonwealth Powers) Bill—and I think we are dealing with it in tandem with the second bill, the Murray-Darling Basin Bill—which enables us to implement other aspects that are necessary in respect of the abolition of other structures in the legislation.

I raise the following matters. Firstly, the omission of important aspects. Some of that is due to the fact that there has been a desire on the part of the new federal Labor government and the state Labor governments to produce a remedy which keeps the New South Wales, Victorian and Queensland partners happy. So, I suggest we have ended up with a shallow and inadequate structure. I sincerely hope that it works, that it does progress some benefit for the River Murray, because my electors want it. They want that river system saved and they want us to develop options to ensure that townspeople and urban Adelaide is able to quarantine itself (I suppose) from their need to be able to suck out water as they have over the past century and a half. Given the deficiencies that have now been built into this structure, I believe that there is very limited opportunity for that to occur successfully.

Largely, other speakers have outlined the significant aspects which have been omitted in this proposed structure which will ensure that. First, obviously having a process where, if we are all in on something, the unhappy chappies from Victoria or New South Wales just cannot pull out when it does not suit them. That is not a transfer of powers; that is not introducing a new structure. That is producing a Clayton's proposal to a very serious problem from which any player can pull out at any time. I do not see that as being any better than the system that we have now. However, a level of goodwill—that I do not anticipate, because I have not seen it demonstrated in the past—from the eastern states will change that. It may happen and, if it does, I would be pleased to see it.

I will not repeat all of the aspects because our lead speaker (the member for MacKillop) has admirably outlined those. They have been reinforced by our leader, and many other speakers. What I do want to say is, notwithstanding the government's haste to rush in this bill during the closing week of the last session of parliament before we moved for a short adjournment, the next day New South Wales introduced these legislative reforms into its chamber. I have had a look at the contributions made by minister Phillip Costa and also the lead speaker for the opposition, Kevin Humphries. There were a number of other speakers, and I have not read their contributions, but it has already gone through the upper house and New South Wales already has passed this legislation. I am not familiar with the progress in the other states, but it is clear that the minister may have run in here to introduce this first—all done in the flurry of cameras—but the truth is clearly we will not be the first to get it through and, as usual, it is all spin on what is so important, this historic new structure.

Mr Williams: It shows what they see as being important.

Ms CHAPMAN: That is the important thing for them, not the substance of what we are having to debate, or the lack thereof.

I want to say two other things. What is important, after the passage of this bill and the hard work begins to ensure that we keep the relevant players at the table, is that we also progress important other projects. Of course, one is the desalination plant. We have been told by the government that it will advance that. I am not sure how they are going to do it.

Mr Williams: Fast-track it.

Ms CHAPMAN: The reality is it will not be here to save us when we are very short of water in February or March next year. Nevertheless, I hear what they say: they are going to do that. At least they picked up our good idea on that.

The second thing I want to say is this, and this is very important to my electors because they are very keen to ensure that we waterproof Adelaide and protect the River Murray—essentially, for environmental purposes, food production, and the townspeople who rely on it and live along it. To get Adelaide off the River Murray we need to seriously look at what other sources we have. The opposition has prepared, under the tutelage and stewardship of the member for MacKillop, and our leader, the important aspects of stormwater harvesting. My electorate is very keen on this, and I want the government, when it has got over all the grandstanding on this legislation, to ensure that we advance this.

As has been detailed in already published policy of the opposition, currently, in a normal year we pump 80 gigalitres of water from the Murray to Adelaide for consumption yet, according to the government's own figures, we let 160 gigalitres of stormwater flow out into Gulf St Vincent. This is a waste that must end, and we can no longer afford to let precious water go out to sea.

Yet, what government projects have we seen to harvest stormwater in this state? We have seen the establishment of a whole new structure and new authority—which I was not too happy with at the time it was started, but it has gone through the processes and is in place. We have seen the announcement of the purple pipeline that is coming back from the coast with sewerage water, which they are going to clean up and which the member for Unley has referred to, but we have not seen any major project for stormwater harvesting take place. I want to put on the table that the $105 million project for the Keswick/Brownhill Creek stormwater proposal is ready to go. It has been identified. There has been considerable research done on it. All relevant councils, except the council of Mitcham, have signed up on it. The council of Mitcham is just looking for more information and, quite clearly, its public statements on this are, 'That being dealt with, we can move ahead with this.'

It is a project that will harvest an enormous amount of water. In fact, I am told that there is enough water that runs off my electorate alone each year, if you can capture it all at once, to water the whole of Adelaide. We know that we cannot do that all out of one area and out of one rain storm; we understand that, but when we have projects which have been looked at and investigated and to which stakeholders have made a contribution, and we have players ready to go on it, but we do not have any state government money in its share in this thirds arrangement, that is very disappointing.

That project is there, and it does require a couple of things. It requires the will of the government to put some money into it. The government's share would be about $33 million, and I will tell you some places where it can get the money. First, it could cancel the SA Film Corporation redevelopment at the Glenside Hospital. That $45 million project is going ahead, according to this government, notwithstanding the fact that there is a collapse of the world's economy.

The government is proceeding with the refurbishment of a facility at the Glenside Hospital, not for mental health patients but to give a new home to the SA Film Corporation, which, frankly, has a perfectly adequate one at Hendon. If the government does not want to have that, there are other people, including the Port Adelaide Enfield Council, who are happy to give them a home. That is the priority of this government. I say to it that if it was serious about water in this state it would cancel that project and immediately divert those funds to ensure that it has money available to help fund this project.

The second thing the government needs to do is understand that to capture water you need area above the surface and underground. Whether you store it in an aquifer or tanks, you need to capture it in the first place. The most logical place to capture water from the Brownhill/Keswick Creek system is the north-west corner of the Glenside Hospital site, which already has a detention basin and a drain which is used for stormwater management to protect against flooding.

If you want to capture it you can expand that detention basin in the north-west corner without interrupting the government's proposed hospital and its proposal to it put back on the south-east corner, and you could create a major well and catchment area for water that could then be siphoned under the Fullarton Road/Greenhill Road intersection and into the South Parklands. There are aquifers there. The experts have lined up and told this to the councils, me as the state member for Bragg and other state representatives.

This is the sort of project that must be advanced. I use that as an example because it is relevant to my electorate and I have looked into it. I am sure there are many others that have already had engineers, water people, geologists, hydrologists and all those experts who can look

into it. We have the water. It rains down on us every year. We have to advance the infrastructure that will capture this and protect the River Murray by quarantining and removing the life-support of water for Adelaide from that area. There are projects there.

The final thing that I would say is this: I am very concerned about the genuineness of the government in relation to water infrastructure, not just because it has not done anything for seven years other than to announce the desal plant and put the purple pipes from the sewage water from the coast to the Parklands but also because it is prepared to endorse this spending of money for SA Water which has some independence—as has been referred to in this parliament today—and which provides its profit, of course, to general revenue.

I think I heard today that the Treasurer has harvested off something like $2 billion out of this entity in his time in office, and it will expand to $2.5 or $3 billion in the forward estimates. That is a lot of money. Yet, SA Water, which has a specific charter to provide and regulate water in this state—the privilege of having a monopoly in this state—is allowed to spend $46 million to refit its new headquarters at Victoria Square; $46 million has come out of its budget to install computer cabling, carpets, new lights, furniture, desks—whatever—and transfer its headquarters from Pirie Street to Victoria Square in a building on which it has had a 15-year lease which the Treasurer told us would expire.

It could have bought that building at the expiration of that lease for something like $39 million according to the budget reports this year and yet, on the next page, you turn over and find that it is spending $46 million of taxpayers' money on a refit of a building that it does not even own. I find it utterly obscene that, at a time when the state is perishing, where crops are dying, where orchards have died, where people are selling up, where people are being offered a package to leave their industry and livelihood, where we are destroying the food bowl of this state, SA Water has the gall to spend that money to refit its new headquarters. That is utterly obscene.

For all the members of this government to sit in cabinet and allow SA Water, which has that exclusive privilege of monopoly in this state, to do that when we are in the middle of a drought and when they know that this whole state is under pressure is absolutely disgraceful. It is an abandonment of their responsibility as members of the cabinet and members of this government. I am appalled that we are here, having to deal with some shallow structure that they are going to introduce.

What I do not want them to do is walk away from the responsibility that when this bill goes through this parliament, and similar bills have travelled through the parliaments in the other states, they do not just sit back on their hands and do nothing, that they actually do something to save the River Murray and to ensure that they do not allow this waste to be perpetuated in the state that has occurred today. It is utterly obscene. It is a disgrace. Frankly, I am appalled that the minister has not raised this issue. That is a disgrace. If you have failed to deal with that, you have failed as a minister.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (20:17): I am happy to close the debate and move the bill through the parliament as expeditiously as we possibly can, because this is very important legislation, and we have made a commitment to endeavour to get it through both houses of parliament by 1 November, as have all other jurisdictions.

I will address many of the issues that have been raised by those members opposite who actually chose to use their second reading speeches to address the bill. In the first instance, I would like to talk about the issues raised by the member for MacKillop. First and foremost, he raised issues regarding the commonwealth Water Act instrument: what one of those instruments might be, the issue of disallowance and whether instruments are subject to the disallowance provisions.

An example of such an instrument is a regulation, notice or protocol made by the minister or another authority under the Water Act. The definition is included because of clause 4(4)(b) of the Water (Commonwealth Powers) Bill 2008 which makes it clear that the referral powers do not prevent the commonwealth from making a regulation, notice or other instrument under the act which would have an effect on the act. For one of the instruments, such as a protocol under the agreement, they are legislative instruments. They are referred to in section 18D in the commonwealth legislation.

The provision there will mean that the protocols will be subject to the various requirements of the commonwealth Legislative Instruments Act. This will mean that the protocols will need to be

registered under the act including an explanatory memorandum and will be published on the internet. They will need to be prepared in accordance with the minimum consultation requirements under the act, and they will also be laid before both houses of the commonwealth parliament but will not be disallowable by virtue of section 18D.

They will also not be subject to the sunset provisions, which is appropriate given their nature and status under the scheme. The protocols are things like how the authority will go about undertaking the provisions that they have available to them under the agreement. Given that the authority crosses borders and boundaries into each of the states, it is deemed inappropriate that there be a disallowable motion on those protocols. They are operational issues in relation to how the authority will undertake its activities.

There was much rhetoric and spin in relation to the independence of the authority, and I think it is important to make it very clear about what these referral powers will do and what the independent authority will have the ability to do. The authority will be an expert, independent body reporting to the commonwealth minister for its functions under the Water Act. This was also agreed to by the former government—in fact the national plan, as first suggested by the Howard-Turnbull government in January last year when it released it, was for the powers to be transferred to the commonwealth minister, who would take over responsibility for the commission and turn it into a government agency. South Australia did not support that; we believed it would be akin to handing over the powers from one set of politicians who were subject to political disputation to another set with the same communities of interest. Therefore, we gained the support of jurisdictions—in particular, Queensland and New South Wales, and finally the commonwealth—to introduce an independent authority.

Members who were around in, I think, 1998 may remember that a motion was moved by the now Minister for Health to establish a select committee into the River Murray, and a number of past and present members in this house were members of that committee. The committee also recommended that there needed to be greater independence, and when I was appointed Minister for the River Murray one of the first things I did was replace one of South Australia's commissioners with an independent commissioner. Mr John Scanlon was the first appointment to the commission before taking up his very important role with the United Nations in Nairobi and, following his appointment to the position, we appointed Ian Kowalick as an independent commissioner, such was South Australia's view that independence was key to getting better outcomes. Unfortunately, no-one else followed suit. However, we are now at a stage where we will get a truly independent authority.

The new authority is quite different from the Murray-Darling Basin Commission, which is comprised of state officials (as the member Frome mentioned) who have represented states' interests in the past—with the exception of South Australia's independent commissioner. The authority will have two clear roles: one will be to develop and enforce the basin plan; the second will be to take on the functions of the commission. The commonwealth minister is the final decision maker on the basin plan, and there is no veto power at all by the ministerial council or the states in the development of the basin-wide plan. It is critical to note that this was exactly how the former federal government intended this to work—that there be one minister responsible for this particular plan.

It is also very important to point out that it would be totally inappropriate to give all decision making in relation to the Murray-Darling Basin to a non-elected member of the community. We have a strong view that, at the end of the day, there must be an elected member in the federal parliament with whom the buck stops. In addition, the commonwealth minister cannot direct the authority in relation to the basin plan on matters of a factual or scientific nature, the assignment of risk to the commonwealth related to reductions in allocation, or about monitoring of compliance or enforcement of the basin plan. These restrictions on the direction power of the minister are set out in sections 44(5) and 175(2) of the commonwealth Water Act 2007. When the basin plan is tabled before a house of parliament (which is required under section 44(7) of the act) the minister must table any directions that he or she has given to the authority. This ensures that the minister is accountable for any directions given to that authority.

The ministerial council has an advisory role with respect to aspects of the plan that may affect the social, environmental and economic outcomes of the state. That is really important; when making such huge changes to the availability of what is a wealth generator in communities there will be significant social and economic impacts within those communities. It is only appropriate that there be consultation on the changes those communities will have to live with.

I think that the member for MacKillop commented that he would prefer to see all those decisions made by a Reserve Bank type model, where there was no consultation at all. I do not agree with that at all, neither does this government, and nor do all those who are moving forward on this legislation.

The ministerial council has an advisory role with respect to aspects of the plan in the area of sustainable diversion limits (clause 60 of the commonwealth bill), but it does not have veto power, and that is vitally important because currently any state can veto any change.

Under the referral of powers, the authority also takes on the role of the Murray-Darling Basin Commission in managing the river operations for the shared surface waters of the River Murray and Menindee Lakes system of the Lower Darling River on behalf of the basin states and the commonwealth.

In this role, the authority is both managing the river to distribute water to the states, in accordance with the state water shares, and managing the assets owned by the states, such as the locks, weirs, storages and salt interception schemes. The decisions made by the authority can affect the timing, delivery and quality of water being sent down the river to South Australia and to the other states. It could affect our 1,850 gigalitre share and, as such, it is appropriate that the basin states continue to have appropriate involvement in the decision-making.

If we did not have that appropriate involvement, it could be an arbitrary decision of a body that sits over in Canberra to change the delivery and timing of deliveries into South Australia which did not meet the needs of our irrigation communities. So, it is entirely appropriate that the states still have a role and a function in that regard.

In regard to the state water shares, the basin plan will set the available amount of water in the longer term, and also seasonally, each year. It will determine the size of the bucket. The state water-sharing arrangements that distribute that bucket will remain the same and require agreement by all the states to change those shares. Currently, 50 per cent of the shared resource goes to New South Wales and 50 per cent goes to Victoria; collectively, they must supply South Australia with our 1,850 gigalitres. What this does is protect our 1,850 gigalitres from arbitrary change.

South Australia's minimum entitlement of 1,850 gigalitres or thereabouts is adjusted up and down with trade on an annual basis. South Australia has an entitlement to a volume of water, rather than a percentage share, as New South Wales and Victoria have. Current state water shares, as defined by the Murray-Darling Basin Agreement and the subsequent Murray-Darling Basin Ministerial Council and commission decisions, will be preserved unless otherwise agreed by all members of the ministerial council; therefore, South Australia has to agree to change our 1,850 gigalitres. So, we have protected our 1,850 gigalitres as a minimum.

Another matter raised related to the environmental water allocations. The basin plan will set sustainable limits on the quantity of water that may be taken from the basin's water resources. This will ensure that a greater quantity of water is available for environmental needs. The plan will provide for a comprehensive environmental watering plan that will coordinate management of environmental flows throughout the basin and ensure that environmental assets are protected. This includes environmental water recovered by the commonwealth and basin states under water recovery programs, such as the Living Murray Initiative and the Water for the Future program. It will seek to improve the health of all Ramsar sites including, importantly, the Lower Lakes, the Coorong, the Murray Mouth and other key environmental sites in the basin.

Another question raised related to conveyance water versus dilution flows. South Australia is guaranteed dilution flows under the current agreement, but it does not deal with drought conditions, as the member for Hammond would be well aware. In some years, it may not be even enough water to meet conveyance water; therefore, the changes make it mandatory that the basin plan sets in place arrangements for identifying the risks, setting aside a reserve and maintaining that reserve, not just on an annual basis but over several years. This does not happen under the existing arrangements, which are annually based.

Under the existing agreement, water is drawn down with no future consideration of what might happen in the next year. We have brought in subsequent drought contingency planning measures to deal with that in the interim through the federal government's initiative in November 2006 to establish the Senior Officials Group and First Ministers' contingency planning. The plan also outlines the conveyance water for the entire system, not just South Australia, and that currently does not exist in the Murray-Darling agreement.

Access to storage is also a critically important component of the new plan and the new agreement that does not exist in the current circumstances. The current circumstances require South Australia to go cap in hand every single year to negotiate arrangements to get access to dams that are largely empty, and that is not a good and effective way for us to manage our resources and our available water. The changes to the agreement give South Australia a formal right to access those storages. As I have said, the reliance on the other states has been an inhibitor in our being able to manage our water across years and particularly during this prolonged drought.

There are provisions on that storage that say that it should not impact upon the capacity of New South Wales and Victoria to store water. What that effectively means is that, when the dams are spilling, South Australia's water will be the first to spill, if it spills, or we can call that water down and store it in other areas, such as either behind the weir pools or in the Mount Lofty Ranges so that South Australia can better manage its available water. I might add that, if the dams are spilling, we do not have a problem; we are not in a drought situation.

There are a number of things the basin plan does that it did not do before. The basin plan will now have to be prepared with regard to the agreement of the basin jurisdictions that critical human needs water is the highest priority use of water; that critical human needs includes core human consumption requirements in urban and rural areas and non-human consumption requirements that, if not met, would cause a prohibitively high social, economic or national security cost. The basin plan will state the amount of water required in New South Wales, South Australia and Victoria to meet the critical human water needs of communities dependent on the River Murray system and specify arrangements for carrying over water in storage.

The basin plan must be prepared to ensure that conveyance water (that is, the water required to deliver the critical human needs water to where it needs to be extracted) will receive first priority from the water available in the system—not just South Australia's dilution flow but the entire component of conveyance water across the basin—for all critical human needs.

The basin plan must develop a reserves policy for periods of low water availability. That does not exist at the moment; there is no reserves policy. In 2006-07, when the inflows into the River Murray flatlined and Victoria continued to allocate 95 per cent to its irrigators, South Australia had 60 per cent, and there were varying different allocations across New South Wales, and we saw those dams drained without any consideration of reserves to be carried forward for the next year. So, a reserves policy will now be part of the plan, and it will provide for any other matters necessary to ensure that there is sufficient conveyance water available in times of low inflows.

The basin plan must now specify arrangements for monitoring matters relevant to critical human water needs, including water quality and quantity, ecosystem health and social impacts on communities. The basin plan must also now assess and manage risks to critical human water needs, including the inflow predictions to the River Murray and the Snowy Mountains hydro scheme, which transfers significant net quantities of water into the Murray-Darling Basin.

The basin plan will now also provide for that all-important inter-annual planning to inform decisions about how water is made available for all users in order to meet critical human water needs in future years. The basin plan must now take account of the ecological character, descriptions of the declared Ramsar wetlands and other key environmental sites. That is in addition to what the basin plan must already do in relation to the mandatory requirements in the commonwealth government's Water Act 2007.

There are many mandatory provisions, and they can be found under part 2, division 1, section 22—the mandatory content of the basin plan, which includes things like a description of the basin water resources and the context in which those resources are used; and identification of particular areas that are to be water resource plan areas. There are many mandatory requirements under the bill that currently exist in the act that was introduced by Malcolm Turnbull last year and passed through the commonwealth parliament prior to the last election.

There are also significant enforcement requirements in this act. 'Enforcement' can be found on page 140. It talks about all the different enforcement provisions if there are contraventions of the act. Also, page 28 refers to the application to the Crown, including South Australia and all the states. The application to the Crown is that this act binds the Crown in each of its capacities. There are now enforcement provisions of a basin-wide plan within the act. There are mandatory requirements in the plan. Also, the commonwealth cannot direct the authority in relation to the basin plan on matters of a factual or scientific basis.

For example, if the authority determines that the sustainable yield from a particular area is X number of gigalitres, and that is based on scientific fact, it is not possible for the commonwealth minister to direct the authority to change that.

The timing of the basin-wide plan was also raised as an issue by members opposite. The basin plan was never intended to address contingency planning for the current drought. Malcolm Turnbull will tell you that and John Howard will tell you that. This was about planning for the longer term governance and for the better management in the medium to longer term of the Murray-Darling Basin system.

A process is in place currently that was established by the Howard-Turnbull team in November 2006, whereby we are dealing with the issues of this current drought. What this plan and this referral of powers will do is ensure that, when we are faced with a drought like we have now again in the future, and as climate change impacts on the available resource, we will be better prepared to deal with that.

Fundamentally, the Murray-Darling Basin reform process is about reform of governance and planning arrangements. The basin plan provides a foundation for re-establishing the sustainable management of the Murray-Darling Basin water resource. It will include long-term sustainable diversions—limits, caps—that are enforceable by the authority. It includes the identification of risks to the basin water resources, including climate change and land-use change. It will establish an environmental watering plan and a water quality and salinity management plan. It will establish the water trading rules. It provides for addressing critical human water needs and it also introduces substantial monitoring arrangements right across the basin. This plan, this provision and this entire new governance arrangement that all states in the commonwealth have agreed to will assist us to better manage our way through future droughts.

It is critical for the irrigators and communities that depend on the basin water resources that the authority get the plan right. This requires a detailed scientific and socioeconomic analysis, as well as extensive public consultation. In particular, consultations with affected communities will be important to the authority's considerations in setting the sustainable diversions limits.

The plan is due in 2011. To prepare a plan in less time will result in a potentially inferior outcome with far-reaching consequences for those affected communities. I represent an irrigation community. The member for Hammond represents an area of the River Murray in South Australia which includes irrigation, as do the members for Finniss, Mitchell and Stuart. I might add that the member for Stuart made what I believe to be a very exceptional contribution to this debate, unlike some others who chose to take the time to engage in political rhetoric rather than actually acknowledge the importance of this legislation.

There was also a question in relation to the reason for a text-based referral. The text-based referral is important because consistency across the states in relation to the text that is referred to the commonwealth is important. It is highly complex, as members have indicated. It is really disappointing, however, that many members of the house have not taken the time to read all of the parts of the legislation.

We specifically introduced it and were required to introduce it as the first state to table the amendments to the federal government's Water Act 2007, simply because the other states would then refer to our tabling of that document. The tabling of that document was done in a timely manner in order to enable members opposite and, indeed, members on the cross-benches to actually—

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: Yes, we agreed to go first, and we wanted to go first. It was important that South Australia showed leadership, and we did show leadership in this regard. That legislation was laid on the table over three weeks ago. What really disappoints me is the number of members who said they had spent less than a couple of hours reviewing what is a highly complex piece—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.A. MAYWALD: It is a highly complex piece of legislation. Unfortunately, members opposite continue to spin the rhetoric. It was important for us to see that this text-based

referral reflected other referrals of power to the commonwealth, such as the Corporations Law. There have been text-based referrals in the past, and they have worked extremely well.

There was reference to a Reserve Bank type model. I think it is important to point out that in the Reserve Bank Act 1959 there is a determination provision—where there are differences of opinion with the government on questions of policy—and it is remarkably similar to what we have in relation to this particular bill. The government is to be informed of the bank's policies and, in fact, the government actually establishes the criteria upon which that policy must be established. The Reserve Bank Board informs the government about the policy. In the event of a difference of opinion between the government and one of the boards, about whether a policy determined by the relevant board is directed to the greatest advantage for the people of Australia, the Treasurer and the relevant board shall endeavour to reach an agreement.

If they cannot reach an agreement, the federal minister can direct the board, but he must lay that direction before both houses of Parliament. That is section 11 of the Reserve Bank Act 1959. I invite members opposite to have a look at it. It is very important to have that provision and make it available. If one does get a rogue board or a situation where it is totally at odds, the rogue board, because it is the board that—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.A. MAYWALD: In the opt-out provision—

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: No; it is a very good point that the member raises in regard to the opt-out provision, and I will refer to it. The opt-out provision, in all of the legislation that is referred to the federal government, such as the Corporations Law, is a standard procedure in such legislation because constitutionally this parliament cannot bind future parliaments. If you look at the Corporations Law, the opt-out provision is very similar to what is put forward in this legislation.

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: And so does the Corporations Law.

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: Victoria can jump out of the Corporations Law whenever it wants to, too. I think you should read the Corporations Act and familiarise yourself with the other referrals. Obviously, the member for Bragg has not availed herself of that information. The other interesting thing is the issues that have been—

Members interjecting:

The DEPUTY SPEAKER: Order! I remind members that the minister's second reading reply holds considerable status before the courts, and it is very important that she be able to address these matters without interruption.

The Hon. K.A. MAYWALD: Some members have referenced a number of things such as the Howard-Turnbull plan which, apparently, had $3 billion simply for the purchase of water. That was not the case; it is a rewriting of history and I think it is important that we deal with that. The national plan that was launched by Howard and Turnbull on 25 January 2007 does deal with addressing overallocation. I would like to make reference to that particular document in addressing overallocation. It states:

> Under the plan the commonwealth government will invest up to $3 billion over 10 years to address overallocation in the Murray-Darling Basin.

Not to spend this year, but over 10 years. It continues:

> Planned in conjunction with a modernisation program this will be achieved by providing assistance to irrigation districts to reconfigure irrigation systems and retire non-viable areas, such as those at the end of isolated channels or in salt-affected areas. Assistance will be provided to help relocate non-viable or inefficient irrigators or help them with exiting the industry where necessary entitlements will also be purchased on the market.

That was what the federal government back in January 2007 put forward as its criteria for the $3 billion of water that is now allocated specifically to water purchase. The Murray Futures program has $610 million which has been allocated to South Australia out of the commonwealth's $12.9 billion Water for the Future program and that includes industry renewal and water purchase.

In keeping with the intent of the original plan, it is still occurring but it is occurring at an accelerated rate. It is over 10 years; it has been brought forward substantially.

It is interesting that the governance arrangements, as put forward by the Howard-Turnbull team in January 2007, state:

> Under the proposal the commonwealth government will reconstitute the Murray-Darling Basin Commission as a commonwealth government agency reporting to a single minister.

That is reading from their document. I think we need to get that straight because there has been an awful rewriting of history in the contributions opposite tonight. It is also interesting to note that a significant amount of differing views exist within the Liberal Party about whether or not this referral should occur. Steele Hall recently said that he does not support the referral of powers because he thinks that that will undermine South Australia's gains. We have great—

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: National Party policy in South Australia is to refer powers. The National Party policy in Victoria and that in New South Wales is to refer the powers, and I can assure you that is the case. I will be over at our federal council meeting on Saturday week and I can assure you that is the case.

It is a really interesting thing because members opposite may laugh but I recall that a certain Leader of the Opposition headed off over interstate and he was going to put his counterparts in the Eastern States in a headlock and get agreement from his interstate counterparts.

Ms Chapman interjecting:

The Hon. K.A. MAYWALD: Yes. I have been watching the Leader of the Opposition. This is what the Leader of the Opposition said, 'We are going to get them in a headlock. That is what we should do.' He headed over there to get support. Do you know what he came back with? His tail between his legs. He could not even get his colleagues interstate to agree with any part of his particular plan. The other thing that is really important to note is that when—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.A. MAYWALD: When the decision was made by the federal government, I understand, to provide $1 billion conditionally to the Victorian government, it was made conditionally on the basis of the due diligence on the project, and the due diligence on the project requires the Victorian government to demonstrate that the water is real in the project, and I think that is vitally important.

It is also vitally important that even though the spin in the opposition benches continues to talk about the federal government's plan funding the pipeline to Melbourne, that is totally incorrect and a misrepresentation. The federal government is not funding the pipeline to Melbourne. Also, it is interesting to note that, even when we were talking about the $10 billion put forward by the Howard-Turnbull plan, it was widely accepted that most of that money was going to have to be spent in New South Wales and Victoria. Why should we be surprised that the billion dollars is going—

Ms Chapman: Why give them more?

The Hon. K.A. MAYWALD: It is part of the same funding. I do not think the member actually understands this and I think she should do a bit of research because most of the members over there showed that very little research has been undertaken into this bill or understanding of the current arrangements let alone the changes that are proposed. The project in Victoria is twofold. One is being funded by Victoria through a range of means—their irrigators are contributing and the state government is contributing—to do infrastructure improvements, to save water and to build a pipeline to Melbourne. That is not being funded by this plan. There is a second stage to the irrigation improvement that is notionally applied to that project, provisionally that they supply the information that supports the 100 gigalitres that they have identified will be saved. I think it is important to note that whilst there seems to be a lot of talk on the other side about spin, the spin is coming from the other side.

The member for Hammond's remarks are not really worth commenting on because he spent most of his time on party politics and personal attacks, so he lost his opportunity to have a

real role and responsibility and to put his views onto the record in this very important debate, which is a real shame considering that he is the shadow minister for the River Murray. It does not surprise me: as shadow minister for the River Murray, he should be the one carrying this bill through the house but, from his contribution, he obviously has not done the necessary work on this bill.

Mr Williams: That is a low blow, Karlene.

The Hon. K.A. MAYWALD: Well, understandably so, because when people have nothing of substance they resort to personal attacks. Anyone who reads *Hansard* will see that the number of members who actually resorted to personal attacks rather than substance in their contribution was quite extraordinary.

There is another issue regarding the role of the commonwealth minister as decision maker, which was raised by the member for Frome. The commonwealth minister will be the decision maker for the basin-wide plan, implementation, review and amendment, including sustainable diversion limits, trading rules, water charge and market rules.

Much of this is already provided for in the Water Act 2007, which must be read in conjunction with the amending bill that was tabled in this house to get the full picture about what is happening. As many members opposite identified, they have not read it, which is a shame. The provisions in the Water Act are not new to legislative reform. I am pleased to bring this legislation to the house. I think it is extremely important—

Mr Williams interjecting:

The Hon. K.A. MAYWALD: You made the comment in the first instance. I think it is extremely important that this piece of legislation be taken far more seriously than those opposite have shown in the second reading debate over the past couple of days. It is an extremely important piece of legislation that takes us through to a new age in relation to the management of the Murray-Darling Basin.

This is the first government in 100 years that has been able to achieve a referral of powers to the commonwealth for water in the Murray-Darling Basin. It has not been achieved before. It is historic, and it is the first time it has occurred. Yes, it has happened too late. Shame on the governments over the past 100 years for not having done it. The fact of the matter is that we cannot change that. I cannot change the history, but what I can do, and what this government has done, is change the now for the betterment of the future of this nation, for the betterment of the security supply to all our communities and for the betterment of the environment of the Murray-Darling Basin in the longer term. This is extremely important. It is legislation to which I am very pleased the opposition has given its full support, whilst it has spent its entire time qualifying that support—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! Deputy leader, please refrain from interjecting.

The Hon. K.A. MAYWALD: —saying, on the one hand, that they do not support it and then, on the other hand, voting for it, which is typical of the way that this opposition operates. I am extremely honoured to be in this position of being able to bring this piece of legislation to the house. I thank my parliamentary colleagues. I thank the Premier for his extraordinarily strong leadership in this regard for South Australia. This is the first government that has been able to deliver this extraordinary step forward in the future management of the Murray-Darling Basin.

Bill read a second time.

In committee.

Mr WILLIAMS: I seek your guidance, chair, because this is, in my experience, the first time we have had a piece of legislation anything like this. I know that the standing orders give members the opportunity to ask up to three questions on each clause, but most of the detail of this matter that is before the house is not, in fact, in the bill; it is in the tabled text. What is your advice to the committee on how we might go about it because the bill itself has little contention, but there are some matters that I wish to raise and I suspect some of my colleagues may wish to raise to further our understanding of the tabled text. Can you give us some guidance on how we can proceed?

The CHAIR: I would not wish to go through the text clause by clause. However, when we get to clause 4, I will be reasonably generous in allowing members to pursue matters of interest.

Clauses 1 to 3 passed.

Clause 4.

The CHAIR: Member for MacKillop, can you give me an indication of how many areas of interest you have?

Mr WILLIAMS: Maybe 10 or a dozen. Depending on the minister's response to some of the earlier questions, it may become obvious as to the intent of the later ones and it may be quicker than that.

The CHAIR: I will try to be generous without indulging the committee to keep us here beyond midnight.

Mr WILLIAMS: It is not my intention to filibuster on this, but one of the things we learnt in the second reading debate is that members on this side of the house (and we heard little from government members) had concerns about the process in that the opportunity to get a full understanding of this tabled text is quite difficult. I found myself having to go back to the principal act—which is not an act of this parliament—and do quite a bit of homework on that. It is necessary to have an understanding of the principal act of another parliament in some areas before we can understand the tabled text, and that has made it quite difficult.

The CHAIR: I will be generous, but not tolerant of filibustering.

Mr WILLIAMS: In the minister's summing up it interested me the number of times she referred to this being agreed to by the former government, that it was John Howard's plan or Malcolm Turnbull's plan. Was the minister telling the house that, with the powers that have been referred, the government of South Australia has accepted that everything John Howard and Malcolm Turnbull put forward in January or February 2007, in that period, is what we want to achieve, or has the government, through the effluxion of time, decided that there are probably in some areas better ways to do it and make improvements to it?

I seem to get the impression that we have been lectured that it must be right because that is what John Howard said, yet we just heard the minister say that the South Australian state Labor government is the first government in the history of this nation to get to the point where we will have such a plan. There is some contradiction between those two viewpoints. Have we accepted everything that John Howard and Malcolm Turnbull proposed or have there been some improvements or changes since then?

There seems to be some confusion between the two positions that the minister has put. The minister, I think, has made the argument in her summation that the opposition is being disingenuous in arguing a position which may not have been the position of John Howard or Malcolm Turnbull 18 months ago.

The Hon. K.A. MAYWALD: The answer to that is yes in some regards and no in others. If you go back to the original proposal that was put forward, it did not include an independent authority, it did not have the same focus on the purchase of water from willing sellers, and it had no focus on critical human needs, or South Australia's storage in upstream states, or the conveyance water necessary to bring that through to each of the jurisdictions for the critical human needs required, nor was there any provision for the carryover of water for South Australian irrigators.

What did happen, following the government's announcement on 25 January last year to introduce the national plan and the $10 billion plan, was that substantial negotiations occurred between Malcolm Turnbull and other jurisdictions. There was no legislation presented with that plan and there was no detail on the referral. Following that first announcement, considerable negotiations were undertaken, and Malcolm Turnbull accepted many changes to the way in which he was going to deliver the plan. Then, when negotiations broke down with Victoria, he went ahead with what he had at that stage; and that is the Water Act 2007. The Water Act 2007 went through.

What we are presenting today further enhances that Water Act 2007. It has many of the provisions put forward by the Turnbull plan, but certainly it also has some enhanced provisions, and it does include the introduction of a ministerial council and a basin officials committee, which was part of the negotiations with Malcolm Turnbull, and I understand that he made a commitment that he would agree to that also.

Mr WILLIAMS: I take it from that it is okay for the government, on one hand, to say that it can move on, but the opposition should be prepared to accept everything that was put down

18 months ago. I inform the committee that is not the way that the opposition has operated here, and we have reserved our right to have some independent thought on this matter.

I turn to the first part of the tabled text, which has the proposed amendments to the Water Act. Section 86D talks about critical human needs. This has been a contentious area, and it has been contentious because of statements that have been made by the government. I would like to think that they were not deliberately designed to mislead the public of South Australia, but I feel that they have because, certainly when I first heard them, they misled me. It is about critical human needs water. When I first heard these statements—

The CHAIR: Order! Member for MacKillop, can you give us a page? I have not been able to find it. There must be more than one.

Mr WILLIAMS: It is page 15 in the tabled text.

The CHAIR: That is clearly not the 86D on page 100.

Mr WILLIAMS: There are several documents with several sets of numbers, yes.

The CHAIR: Perhaps we need to refer to both pages.

Mr WILLIAMS: Yes; I am more than happy to do that. When I first heard the statements emanating from the government, from both the minister and the Premier, about critical human needs, I thought, 'You beauty: the basin plan is going to ensure critical human needs water, so that the water that comes out of the tap in times of extreme low flows will be guaranteed as a whole by the whole of the basin.'

I ask the minister to confirm my understanding of the tabled text because, on page 15, section 86D(3) provides:

> (3) The arrangements referred to in paragraph (1)(d) must:
>
> ...(b) recognise that each of New South Wales, Victoria and South Australia is responsible for meeting the critical human water needs of that state and will decide how water from each share is used...

Will the minister explicitly explain what the critical human needs water—about which her press releases have been talking and which will be guaranteed by the plan—does? Is it not a fact that South Australia will need to find the critical human needs water—to be pumped by SA Water (in most instances) in order to deliver water for domestic purposes—from its notional 1,850 gigalitres—or whatever it is—under special accounting arrangements, whether it be under tier 2 or 3 arrangements under the amended Murray-Darling Basin Agreement?

The Hon. K.A. MAYWALD: In relation to the area where South Australia will be required to make provision for its critical human needs, yes. We will need to make that through our available water under our licences. The carryover provisions which we have available to us will enable us to do that in times of drought. We will not be managing it on an annual basis but, rather, through across-seasons. The current licence for metropolitan Adelaide, for example, is a 650 gigalitres rolling licence. If we do not use it, we lose it. We can now store that licence in the Hume and Dartmouth and it will be earmarked as South Australian water.

Mr WILLIAMS: The government has announced that it intends to spend $1 billion, or whatever it will take, to double the capacity of the Adelaide Hills storages. If this legislation passes and we get the ability to store water in the Hume and Dartmouth—water which will be earmarked for Adelaide and which will be securely stored in those upstream storages—will it obviate the need for South Australian taxpayers to fund $1 million worth of extra storage in the Adelaide Hills?

The Hon. K.A. MAYWALD: That is a very good question, and it is one which the state government is considering at present. We have charged the Water Security Council through the Adelaide Desalination Steering Committee to look at those issues and provide advice to the government—so it is a work in progress. It could be but I do not yet have that advice.

Mr WILLIAMS: I now refer to page 24. New section 94 provides that the ACCC is to monitor water charges and compliance. I will ask a generic question because it will probably cover a number of new sections where the ACCC will have obligations. New section 94(2) provides that the ACCC must give the minister a report on the results of such monitoring—the monitoring being the regulated water charges and compliance with water charge rules as provided in new section 94(1). No time frame is specified in that new section in relation to when or how. Will there be some sort of annual reporting? New subsection (3) provides:

The reports under subsection (2) must be given to the minister in accordance with an agreement between the minister and the ACCC.

That makes it very open-ended. It is odd. Certainly, in state legislation where mandatory reporting is required a time frame is usually stipulated by the legislation. It is generally on an annual basis and it also obliges the minister to table such reports in both houses of our parliament within a certain number of days after a report is given to the minister.

The Hon. K.A. MAYWALD: That is an amendment to the Water Act, of course, and we are going back to the Water Act just to find the particular section which refers to the ACCC function in the act. So, if the honourable member will bear with me a moment, we will find the sections that may be relevant.

Mr WILLIAMS: With due deference, minister, to the best of my knowledge this whole thing is called a division—part 4, 'Basin water charge and water market rules' on page 19. This whole clause is new, so I do not think it is an amendment which will be amending existing relevant sections because the involvement of the ACCC is a whole new section in the principal act.

The Hon. K.A. MAYWALD: The member is quite right, it does not specify a time frame. It is an amendment to the existing act to replace the clause number only. The text within that clause is exactly the same in the existing act (page 114). It is actually section 95 in the existing act. The amendment is changing the clause number in the existing act. There is no time frame within the existing act either.

Mr WILLIAMS: This is where it raises a problem for this parliament, because I would have thought that, if we are going to give powers to the ACCC to carry out certain functions and we are going to ask the ACCC to report on the compliance under those functions, we should have some sort of time frame when those reports should be made. I would have also thought that the minister of the day, on receiving that report, should be obliged to table it in the houses of parliament. I have no understanding under this process how we might be able to convey that message to that other parliament in Canberra which will be moving these amendments.

I would have thought that this parliament at least should be sending a message to Canberra to say, 'Hey, we think this is not quite complete. We think that there should be a time frame.' I would suggest that we should be conveying a message to the federal parliament that that reporting should be occurring at least on an annual basis and that full accountability is achieved by such reports being tabled by the relevant minister within maybe 12 sitting days of the parliament after the minister has received the report.

The Hon. K.A. MAYWALD: This particular amendment is actually not amending the text of the existing act: it is only amending the clause number. It is an existing law in the commonwealth act already. It may be inadequate, according to the opposition, and I suggest the honourable member takes it up with his federal colleagues.

Mr WILLIAMS: I must say that this highlights to me that the—

The Hon. K.A. Maywald: Is the honourable member saying they should not change the clause number? Is that the problem?

Mr WILLIAMS: No, it highlights the problem with the process, minister. It highlights the problem with the process that you have come in here and asked this parliament to refer powers to another jurisdiction, the commonwealth parliament, and given us no alternative but to accept what you have given us. We have no ability to move amendments. I just think it is inadequate. I really think it is inadequate that the executive arm of the government of South Australia, the executive members who sit in this parliament, have come in here and asked the rest of us who represent our individual electorates across the state and who work for the benefit of South Australia to pass legislation under these circumstances.

There is not a damn thing, to be quite honest, Madam Chair, that I can do about it. I just want to express my frustration and I am sure the frustration certainly of the members on this side of the house, and I probably expect frustration of a number of people on the government side of the house, if they cared to have an understanding of what they are doing. Unfortunately, we will, indeed, have to move on.

I move to page 70, which is about the ministerial council. First, on page 69, part 3, 'The Ministerial Council'; clause 7, 'Establishment of Ministerial Council'; and clause 8, 'Membership of the Ministerial Council'. Clause 9 talks about functions of the ministerial council. This is where we

have had a great deal of interest because of this tension between the various bodies that will be created by and empowered under this federal legislation and the appended Murray-Darling Basin agreement.

I believe there is, certainly, confusion and tension between the functions of the senior officers group, the committee, the ministerial council and the authority; and there seems to be, and my reading leads me to believe, that an incredible amount of confusion is being created between at least those three bodies. From what I heard in the second reading contributions of my colleagues, they seem to agree with the position that I have come to over that confusion. The first function under paragraph (a) is:

> to consider and determine outcomes and objectives on major policy issues of common interest to the contracting governments in relation to the management of the water and other natural resources of the Murray-Darling Basin, including in relation to its role in the provision of critical human water needs, but otherwise only—

and this is where we get into trouble—

> in so far as those issues are not provided for in the Basin Plan.

I will come to that in a subsequent question. I guess the question is: unless it is specified in the basin plan and there is something that is not absolutely nailed down—if there is any ambiguity in the basin plan or any open-endedness or loopholes—does the decision-making authority come back to the ministerial council? Unfortunately, that is the way I read it, and I need some sort of assurance.

The Hon. K.A. MAYWALD: Certainly, if there are indeed gaps, if you refer to the existing Water Act 2007, there are quite extensive mandatory obligations for inclusion within the plan. But, in the event that there are gaps, the ministerial council has the responsibility to deal with those issues. But, also, the commonwealth minister has the capacity to request the authority to amend the plan to account for any loopholes that may exist or occur, should they wish to do so.

Mr WILLIAMS: And that raises another interesting question. I note from the principal act, and I confess that I have not read the whole of the principal act to a point where I fully understand—

Ms Chapman interjecting:

Mr WILLIAMS: It is another 250 pages. I do recall reading that the basin plan needs to be reviewed every 10 years. Is there a facility whereby the federal minister can review the basin plan at any time within that 10-year period, or will we be waiting for the 10-year review before loopholes can be plugged? Presumably, in that hiatus which would be created if there is not a mechanism, the ministerial council will become that supreme policy-making body.

The Hon. K.A. MAYWALD: The minister can request a review under section 50(2), as follows:

> The Authority must review the Basin Plan if:
>
> (a) the Minister requests the Authority to do so; or
>
> (b) all of the Basin States request the Authority to do so.

Also, the authority may prepare an amendment of the basin plan and give it to the minister for adoption. That is in section 45 of the existing act.

Mr WILLIAMS: Because of the sheer volume of the documents involved, one of the other things I have been unable to do is ascertain which of these are new powers or functions, or, indeed, which are new clauses or subclauses in the Murray-Darling Basin agreement, and which ones have just been carried directly forward from the existing one. Under the functions of the ministerial council, paragraph (d) of the same clause, provides:

> ...to agree upon amendments to this agreement including amendments to or addition of schedules to this agreement as the Ministerial Council considers desirable from time to time;

I have made the assumption that that has been directly brought forward from the current Murray-Darling Basin agreement and put straight into the new agreement which will be adopted as part of this process. Is it, then, that the ministerial council will be the only body that can amend this agreement, or does the authority have any power to amend the Murray-Darling Basin agreement?

The Hon. K.A. MAYWALD: Yes, the ministerial council is the only body that actually change the Murray-Darling Basin agreement, but the authority does have the capacity to review the Murray-Darling Basin agreement and make recommendations for change.

Mr WILLIAMS: So the authority has the ability to make recommendations to the ministerial council and there is no obligation, though, on the council to take on board those recommendations?

The Hon. K.A. MAYWALD: No.

Mr WILLIAMS: I refer to page 72. Again, I presume that this has been rolled over from the old agreement. I just want the minister's confirmation that that is the case and also to confirm that the veto power of the individual states within the powers that they would hold under this agreement remains. I refer to page 72, clause 13, subclause (6) which provides:

A resolution before the Ministerial Council will be carried only by a unanimous vote of all ministers present who constitute a quorum.

The Hon. K.A. MAYWALD: That is entirely consistent. What does change, however, is that they will not be able to veto the basin plan. It is only for the functions that are conveyed to the council for decision that they will require a unanimous vote of all ministers present who constitute a quorum, and it does not include the development or adoption of the basin-wide plan.

Mr PEDERICK: I refer to the tabled text, page 125, clause 95—New South Wales' Entitlement to Water from Menindee Lakes. The structure is obviously similar to what we have now, where New South Wales does not share storage water from Menindee Lakes until it reaches 640 gigalitres. Currently, the way those lakes are operated, that is not possible. What plans are you aware of or what works have you pushed for so that the Menindee Lakes system can be operable to benefit South Australia? As it is currently set up with the lakes there operating and with the ones left empty, we will never reach the 640 gigalitres to share that water.

The Hon. K.A. MAYWALD: The New South Wales' entitlement to water from Menindee Lakes has been carried forward from the previous Murray-Darling agreement, I understand. From the South Australian government's perspective, we have been strongly supportive of the New South Wales position to reconfigure and re-address the Menindee Lakes issue. We also look forward to the basin-wide plan looking at the sustainable yields from above and below Menindee Lakes. But the existing provisions for the management of that infrastructure are carried forward from the previous act.

Mr WILLIAMS: We are up to page 120, and in the previous and next few pages, we are talking about the various shares. Subdivision B—State Entitlements to Water runs from page 117 to 120-something, so the question refers generally to those pages and the clauses therein.

In her summation of the second reading debate, the minister said that the plan will determine the size of the bucket with particular respect to New South Wales and Victoria. Concerning the shares among South Australia, New South Wales and Victoria, I understand that basically New South Wales and Victoria have the rights to the water of the tributaries within their own jurisdictions and share virtually equally the common water (as it gets further down the river, it becomes common water after it has flowed out of the tributaries in most cases) but they both have an obligation to provide South Australia's nominal 1,850 gigalitres.

That is my somewhat simplified understanding of it. The way the government has been describing the basin plan, my understanding is that the basin plan will set a cap, and I know the minister has said that for the first time the cap will be on the groundwater extractions as well as the surface water extractions. As I pointed out in my second reading speech, that was a recommendation made to the Murray-Darling Basin Commission and the ministerial council under those particular projections of groundwater extraction rates and implications for future demand and competition for surface water way back in 2003.

My concern is that South Australia's entitlement is expressed as 1,850 gigalitres, while New South Wales' and Victoria's entitlement is expressed as a share of the resource. The minister in her second reading summation said:

The size of the bucket will be reduced or will be determined by the plan. It is our expectation, I certainly hope, that the size of the bucket will be reduced—

which creates the dilemma that, with Victoria and New South Wales sharing that, say, half and half (and that is pretty well in most instances the way it is), I would expect that those states will get less

water, and because South Australia's share is expressed as a nominal 1,850 gigalitres, it seems to me that some tension will be created between those two states and South Australia.

I believe that because it seems, under the agreement, that even if the size or part of the bucket that Victoria and New South Wales will share is reduced, their obligation to South Australia stays the same. Is that the expectation: to gain and then maintain sustainability of the system, if the size of the bucket is reduced, will that impact only on New South Wales and Victoria and not impact on South Australia? How can we actually make that argument that, notwithstanding the share that they will get which, in a smaller bucket, will manifest itself in a smaller volume of water, there will nevertheless be an expectation that they will provide the same volume of water to South Australia?

The Hon. K.A. MAYWALD: Thank you for the question, and it is a very good question actually. The 1,850 entitlement to South Australia is a minimum entitlement flow under normal conditions (whatever they may be, going forward), and the issue of diversions is a different issue. South Australia actually has a cap on diversions which is different from the 1,850 as expressed in the Murray-Darling agreement. Our cap on diversions limits the number of megalitres that can be extracted on irrigation licences and limits the amount of water that can be extracted for metropolitan Adelaide and for our country towns' licences.

As the commonwealth rolls out this plan they will purchase water from irrigators and will introduce investment in irrigation infrastructure, which will result in the issue of entitlements to the environmental water holder and to irrigators where that is a shared provision. In South Australia, where irrigators' licences are purchased, it will reduce our cap. It will not reduce our 1,850 gigalitre entitlements under the agreement, but it will reduce the cap that we can divert—and that is adjusted annually according to trade. So, when it is traded off to the commonwealth into the environmental bucket it will reduce the cap on how much we can take for irrigation purposes.

Mr WILLIAMS: Minister, you just created another problem, in my mind. From what you have just said, do I understand that the basin plan will not in itself 'undo' some of the licences that have been issued that have created the overallocation? Are you now saying that the basin plan and this independent authority will not have the power to speak, for instance, to New South Wales, who signed an agreement with Victoria and South Australia way back in 1995 to limit extractions of surface water at the 1993-94 season levels, when all the evidence suggests that New South Wales (and, indeed, Queensland) has dramatically increased diversions since then? Am I hearing that the plan will not be empowered to 'undo' those increases above that cap (notwithstanding that we are now also to incorporate groundwater)? Am I to understand that the only way we will now get back within sustainable extractions or diversions is through the buy back or by water savings through infrastructure upgrades?

The Hon. K.A. MAYWALD: The overallocation is the issue of the cap being set too high. The member is quite correct in that the cap was set too high, and it did not include groundwater extractions in the previous cap. The cap is a difference between the states' bulk entitlement and their full-time equivalent cap diversions out of the system.

The basin-wide plan will set new caps, so it will reduce the amount that can be diverted from each of the catchments to ensure that the yield is sustainable, and each of the states will be required to comply with the new basin-wide caps in the amount of licences issued or the amount of water issued on licence. How that will be adjusted will be determined in different jurisdictions by the works undertaken and by agreement with the commonwealth through the basin-wide plan. It may very well be purchase of water. There will be compensation in certain areas, and it will be determined on the basis of whether enough can be purchased out of the marketplace and how much can be saved in relation to the irrigation infrastructure that has been put in place, and there will be a range of measures that will be put in place in each of the state jurisdictions to deal with the new caps.

One thing that is really important to note (and I think this is where the confusion comes in) is that South Australia's 1,850 gigalitres is a flow to the state: it is not our extractions. That is not overallocated—in fact, it is grossly underallocated. The environmental water that will be accrued as a consequence of resetting the cap will benefit South Australia and will involve an improvement in flows to South Australia for environmental purposes over and above that 1,850 gigalitres.

That 1,850 gigalitres cannot be changed unless South Australia agrees, because it forms part of the Murray-Darling agreement and can only be changed by unanimous decision of all ministers present forming a quorum.

Mr WILLIAMS: I am still a little confused, but I have the ministers words on the *Hansard* and I will read them again tomorrow. So I will move on. One of the other things that concerns me is that it seems as though there are a number of ways that water will be brought back away from diversions, whether it be through purchase or infrastructure upgrades. You might comment, minister, on the current federal government's thoughts on that. I know that one of the things Malcolm Turnbull was keen on was public money being spent on upgrading delivery systems on farm. I know that the federal opposition is now concerned that it seems as though the federal Labor government has moved away from that, and there are some concerns about the impact that will have.

All the water that is recovered, through whatever mechanism, and the water you referred to that flows into South Australia (the 1,850 gigalitres) is not all water that can be diverted. Will all that water (which I would certainly think was nominally environmental flow) be converted to a licence such that, in times of low flows (and this is the problem we have had in places like the Lower Lakes), licences will have a much higher priority than the flows that have just been considered as waste water that is running down the system? I know that you do not see it that way, minister, that I do not see it that way and that a lot of my colleagues do not see it that way, but it seems to be the way the river is being managed.

My questions are: will all the water that is brought back away from diversions be converted into a licence; if so, will that licence have the same security as high security water in upstream states in times of low flows, when irrigators have, say, a 60 per cent allocation? Will the environment also enjoy a 60 per cent allocation?

The Hon. K.A. MAYWALD: The Commonwealth Environmental Water Holder will hold the water that is recovered for environmental purposes, and the water licences held in that account will be subject to the same restriction as irrigator allocations.

Mr Williams: Is that high security, general security or—

The Hon. K.A. MAYWALD: It depends which water they have the licence on. So, if they have purchased general security licences, they will be tagged to where they have been purchased, and they will have the same characteristics as that licence.

In relation to a question you asked before, I have a little more information that I think the member might find useful. In the existing act, division 4 relates to the allocation of risks in relation to reductions in water availability and sets out very clearly commonwealth responsibility in relation to those risks. There are also some amendments in the commonwealth's subsequent amendments (not the ones to which we are referring) to those provisions. That might help follow those issues through for you.

Mr WILLIAMS: On that, am I correct in saying that that is a reflection of the National Water Initiative from 2004? It is reflected in that section of the act and the subsequent amendments in the tabled text.

The Hon. K.A. MAYWALD: I am advised that it is consistent with the NWI, but the commonwealth has actually increased its offer over and above the NWI provisions.

Mr WILLIAMS: I have one last question, although it may even be regarded as a statement; however, the minister may wish to respond.

The CHAIR: Does it have a page number?

The Hon. K.A. Maywald: You could do it at the third reading.

Mr WILLIAMS: I will do that: I will defer to my colleague, who has some questions, and make a statement at the third reading.

The CHAIR: Thank you, member for MacKillop. General statements are more appropriate at the third reading.

Mr PEDERICK: I refer to page 137, division 3, the tier 3 distribution of waters in extreme or unprecedented circumstances. Will the minister explain to the committee in exactly which situations these are brought in? Obviously, it talks about unprecedented conditions and the high risk of not having water for critical human needs. What power will the authority have? How will it pan out? If we go into tier 3 management, will irrigation cease to exist for the period we are under tier 3 management?

Will the authority have the power to acquire private storages, or will there be commonwealth environmental water that can be accessed?

The Hon. K.A. MAYWALD: I thank the member for his very good question. What tier 3 refers to is an unprecedented situation that we have not seen. It refers to a situation where we do not have enough water to meet the conveyance and human critical needs. So, if we cannot have water for conveyance, for human critical needs, there obviously will not be water for irrigation. It is about the requirement for there to be political decisions in that circumstance.

Mr PEDERICK: If we are in that circumstances, minister, obviously the authority should have the power if it is that critical and absolutely dire. It seems bad enough now, but I guess we are essentially in tier 2 equivalent status at the minute. Does that mean that private storages could be compulsorily acquired?

The Hon. K.A. MAYWALD: It would depend on the circumstances. If we get to that stage, I would suggest that there would be very little water left in private storages. The tier 3 is unprecedented—even worse than we have experienced over the course of this drought. I believe that it will be important, for social and economic reasons, to have a political solution to that.

However, the basin-wide plan and the authority will determine the triggers for what will throw us into those different tiers. So, those trigger points will be identified very clearly in the basin-wide plan. So, no state will be able to just invoke a trigger that may give them some sort of advantage. It will be a requirement for the authority, in the development of the basin-wide plan, to clearly identify those triggers.

Mr PEDERICK: I have one more general question. Currently, allocations throughout the basin are at different levels, ranging from, say, 9 per cent through to 95 per cent, and obviously different levels of water. I note that South Australia's high security water went up to 15 per cent today and it is 95 per cent on the Murrumbidgee. I would have thought that, under a grand agreement, where everyone is in cohesion, the lakes are in dire straits and our permanent plantings need probably 30 per cent to keep going, it would be good idea if there was more equity in allocations across the basin, and I am hopeful that perhaps that will happen under the new agreement, although I have my doubts. Can the minister give us any information about whether there will be more equity in allocations across the basin?

The Hon. K.A. MAYWALD: Again, the basin plan will drive a uniform approach to allocation and water management across the basin. State water resource plans will need to be consistent with the basin plan, which will set out the requirements with which a state plan must comply. The basin plan not only will determine sustainable limits but will also set water trading rules, environmental water requirements and identify the need for the management of interception activities, such as farmlands and plantation forestry. So, there will be much more consistency across state allocations as a consequence.

The Hon. I.F. EVANS: On the same provision, minister, when the minister uses the term 'critical human needs', what does that include? In particular, my constituents want to know whether it includes external watering of residential properties, as is currently allowed under the water restrictions.

The Hon. K.A. MAYWALD: I will provide for you the exact words that constitute the definition of 'critical human needs'. However, while I am waiting for that advice to be handed to me, I will say that the issue of critical human needs, as far as Adelaide's supply and the like, has to be taken in the context that we also have a secondary resource that we do call upon for Adelaide, and that includes the Mount Lofty Ranges. We factor into those two resources our critical human needs requirement as provided by the Murray-Darling Basin and also the water that we have in the Mount Lofty Ranges. The definition of 'critical human water needs' in the bill is:

> the needs for a minimum amount of water, that can only reasonably be provided from basin water resources, required to meet—
>
> (a) core human consumption requirements in urban and rural areas; and
>
> (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs;

When you talk about the current restrictions that we have in place at the moment, moving to a higher level of restriction also has significant economic impacts in relation to things like the nursery industry, the car washing industry, the turf industry, the lawn mowing industry, and a whole range

of flow-on economic issues that the South Australian government has determined we will manage through the extra resource that we have available through the Mount Lofty catchment.

The CHAIR: Member for Davenport, do you wish to explore that aspect further, because you cannot. That was covered in clause 3, and we have moved well past that.

The Hon. I.F. EVANS: On what basis then could I ask the previous question?

The CHAIR: It was out of order, but I was generous.

The Hon. I.F. EVANS: In the minister's answer to the member for Hammond, she used the term 'critical human needs', so I was seeking clarification as to what she meant by that.

The CHAIR: However, the definition that the minister read out is in clause 3 of the bill, and clause 3 has already been passed.

The Hon. I.F. EVANS: I cannot prevent the minister from referring to a previous clause, Madam Chair. I can only ask a supplementary question based on the member for Hammond's—

The CHAIR: Order! Do not get into debate. I indicate to you that it is not appropriate to explore that definition further. You can make a comment about it during the third reading, but questions are not now appropriate.

Clause passed.

Remaining clauses (5 to 7) and title passed.

Bill reported without amendment.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (21:48): I move:

That this bill be now read a third time.

The Hon. I.F. EVANS (Davenport) (21:48): At some stage I would like the minister to clarify for the house her pretty consistent public comments over the past six to nine months that South Australia has enough water in storage for critical human needs. The reason I asked the question earlier—following the member for Hammond's question where the minister raised the issue of critical human needs—is because I am trying to clarify the matter for my constituents. When the minister says publicly that we have enough water in storages for critical human needs, does that include maintaining the current external watering regime for gardens, because it is unclear to my constituents whether that is included in critical human needs. I suspect that most of the public would think it would be consumption water, water for health purposes and then critical industry water, and everything after that becomes questionable as to whether it is critical.

At some stage I would like the minister to clarify whether her public comments mean that there is enough water to maintain the current garden-watering regime, or whether that is likely to change. That was the purpose of my questions. The minister may not be able to answer that now—it is a difficult one, I know. However, at some stage the minister might want to update the chamber or put out a media release so that my constituents can rest in peace about their gardens.

Mr WILLIAMS (MacKillop) (21:50): It is my understanding that it is the practice of the house that members speak at the third reading generally when the bill before the house is substantially changed from the one that was spoken to at the second reading. The member for Davenport, who has been here much longer than I have, is shaking his head.

The Hon. R.G. Kerin interjecting:

Mr WILLIAMS: Apparently, but that was my understanding. Yet again, I am confused; it is not an unusual thing.

The Hon. R.G. Kerin interjecting:

Mr WILLIAMS: Okay, like watering gardens. The member for Davenport has reminded me of something else which pricked my curiosity. Notwithstanding my understanding of the conventions of the house, I did want to put something on the record yet again. I suspect that I may never see this type of legislation again during the remainder of my career in this parliament. I have a fundamental feeling about ceding powers to Canberra. The states are losing more than enough powers at the behest of the High Court, and have done so since 1 January 1901. The rate has accelerated in recent years and—dare I say it—the Howard federal government was grabbing

powers from the states at a rate greater than even the Whitlam government. I think we need to be very careful.

In saying that, I am a great believer in competition. As a nation, we would be doing ourselves a disservice by dumbing-down the competition between our various jurisdictions and dumbing-down the competition between our legislatures so that we have template legislation right across the nation. What we have now is a tension whereby one state looks at what is happening in another state and says, 'Gee, I think they're doing it a bit better than we are and, indeed, we can go half a step further or a step further or several steps further.' That is why I think it is important for us to maintain our independence from the idea that we have to have a common curriculum, common template legislation, common road rules, etc. I know there are benefits to having commonality in some of these areas but I also believe that there are disbenefits.

I think this process has proved that this parliament needs to be more careful in the future. It needs to be more careful if we are going to attempt to refer other powers to Canberra. I think we need to be cognisant of the fact that we have just done something which has given powers to Canberra in a very open-ended way. I really do believe that very few of us could go back to our constituents and answer the questions that they would put to us and say that we actually went through these measures with a fine toothcomb, that we have a full understanding of the matter and that we have satisfied ourselves, as members of this parliament, that we have done the right thing. That is the first comment I want to put on the record.

The other comment that I want to put on the record (and I want the minister to have a think about this) is that the minister, in her summation of the second reading debate, made the point—which I do not think was ever made by any of the Premier's statements or the minister's previous statements—that this is not about the current drought or about a solution for the present situation. I take a pretty keen interest in what goes on in the political life of this state, and if I have been under the impression I am sure the general public out there in South Australia has been under the impression that this is necessary to improve the current situation. That is what I believe.

I want the minister to take on board something else she said, because she then emphasised that one of the changes being made between the Howard-Turnbull plan and what is now happening under the Rudd plan is acceleration of the buyback. If the measures that are afoot at the moment are not about the current situation, what is the point in accelerating the buyback? I will guarantee that the price of water today is higher than what it will be when this drought breaks. I will guarantee that the price of water comes back somewhat.

The Hon. K.A. Maywald: Certainly not the permanent.

Mr WILLIAMS: I think even the permanent water price will come back when there is plenty of water in our rivers. That is the reality. Minister, in my opinion, you need to be careful that you send one message only, not mixed messages: that you do not say one thing and conveniently allow people to believe generally that you meant something when you did not actually mean it at all. Let us be truthful within the parliament and with the people of South Australia: if this is not about the current situation, for goodness sake go out there and say so. If it is about the current situation, for goodness sake, when we are debating it in here, admit it. That is the dilemma.

Our leader referred in his second reading speech this afternoon to some of the comments that have been made to him when he was up at the field days in the minister's own electorate, and I heard the same sort of comments when I was up there. Many people in South Australia, including very many in the minister's electorate, are confused about what this government is about. Take a word of advice, minister: your constituents, in particular, will be helped greatly if they have a full understanding and enjoy your full confidence.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (21:58): Firstly, I thank the opposition for its support of this legislation in the voting sense but not necessarily in the debating sense because it is crucial that we move quickly to implement changes that are necessary under this basin-wide plan. I will address quickly the issue raised by the member for Davenport in relation to water restrictions. I advise him that it is our intention that we can maintain restrictions at enhanced level 3 over summer, depending on the monthly monitoring of the water resource outlook.

At the moment, we anticipate that we will have enough should we receive minimum flows during the course of the summer months and if the water use is contained within manageable limits. I put those two riders on it, but we do believe that we will be able to maintain water restrictions on enhanced level 3 through the summer months subject to those two provisos, and I

cannot predict that. I can only hope that we receive at least minimum inflows into the system between now and then.

The issue in relation to whether this is a plan for now or the future is one that I find an extraordinary comment from the member for MacKillop. I refer him to the National Plan for Water Security as released by the former prime minister, John Howard, and the minister for water security at the time, Malcolm Turnbull. It refers to the commonwealth government and indicates why the plan is needed, but it also says that the commonwealth government will invest $10 billion over 10 years to significantly improve water management across the nation. It states that under the proposal the commonwealth government will reconstitute the Murray-Darling Basin Commission as a commonwealth agency reporting to a single minister. It then states that these new arrangements are expected to cost an additional $600 million over 10 years. This was intended to be a plan for the longer term when John Howard and Malcolm Turnbull introduced it.

[Sitting extended beyond 22:00 on motion of Hon. K.A. Maywald]

The Hon. K.A. MAYWALD: I have made many public statements, and I have had extensive experience in public meetings up and down the length of the River Murray over the past couple of years—and I know the member has been present at some of them, but obviously he does not retain a lot of the information that is given in those public forums. In all of those presentations I have always made it very clear that this is a plan for the longer term governance arrangements for the Murray-Darling Basin and that the parallel process that is being undertaken as the first minister's contingency planning process that was established by John Howard back in November 2006 is dealing with the very pressing issues of drought.

We should be enjoying a bipartisan approach to the management of the issues of drought, and we should also be enjoying a consistent message to our communities. It would be useful if the opposition would heed its own words.

To conclude my remarks on the third reading, I thank the many people who have been involved in getting us to this stage in the negotiations with the commonwealth and the work that has been undertaken within the South Australian government. First, I thank my staff, in particular my chief of staff, Malcolm Fearn, and my River Murray adviser, Mandy Rossetto. I would also make special mention of Kimberly Davis, my parliamentary and cabinet officer, who leaves us this week. She is tending to more important issues, such as motherhood for the first time. Kimberly has been a fabulous worker within my community. Another staff member who has helped Malcolm enormously is Brooke Sinkunas, who left us last week to have her first baby. I thank all of them for their contribution to team Maywald and for the effort that they have put in.

I would also thank the Premier and his incredibly strong leadership in relation to getting this particular major reform on the Murray-Darling Basin. He is the first Premier, and it is the first government, to actually achieve a referral of powers to the commonwealth, with one authority to manage the Murray-Darling Basin, and it is a major step forward, not only for South Australia but for the nation. I would also thank his chief of staff, Nick Alexandrides, for the numerous phone calls we had backwards and forwards between our offices and the patience with which he worked with us.

I thank DWLBC and DPC staff. Department of the Premier and Cabinet staff, Scott Ashby, who is the new chief executive for DWLBC, and Don Frater have been fantastic in their work, and also Alison Lloyd-Wright has been a major contributor. Di Favier and Andrew Johnson's contribution to this process cannot be understated, and I thank them greatly for their efforts. I also thank Rob Freeman, the former chief executive, of course, who was moved on to be the interim chair and chief executive of the new authority. It is absolutely fantastic, from a South Australian perspective, to have someone with so much knowledge of South Australia, and also Queensland, in that position.

I would also thank Richard Dennis, parliamentary counsel, for the effort that he has put in to getting this legislation up in what has been a very short time frame. It has been an extraordinary effort by an extraordinary team, and I thank each and every one of them. Mandy Rossetto, who has been my River Murray adviser for a very short time, is moving on to a new job and we wish her well in the future.

I thank everyone who has done such a sterling job to get the legislation to this stage. The negotiations have been long. They have gone on for nearly two years and they have certainly

resulted in major reform that will see us in good stead in the future, and I look forward to much greater and better outcomes for the health of the River Murray and the underpinning of the security of supply to all users in the system; for irrigators, human consumption and also for the environment. We must get it right at the mouth and back up the river so that we have a healthy river, and that is our intention.

Bill read a third time and passed.

MURRAY-DARLING BASIN BILL

Adjourned debate on second reading.

(Continued from 23 September 2008. Page 119.)

Mr PEDERICK (Hammond) (22:06): I am not the lead speaker on this bill. I rise briefly to speak to this bill. I note that in the title it says:

> An act to facilitate the operation of an agreement entered into between the commonwealth, New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory to promote and coordinate effective planning and management for the equitable, efficient and sustainable use of the water and other natural resources of the Murray-Darling Basin; to make related amendments...

I really hope that in the future we can get this right because obviously it has not been right for probably 150 years. I think the biggest issue (in my mind, anyway) is the fact that we manage only half of the basin. We do not manage above Menindee Lakes, and I think that is where the process is really flawed. I think that we should have proper management of inflows. We have seen the almost unrestricted building of diversions and the building of storages in the eastern states (in southern Queensland and in northern New South Wales). The New South Wales government has actually documented illegal diversions in the Macquarie Marshes, and it looked as though it was going to rubber stamp diversions until recently, and then enforce its legislation.

We have not got it right for a long time. Too many deals have been done, caps have not been related to properly, and there has been an almost unrestricted free for all, especially in the northern basin. Then we see other states flex their muscles and, for whatever reason, they seem to—in times of drought and tough times, as we are in at the minute—get higher water allocations. People can argue that it is only for a certain amount of water, but it is still hundreds of gigalitres of high security water being allocated at rates of around 80 per cent and 95 per cent in areas throughout the basin when South Australia at the moment, until today, was struggling along at 11 per cent (now 15 per cent).

I think that, if there was more equity in the whole system, we would not have seen the need for the state government to go ahead with its rushed plan to aid irrigators to keep their permanent plantings alive. If this government had the temerity and had the brazenness of the Bracks and now the Brumby government and had put forward the rights of this state, I think we would have had better outcomes in achieving water to keep not only permanent plantings but also to keep our horticulture and our dairies and, at the bottom end of the river, the lakes, in a situation so that they would not be in the drastic state that they are in now. This legislation and the legislation that we have just passed is certainly historic legislation.

I hope that the new Murray-Darling Basin Authority, when it comes into play, does manage the basin well because things just have not happened for us until now. We certainly support the bill, as it is essentially the framework for the operation of the referral of powers (which we have just debated). I note that several other bills, including the groundwater control act and the Natural Resources Management Act—and others—will be amended. I commend the bill to the house. We support the bill, but let us get it right, not only for South Australia but also for the country.

Mr WILLIAMS (MacKillop) (22:10): I intended to say that I hope we can pass this legislation with the speed of a parliamentarian's pay rise.

Members interjecting:

Mr WILLIAMS: No; there has not been one for a while. We will not be here for long. This bill is consequential to the bill we have debated over the past couple of days. It is a piece of machinery to recognise what is in the other bill and machinery to allow us to continue to work into the future under the new governance regime. The transfer of the operations from the Murray-Darling Basin Commission to the Murray-Darling Basin Authority—the authority which will now be responsible to the federal minister rather than the ministerial council—will make the Murray-Darling Basin Act 1993 redundant. Some of the functions under that act will need to remain as functions

under the state minister, and this bill enables that to occur and amends a number of other state acts to recognise the changed governance arrangements of the Murray-Darling Basin.

The bill repeals the Murray-Darling Basin Act 1993 and transfers the necessary powers which need to be retained from that act into the new act—which will be a consequence of this bill. It will give the state minister the power to appoint a person as a member of the Basin Officials Committee—a committee established under the commonwealth act. It empowers the state minister to act on behalf of the state as a contract in government under the Murray-Darling Basin Agreement. It authorises the construction, maintenance and operation of works within the state. It authorises the minister to acquire and dispose of land, to pay compensation and to act as a constructing authority. Authorisation is also given to enter and occupy land for the purpose of this act or the Murray-Darling Basin Agreement.

It exempts any works or land held by the contracting government from taxes and charges, and obligates the minister to table each annual report of the Murray-Darling Basin Authority within 15 sitting days after the report is received—which reminds me of one of the complaints I had in relation to the commonwealth act, where there are obligations to report but there is no annual reporting obligation or an obligation to table the report. Also, it empowers the minister to delegate their authority and it creates an offence for a person without lawful excuse destroying or damaging any works constructed under the act or agreement. Obviously, it makes a number of consequential amendments to the Development Act 1993, the Ground Water (Qualco-Sunlands) Control Act 2000, the Natural Resources Management Act 2004, the River Murray Act 2003 and the Waterworks Act 1932.

I point out that this is a consequential bill which provides the machinery to fulfil what is provided for in the bill we debated earlier. I follow-up what the member for Hammond said previously. As this act will give the minister the powers and the authority to continue to operate the structures on the river, I want to state, again, our opposition to the construction of a new weir at Wellington (or thereabouts) and the subsequent flooding of the Lower Lakes with sea water. The member for Hammond made a point about the lack of control of the waters above Menindee Lakes under the current regime. I certainly hope that the new plan will address that.

One of the reasons why we have a problem in South Australia and why our irrigators are still on 15 per cent and the irrigators in the Lower Darling are on 100 per cent and the irrigators in New South Wales, the Murrumbidgee, the Murray Valley and the upstream reaches in New South Wales are on 95 per cent of their allocation is the lack of flows into the Darling and into South Australia. The old timers to whom I have talked up and down the river have been telling me that they believe, historically, about 20 per cent of the water that flows into South Australia came through the Darling.

We know that the flows of the Darling were quite irregular. The flows of the Murray and its tributaries are somewhat more regular, but, from time to time, we have droughts. The reality is that, historically, quite often when we had a drought in the southern basin there were still flows in the northern basin, and obviously vice versa. At the moment, we have this very calendar year seen circumstances where we have had extremely low flows now for a number of years in the southern part of the basin, in the Murray system and its tributaries, other than the Darling, and that has given us very low flows into South Australia and the subsequent degradation in the Lower Lakes.

When we had floods in Queensland, the reality that none or very little of that flood water reached below Menindee Lakes, and what did come below went into Lake Victoria—and there are some interesting questions about that—is one of the reasons why we have no water for the Lower Lakes. Under normal circumstances, in previous times, a substantial amount of that water would have come down the Darling, past both Menindee Lakes and Lake Victoria, flowed on down through South Australia and ended up in the Lower Lakes. That is why the Lower Lakes are in a situation now that they have certainly never been in the history of European settlement of this state. We do need to get it right, as the member for Hammond said, regarding the Darling. We do need it to be operated as one.

In informing the house that the opposition also supports this piece of legislation, I implore the minister to do whatever she and her government can, because I note that the federal legislation (which we have just passed) does oblige the new authority particularly to look after (and names) Ramsar sites, which the Lower Lakes and Coorong are. The pity is that there is still some confusion as to whether that obligation extends to this current circumstance.

It is a pity if it does not, because it would be a great pity if we lost the environment in and around those Lower Lakes from not having the capacity to have enough water to guarantee them for three, four or five years hence. Certainly, at one of the public meetings which I attended recently at Meningie, the minister's departmental officer said that, in his opinion, if the Lower Lakes were flooded with sea water, they would probably be irrecoverable. That would be a great pity. The opposition supports the matter before the house, and I indicate that we will not need to go into committee.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (22:19): I do thank very much the opposition for its support for this legislation which is consequential to the previous bill. The member mentioned the Wellington weir. For the record, it is important that I do make some comments about the weir. The South Australian government does not support the construction of a weir near Wellington. We have actually never wanted to build a weir at Wellington, but it is part of the contingency planning we have had to undertake as a consequence of this continuing extreme drought and the low inflows that continue throughout the River Murray and the basin in general.

I would like to put this on the record, because there were a number of contributions in the previous debate in regard to the Wellington weir and there was an extraordinary rewriting of history. I will quote from the transcript of the press conference following the meeting in November 2006 that the member for MacKillop referred to. Premier Rann is quoted as saying:

> On the other issues that have been discussed, of course we in South Australia will immediately proceed to start planning work on a weir at Wellington, a weir that we hope will never have to be used but one that we believe it is imperative to start work on.

There is also the statement that was made in the house on Tuesday 14 November 2006 by the Premier when he made reference to the weir again. His words in the ministerial statement to this house were:

> A weir is not something that this government wants to build and we hope we will never have to build it but, if it is required, the planning and preparation will have to have been completed in order to guarantee water supply to Adelaide, the Riverland and the vast majority of South Australians who depend on the River Murray for their water.

They were the statements made by the Premier following those meetings. The spin and the confusion have come from the opposition, not from the statements that have been made—

Mr Williams interjecting:

The Hon. K.A. MAYWALD: I just did. I just quoted from the transcript, and I encourage you to read it, also. There has been a lot of spin and a lot of rewriting of history in regard to the Wellington weir.

An honourable member interjecting:

The Hon. K.A. MAYWALD: No, I have the transcript here and I think that tells us your memory is not as good as you think it is.

The other thing that is really important to note in relation to the weir is that the planning is continuing. We do not want to build a weir, and we are also very adamant that South Australia wants to see a freshwater solution to the Lower Lakes—as do members of this house, I am sure.

Bill read a second time and taken through its remaining stages.

NURSING AND MIDWIFERY PRACTICE BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 450.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (22:24): The Minister for Health, the Hon. John the-buck-stops-with-me Hill, in his second reading explanation when he talks about transparency and accountability, needs to appreciate that it is his government that needs to be transparent and accountable in relation to this legislation, not just the board.

I refer to the aspect of whether carers should be registered and what the government should be doing about the fact that we have, on a daily basis, carers (who are important people in the community by virtue of the services that they provide) in hospitals and acute centres, providing services which would ordinarily be undertaken by nursing staff if they are available.

I cited examples of the shortfall, even of agency nurses, in providing personnel for the vacancies in hospitals and the need for carers to be brought in. Therefore, it is incumbent upon the government to be open and transparent about what it is doing about this and to ensure that we protect that situation.

I have wondered why we have not heard from any advocate for carers. These are people, as I have said, who undertake a certificate course, and who undertake a considerable amount of work, particularly in our nursing home sector and in caring for people in private homes. Why isn't there a voice coming from them in relation to the work that they are undertaking in the health care sector generally?

It could be argued that, a number of them being members of the Miscellaneous Workers Union, perhaps they are low in the pecking order of priorities within that union. An alternative is that the Australian Nursing Federation (although it is not the official advocate for them as being people who are members of the workforce in that industry) has a number of them as members. That may be because working carers have formerly been nurses or changed their occupation and gone into a caring service and decided that they would maintain their membership with the Australian Nursing Federation. I take no issue with whatever union they are a member of: that is their choice, and we support that. However, nobody seems to be out there advocating for them.

I will be very interested to read the contribution, which I assume will be forthcoming, from the Hon. Gail Gago, a member of the other place. She, of course, was the head of the Australian Nursing Federation, South Australian Branch. I recall her undertaking those duties. She may be able to throw some light upon why the union, of which she was a former head, has not made any public statement in relation to this issue, or why no document has appeared to confirm that it has any advocacy on this matter whatsoever; or, indeed, if they have submitted a document and the government has not taken any notice of it, why that has not become publicly known.

I am at a complete loss as to why this issue has not been dealt with. There does not seem to be a single advocate out there working for them to protect their interests. They, of course, are also the subject of legislation in other areas, including whether they are allowed, as a certificate 4 carer in an aged care facility, to administer drugs, which is another concern that has been raised on the basis of regulations that have been circulated for introduction.

I am not sure why this issue has not been addressed, but it is up to the government to be transparent when it purports to introduce legislation to protect the public through a registration process for nurses—and now formally for midwives as a special category—and to ensure that anybody who is responsible for undertaking services for the care of people in a nursing capacity (and I mean that in its broadest sense), including carers, and who has not come under the umbrella of the same obligations as apply to others in the industry, is entitled to have advocacy, representation and guidelines to which we suggest they are entitled, to identify their obligation under the disclosure of the new fit and proper process.

The government may say, 'Well, they're not in the list yet, so we don't need to do that.' Again, this is the sort of thing that has to be dealt with. Clearly, they are in the industry; they are working in our acute hospitals, and this needs to be identified. It needs to be admitted, and we need to deal with it.

They too will need to have their representatives. The minister claims in his second reading explanation that one of the outcomes of this legislation is that there will be more transparency and accountability for the board in its reporting. I turn to the Nurses Board of South Australia annual report process, and the gist of the legislative reform here is that it will be required to disclose a lot more detail particularly in relation to the complaints raised and the investigative and assessment role that it undertakes in relation to these.

At present, for the record, I indicate that the report, which is required to be presented to the minister annually and tabled in this parliament within a certain time frame, provides us essentially with particulars of who is on the board, staff representatives and particulars of communication that it has published and distributed. Some of these are pamphlets; some are codes; there is some material that I think in general would be used to advise people in the profession of some of their obligations.

Some examples are: the use of restraint standards indicating when a nurse would be expected or entitled to exercise a restraint practice; therapeutic relationships and professional boundaries, which concerns those with whom you may form relationships—for example, not with patients. They are helpful, instructive guides. The board reports on what it has published and

obviously details the numbers of people who are registered, their genders and ages, which categories they are in and a broad outline of registration and enrolment information.

The board already details the investigations and formal proceedings by number and nature of the complaint, but it does not at this point detail the outcomes of each of the complaints. It does outline whether the complaint has been dismissed or whether there have been a number that resulted in counselling or something of this nature, but the board does not detail the particular complaints that are the subject of a hearing, particularly a tribunal assessment.

There are obviously particulars in relation to work that the board has done as an educative body, and it tables other material which relates to human resources and financial information about the operations of the Nurses Board for that particular financial year.

Members will recall that I mentioned earlier in this contribution that the Medical Practice Act 2004 was the first of a series of pieces of legislation for health professionals. The Medical Board of South Australia has now had three full years as at 30 June 2008 in its reporting process under the new regime. So, as at the 2007 annual report, it had completed two years, which gives us a bit of insight into what we can expect to receive in the report that is expanded.

I note that Professor Jennifer Beutel, who is the chief nurse, is also on that board, so she will be familiar with the reporting practice that is already adopted by the Medical Board. I hope that that will be helpful when the Nurses Board prepares its report, the first of which will be on 30 June 2009 under this legislation should it pass. I refer to the annual report of the Medical Board. In that financial year, Dr Trevor Mudge as president provided a report. There were particulars (as there were in the other reports) outlining the composition of the board and its duties. There were also various schedules regarding attendance at meetings, moneys received, financial schedules, and fairly streamlined balance sheets and simplified profit and loss statements (and I make no criticism of that; I simply say that that was the nature of the material provided).

The registration services report is pretty much the same as what the Nurses Board still does in the sense of numbers of registrations. I think it gives a little less information regarding breakdown of gender and those sorts of things—the Nurses Board report seems to be a bit more comprehensive—so it seems we are perhaps getting a bit less regarding the profile of who is registered. However, it is fair to say that there is an expanded professional services conduct report. I might say that, even after two years, the Medical Board report seems to be expanded with explanatory paragraphs of the powers under each of the sections. I would have thought they were evident from the act; nevertheless, there is a lot of information on that.

As I said, the professional services conduct report is there, and that details the number of complaints, the nature and sources of those complaints and the areas of practice from which they have come, and it then provides a summary of the complaint outcomes. Really, the only new information is the publication of a summary of about 11 of them, which does not name the party who has allegedly breached their obligations in some way and who may be sanctioned by a suspension, by a condition being imposed, or by a discharge from the registration entitlement, thus rendering them unable to practise.

When I look back at the complaint outcomes I see 135 complaints in the financial year to 2007. In 46 of them it was determined that there was no breach, and all the rest are dealt with in one way or another through counselling, tribunal hearings or the like. It is only the ones who are in tribunal hearings or board proceedings—nine out of the remaining 90-odd—who actually give a little story regarding what happened. As you would expect, they give a summary—which is all very generalised and which gives no detail about the nature of the complaint— of how many decisions were delivered and how many were discontinued. There is the date of the decision and a summary of things like failing to give timely medical reports, management of obstetric patients, assaults of a registered nurse (presumably by a doctor), and reports having misleading or false information.

Some complaints that went before the board alleging proper cause for disciplinary action included things such as the standard of professional care given to an elderly woman when she presented at a hospital emergency department with abdominal pain, failure to refer patients to another practitioner with adequate qualification, attempt to influence the outcome of proceedings (which is pretty serious, I think), two counts of unlawful sexual intercourse, and a practitioner who had taken photographic images without prior consent.

In summary, that is the normal thing we get. We get a bit more detail about the date on which the hearing was determined but, quite frankly, to have a summary outcome of only a very small portion of the 135 complaints received is, I think, inadequate. It is a start but, for the

33 people who received counselling, as a member of the parliament and a member of the public I am none the wiser from this report about what type of offence allegedly occurred that the Medical Board (in this case) deemed justified their receiving counselling.

Were they in the grip of taking drugs whilst undertaking their practice? Sadly, that is not uncommon with some medical practitioners who fall foul of their obligations and prescribe for themselves or a family member. Who knows the nature of these complaints? Are they a true picture and profile of the whole complaint (although not of those who are dismissed, because we do not need to know of those)?

It seems to me that the basic necessary information is still well short of what is currently provided by the Medical Board according to the current pro forma legislation that is about to be imposed on the Nurses Board. I am comforted by the fact that there is some overlap on this board and, hopefully, we might have a better flow of information.

Another thing that is almost non-existent is the identification of who is not registered and who has been prosecuted or called before the Medical Board. On page 16 of the 2007 report (as I say, we do not have the 2008 report) is a little section entitled Unregistered Practitioners. Essentially, it states that each medical practitioner has to register by 30 September each year; that apparently some do not (I do not know how many); and that it is quite inconvenient to practices, them and the board to have to chase them up. That is the nub of what they tell us of their obligation.

However, from this information, I have no idea of how many have not registered who were registered and who need to be registered (obviously, if you retire or whatever you may not need to keep up registration) and/or what the board is doing about it. In particular, has there been any further education or any prosecution under section 70 of the act, which is a penalty process that is available to them?

I say simply that, in legislation, you can direct that some extra information be provided but, if it is not comprehensive or sufficiently detailed, it is utterly useless to us in the parliament. I hope that that is taken on board in relation to those who will report on the outcomes of activity by the Nurses Board in respect of the new group, the extra group (which includes students), and its tribunal and complaints procedures and outcomes.

As I say, at the moment, several pages of the report outline not only the data but also the number of complaints and who made them, that is, whether they were from a general practitioner or other medical person, or from other registered nurses. It is interesting that, repeatedly in the past four years, most have been from a director of nursing. In that sense, I suppose it is a good sign that we are seeing supervision and reporting by the person who is responsible for that nurse or other health professional in this category.

We are provided with a bit of a breakdown of how many are in acute care, how many are in aged care and so on. In 2007, of the 173 complaints, 124 were in breach of the current section 44 (unprofessional conduct), and the next most serious category was incapacity under section 42 (29 complaints), and that is raw data and very generalised.

Again, what we do not have are the particulars of what is happening with those who either do not register under re-registration or have never registered and purport to carry out their profession, or who masquerade to have those professional qualifications without registration. What the Nurses Board currently does is provide (as it does on page 40 of the 2007 report) a little summary on the 'holding out', which is the term the board uses to describe a person who has either worked as a nurse or midwife without registration or enrolment and/or who has led others to believe that they are on the register or roll. That is important because they tell us that 41 people were holding out to be registered or enrolled. One person had never been registered or enrolled in South Australia or interstate, and that person is 'currently before the Magistrates Court in relation to these offences'.

So, we have the raw data of the numbers, and we have some information about the capacity of the board to institute conditions, and that is in an area where 41 people in that financial year, out of the pool of 173 people who made complaints, which is a lot of people, which apparently at least justifies, under this new legislation, our getting more information about the nature of those complaints and how they are dealt with. Yet we have 41 people (which is a very significant pool of people) out there working as nurses without being registered.

If registration is the structure and process upon which we have scrutiny for the protection of the public, these 41 people need a hell of a lot more scrutiny, in my view. We certainly need to have in the report particulars of how that has come about and, again, what the board is doing about it and, if it does not have the power to do it, what power it needs to do it, or what it recommends the minister does about it. These are all things that need to be followed through.

The raw data is not enough when there are people out there masquerading. Here we are having a whole inquiry in another place in relation to quacks, bogus doctors and so forth, yet each year a number of people are out there pretending to have qualifications or pretending to be registered and clearly putting patients at risk. We need to have more information about that matter.

I welcome the call in this legislation and the obligation to be imposed for more data. But on the processes that have been similarly imposed on the Medical Board and their outcome, I am not confident that it will be enough, and I think that needs to be looked at. In respect of those aspects, the government may say, 'Why don't you produce some amendments on this issue?' I want to make absolutely clear that, if we had had time to properly consult on this matter (we received this bill on the last day parliament sat and were expected to debate it on the second day when parliament resumed), we would have certainly been looking at amendments.

We do not discount the possibility that we will introduce some amendments between here and another place. However, my understanding is that the government wants to get this bill through and that it will not delay the bill's passage to enable us to have this matter resolved. The other place may have a different view about any pressure to have this matter resolved. We do not have the numbers in this chamber.

However, I place on the record that we are prepared to accede to the government's request to have this matter dealt with. We have done everything we can in the lower house to accommodate that request and to ensure that our work on the bill has been done as best we can. All we can do at this point, in the time frame we have been allowed, is to highlight areas of concern. The government, and the minister in particular, in his response, may indicate that some of our concerns are without merit or without foundation or that we do not need to be worried, and that would be terrific and I look forward to hearing that. However, I ask that the minister look into the other matters.

There are a few other things I want to mention, one of which is the question of language. The government has presented this bill as being one of many that modernises the position. The terms 'enrolled nurse' and 'registered nurse' are being perpetuated in this bill. I do not know the answer to this. I am probably as old as most people in this place, and I am assuming that is a term that has been around for a long time, certainly in my lifetime. These terms are recognition of a different status of qualification. As I understand it—and I may be wrong—a registered nurse still has four years of a degree qualification at an approved university and/or TAFE, and an enrolled nurse does a three-year course. In any event, it is a reduced academic qualification, and there are various training obligations that go with that.

I just pose for the minister's consideration whether any proposal has been considered, or would he still consider at least consulting with the profession about modernising this language. This language of having a registered nurse and an enrolled nurse, and having people on a roll and/or a register in 2008 seems to me to be bizarre. We have a registration process for all of them. They all have to be registered, yet we still distinguish according to an anachronistic academic differentiation between an enrolled nurse and a registered nurse.

Again, I am a bit puzzled as to why this has not been raised. Perhaps it has been and perhaps the government did not think it was a very good idea. Perhaps there is a good reason for that. Perhaps nobody wants to change it. However, it seems that the definitions in the bill—I do not think I need to refer to them; those following the debate will know what they refer to—of enrolled nurse and registered nurse just perpetuate an antiquated language in light of the fact that, in 2008, and at least since 1999, we have had a strict registration procedure, which I think needs to be reconsidered.

I find it rather curious that we still use the terminology of midwife and midwifery, again only because it is very old language. As I have indicated—and I may be entirely wrong—we changed the title of matrons to directors of nursing, modernising that language. If midwives say that they want to continue to be midwives (it is a description that I think has been used for about 400 years) and that they want to retain history, so be it. I think we have even moved from 'housewife' to

'domestic engineer' and 'manager', and all sorts of things. So, I am just a bit puzzled as to why we are still, on the face of it, in the Dark Ages with 'midwifery' as a description.

I do not have a clue as to what the appropriate replacement name should be but we need to find a description that everyone agrees on, whether it is 'birth practitioners' or 'pregnancy professors'. I do not know what the answer is. I simply say that it puzzles me that, when we are modernising this legislation—and we have really done this for all other health professionals—we are still a few centuries away for this group. I am not quite sure how we would describe a male midwife—whether we call them 'midhusbands'. I do not know what the new language is for male midwives.

I want to refer to the Auditor-General's Report published this week where he mentioned the shared services arrangements. I want to refer to only a portion in relation to nurses because, of course, they are a significant employer. The Department of Health and the Department for Families and Communities have shared service arrangements in place. It caught the attention of the Auditor-General in this year's report, because a requirement under the two agreements between these departments was to help rationalise services, the idea ostensibly being to save money.

On recent information that we have received—and it has been published through the Budget and Finance Committee—it looks as though it is rapidly deteriorating as a money saver. Nevertheless, it is a rationalisation process, and the Auditor-General has reported on this because the agreements required six-monthly performance reviews. The six-month performance review of the Department of Health, as to who delivered services, and so on, had not happened. In fact, the department's explanation was that it had taken the approach that it would deal, on a piecemeal basis, with the resolution of outstanding issues, day-to-day management of services and the transition of some of these services to the government shared services agency rather than actually completing its six-monthly performance review.

That is a concern in itself. However, the consequence of this process of having a shared service plan is one which has been on the agenda and an advocacy matter for the Public Service Association, which has made some very strong comments. I refer to it only in respect of the health professionals. There have been a number of documents forwarded to us but, in summary, in its publication (the *Public Sector Review*) even for this month, it states that there are some 300 health professionals at risk as a result of shared services; at risk of their job entitlements—that is, their job packages being diminished. There are a number of reasons for that. When you move from the health department into a different department, into a different category, you can lose benefits. The article in question states:

> The state government acknowledges that many employees transferred from health units to shared services will incur financial loss as a result of changes to salary sacrifice arrangements and personal circumstances (e.g. increased child care, travel and parking costs) but has not agreed to any compensation whatsoever. The government needs to either offer adequate compensation to help employees or retain all employees within the health portfolio, so that they do not incur financial losses.

I make that observation, because we are talking about the nurses and their professional standards. The Public Service Association is saying that they are going to be required to move from one portfolio to another and they are going to have losses. When we debated the repeal of the IMVS act the government stated, 'We will make sure that those who transferred from the IMVS (the Institute of Medical and Veterinary Science), SouthPath (which is the pathology service at Flinders Medical Centre), and the Children's Hospital pathology service will suffer no loss of benefit or entitlement.' It stated that when nurses came in the buy-back from Modbury Hospital there would be no loss of entitlement. Yet, they are prepared to say here that the people who are at risk, and for whom the *Public Sector Review* is advocating, are going to have diminished entitlements.

I have quite a bit of information as to the specifics. We are talking about thousands of dollars, even for the base salary of an average nurse qualification. I think it is at least $3,000 in the first year, to be effected immediately, and potentially other salary losses. When the government comes to the treatment of nurses, it needs to be fully disclosing what its obligations are in expectation of the registration process, supporting them with education to ensure that they are able to maintain their obligations, and treating them with respect in the workplace. They are fundamental entitlements for people who are prepared to go into the nursing workforce (who are desperately needed) and stay there.

I conclude by quoting from a short letter to *The Advertiser* of 4 August. It is entitled 'Nurses treated badly.' It is written by Alice Lewis of Aldinga Beach, and it states:

As many are aware, there is a shortage of nurses in the public hospital system, but what many people don't realise is how badly nurses are treated. Hospitals tend to advertise that they are family-friendly and flexible for their employees, but the system often refuses to give times that suit childcare. And often staff lacking experience are employed. Permanent workers are leaving because of dissatisfaction. No wonder there is a shortage of nurses. Just look at how they are being treated.

The Nurses Board of South Australia and its staff undertake a considerable amount of work under the current act. With the imposition of new obligations under this act and the number of personnel they need to undertake a registration process with an expanded workforce, we can expect that they will have an expanded work obligation. I thank them for the work that they have done to date and, in anticipation, I thank them for the work they are about to undertake.

Mr HANNA (Mitchell) (23:00): I do not propose to speak for as long as the member for Bragg on this issue, but I want to support very strongly the midwives in our community. I am speaking in support of the bill brought in by the Minister for Health. It is an important piece of legislation, I think, because for the first time in South Australia it recognises midwives as having a special role to play in the delivery of babies in our state. It recognises midwives as having a profession separate from nurses. With that comes a certain responsibility and, as one would expect, therefore, there is a system in the legislation for registration and also a complaints system if people fall short of the standards which every responsible midwife would expect to uphold.

The legislation creates this separate profession for midwives. Of course, midwives may be nurses; they may not be nurses. Up to this point, midwives have been constrained in the sense that, if they wanted recognition in the health system in any formal sense, they would have needed nursing qualifications, but those nursing qualifications by themselves do not necessarily equip one to be a midwife.

A number of women in my electorate have successfully worked with midwives to have their children, and I have heard many happy stories of births which have been experienced in a more joyful and natural manner than the women expected to have in hospital. That brings me to the point that the Minister for Health and future ministers for health, I trust, will recognise that, now that we have recognition of midwives, we must also recognise the special role for them within the health system. In other words, midwives are not just for having births at home; we need spaces in our public hospitals for midwives to practise what they do and that means, for example, that the birthing centre at Flinders Medical Centre needs to be properly equipped so that more than one mother at a time can have the benefit of a midwife's experience.

I would like to briefly quote from the philosophy statement for midwifery by the Australian College of Midwifery as follows:

Midwifery is founded on respect for women and on a strong belief in the value of women's work of bearing and rearing each generation. Midwifery is emancipatory because it protects and enhances the health and social status of women which in turn protects and enhances the health and wellbeing of society. Midwifery recognises every woman's right to self-determination in attaining choice, control and continuity of care from one or more known caregivers.

This is not the time to decry the practices of medically trained doctors in past centuries, but certainly some of the practices of the past have not fully accorded respect to women and have not recognised the value of having births as naturally as possible. With the whole experience one must always add the rider that the safety of the baby and the mother are most important, and every responsible midwife, I believe, has a plan for obtaining traditional medical intervention, if necessary, from trained doctors and nurses should the need arise.

The legislation put forward is beneficial, I believe, to midwives and those women who choose to cooperate with a midwife in their birthing. I commend the legislation and I commend the minister for his work in bringing it before the house.

Mr VENNING (Schubert) (23:05): I have been sitting here all day listening to the debate with a lot of interest. I congratulate the deputy leader, the shadow minister and member for Bragg, on a sterling effort in relation to the support of probably one of the most respected professions, that of nursing. My own sister is a nurse, and I think all of us have a very strong affinity and a lot of sympathy for nurses. You only have to go to a hospital, or even a dentist, and you will have dealings with a nurse. I support nurses and I also support midwives because they do a fantastic job.

We do hear some criticisms of the nursing profession, particularly in the training area. I am one of the old school, where I believe that nurses should be trained in the hospitals, in the wards, and once they have done their apprenticeship there that is when you put them in the classroom—

not the other way around. That is a controversial thing to say, particularly with the modern misses sitting up there in the gallery. They are probably thinking, 'He is a staid old B; he ought to get with it', but that is how I see it.

The ward in the hospital is the coal face, and for some it does not click, it does not work, and they work out then that it is not their vocation. So, I think there is probably an area of compromise there. I have many friends who are nurses. We have some very good training hospitals in South Australia, and some of them are in the country, and we have a lot of doctors who are very good trainers. I think nursing is a calling and nurses deserve our deepest respect and gratitude.

I read an article a few days ago in one of their magazines about a survey that was done amongst nurses, and I was concerned to see that, of the people who responded, 65 per cent of them—and I could go on for hours about this, but I will not, because it is too late—said that they were not very happy, and there were accusations of bullying and all these sorts of things. It was very concerning to me that these wonderful people who serve have to put up with this so-called bureaucratic interference that causes them a lot of angst.

A recent survey undertaken by the ANF (SA branch) indicates some significant cultural and leadership issues within our mental health services. This is taken from the *In Touch* magazine, the September 2008 edition:

> From the findings a number of concerns were raised which suggest mental health nurses felt that they are placed in circumstances which do not allow them to provide quality care to clients; they are frequently exposed to bullying in the workplace, which is hard to understand. Nepotism is a feature of the organisation in which they work; they are not consulted over directions of the mental health system and are ambivalent about the direction of the reform agenda.

I will not go on at great detail, but I was very concerned to read this, particularly that 65 per cent of them made the accusation that they felt that they were bullied in the workplace. I know we have a shortfall of nurses, and I know that at the moment there is an overseas campaign to recruit nurses. I think it is rather strange that we are actively campaigning for more nurses. I am sure we are losing a lot of practising nurses, and I note the nurses in the gallery, because they are not happy in the workplace.

Today I was very interested to hear the shadow minister talk about nurses who want to re-enter the workforce, and I cannot believe all the rigmarole they have to go through to do that. I am of that age, which is 60-plus—it is sad but true—but many people of my age would like to go back and rejoin the workforce, particularly in the nursing profession, and they find the hurdles that are put in front of them pretty hard to scale. I do not know why it is not made easier, and I think that the shadow minister said that very well today during the debate.

I will not go on at length because I know that the member for Kavel wants to say a few words too, but I want to say how much I respect the nursing profession. They are a wonderful group, who are generally uncomplaining, and this is an instance where we can highlight the work that they do. I take my hat off to them, particularly to those who work in areas that are difficult (such as in aged care and in the mental health area). It must be (and is) extremely frustrating and there is no doubt that it is a calling. I take my hat off to them because I could not do it, and thank goodness that we have people in this world with a heart and soul who are prepared to call themselves nurses and to serve as well as they do. I support the bill.

Mr GOLDSWORTHY (Kavel) (23:11): I am pleased to make a brief contribution on this legislation. Given the time, I will not look to hold the house up unnecessarily. I could summarise what the legislation is trying to achieve; however, I think that the deputy leader and shadow minister for health has done a really outstanding job in her contribution to the house today in outlining and summarising the content of the bill and what it attempts to achieve. Therefore, my remarks will refer to issues in relation to nursing, health resourcing and the like in my electorate.

I do not like to let an opportunity go past in the house where I can speak on issues of such importance relating to my electorate, particularly in the significantly expanding districts of the Mount Barker, Littlehampton and Nairne townships, where another 800-plus homes are being built in a newly developed residential area in Mount Barker. Of course, families will be moving into those 800-plus new homes and, as a result, that will put additional pressure on the current health services provided by the Mount Barker District Soldiers Memorial Hospital.

It is my understanding, particularly in relation to midwives and the services that they provide to our community, that the maternity wards at the Mount Barker hospital are at capacity

already. With the increase in population in that particular area, that will only result in placing additional pressure on a health service that is already at capacity. In the strongest terms, I communicate to the government and to the minister that they will need to address that issue sooner rather than later.

I understand that, according to the Country Health Care Plan, Mount Barker hospital was to be linked with the RAH. Whether or not that means that the overflow or the demand will need to be taken up at the RAH or at the Women's and Children's Hospital, I do not know. That level of detail was not clear in the country health plan, but because the state Liberal Party (again capably led by the shadow minister for health and deputy leader) has seen that plan basically scrapped, we are back to the drawing board and we are in the preparation of mark 2 of the country health plan. Goodness knows where we are with the arrangements of what is occurring at the Mount Barker hospital and the other Hills hospitals—the Gumeracha Hospital and the Mount Pleasant Hospital—that work very well (and the member for Schubert will attest to this) under the management of one board.

One board administered Gumeracha and Mount Pleasant hospitals. That has been scrapped and health advisory councils (HACs) are now in place. It is unclear what the outcome will be in relation to resources that will be available to the Mount Barker District Soldiers Memorial Hospital and the Gumeracha and Mount Pleasant hospitals in the northern part of my electorate.

Towards the end of last year, if my memory serves me correctly, a local general practitioner in the Mount Barker district raised issues of serious concern in relation to practices in an emergency Caesarean situation. I will name this particular doctor, because it is not an issue. His name has been out there in the public arena because he himself did some media and I have highlighted the situation in the media, as well. Dr Paul Lehmann is a very courageous person who highlighted this issue. Dr Lehmann is an anaesthetist, specially skilled in the area of providing emergency Caesarean sections to women.

It is my understanding that a woman needs an anaesthetist, a doctor to tend to the mother and, if the baby is in need of care, a doctor to tend to the baby. She needs three doctors in the theatre at that time, supported by experienced, qualified, properly trained nursing staff. That was not occurring at Mount Barker hospital, and Dr Lehmann had the courage, conviction and the ethics of his profession to highlight this issue publicly. It is not the fault of the doctors, the nurses or the midwives but, rather, the government. It is the fault of the government for not adequately and satisfactorily resourcing that hospital with the level of trained professionals required to carry out emergency surgery procedures.

As a consequence of Dr Lehmann's courage, I understand that he suffered some criticism from his peers. I received some information via my networks in the electorate that he suffered criticism as a consequence of his actions. However, the minister decided that there should be an investigation, which took about six weeks to complete. As a consequence of that investigation, measures have been put in place to remedy the situation. The concerns have been met and there is now a satisfactory level of trained professionals to deal with an emergency Caesarean procedure. It was putting pressure on the doctors, the nurses and the hospital administration—throughout the system—as a direct result of the government not adequately or satisfactorily resourcing those areas.

The criticism should not be laid at the feet of courageous, highly ethical and dedicated professional people such as Dr Paul Lehmann but, rather, fair and square at the feet of the minister and at the state Labor government.

The other issue I raise relates to professional development and qualifying people to hold various nursing positions. Again it comes back to a local electorate matter. A constituent who was an enrolled nurse contacted me. This person was seeking authorisation for an enrolled nurse to practise without the supervision of a registered nurse. I understand that this person's application was the first of its kind in the state. Some changes were made to the way in which these matters were dealt with and enrolled nurses were given the opportunity to practise without the supervision of a registered nurse. This person made application. My notes tell me that the act was amended in 1999 to allow this particular authorisation to occur.

Again I understand that measures and things have to be put in place to ensure that people have the right qualifications and the right training. All those issues have to be dealt with to ensure that the person is at a satisfactory level of experience, qualification and training to undertake these roles in our health system. However, this constituent seemed to come up against hurdles all the

way along, particularly with the Nurses Board. A panel was established to endeavour to satisfy itself and the board that the qualifications of this person were at a level that they could undertake this activity. This went on for a long time. The person would answer the questions, meet the requirements, would arguably satisfy the questions that were asked of her, and then another set of questions and another set of hurdles were put in place.

This person reached the stage where she was extremely frustrated and she came to me. I wrote to the current Minister for Health and I received a five page reply. It is a good news story, I guess. After my letter to the minister and the minister's inquiries, this person was finally given the approval. I understand that she is the first person to achieve this authorisation in this state. The reason for my highlighting this matter is not necessarily to criticise the Nurses Board and so on, but to point out that we get caught up in process. We really need to focus on the outcome. We really need to look at what we are trying to achieve with these initiatives. We need to look at what we are trying to achieve with the Nursing and Midwifery Practice Bill 2008.

It is unfortunate that the way the process of government has developed is that we get so bound up with process that we cannot see the wood for the trees—that is an analogy that is used from time to time. All I am saying is that, if we want to deliver an improved health system to the state and all our constituents, we need to stop getting bound up in issues of process. I am sure that the 47 members in this place, who together represent the whole of South Australia, want to achieve that outcome. There is no reason why anyone would not want to achieve that outcome. However, if we keep getting bound up in these ever tightening issues of process, we will never achieve a proper quality health service for South Australia.

So, as I said, I am highlighting this particular issue because it was quite clear that this person was being hindered in achieving what she was setting out to achieve and what the act, amended in 1999, wanted to achieve. She was being hindered by the process, as such. I think we need to be ever mindful of issues such as this in our administration of the state and in looking to improve every aspect of the service delivered to our constituencies.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (23:25): I thank members for their contributions, and I also especially thank them for their support. The bill is, in fact, the Nursing and Midwifery Practice Bill, and I want to refer to the deputy leader's comments about midwifery and her question: would a male nurse be called a 'midhusband'? No, he would not, because of the derivation of the word 'midwife'. 'Midwife' is middle English, according to the *Australian Concise Oxford Dictionary*, probably from obsolete preposition 'mid', which means 'with', and 'wife', which means 'woman', in the sense of a person who is with the mother. So a midwife is not a wife who has some particular role but is someone who is helping a wife. So, if you are a midhusband you would be helping the husband in the process of birthing, which probably would be necessary in some circumstances but would be a totally different career, and not one that this legislation attempts to deal with.

There were a lot of comments made, and I will try to deal with some of the issues raised by the Deputy Leader of the Opposition in particular. I will not address all of the things that were said which are really outside the scope of the legislation. A number of points were made by various speakers about a range of things covering the broad canvas of health and its connection to nursing, in somewhat tenuous ways from time to time. If I miss things mentioned by the member or cannot understand my notes, I am happy to pick up the issues during the committee stage.

The deputy leader made much of the provision that after 10 years of absence from the field a nurse is required to undertake retraining, essentially. She made much of this and I have some sympathy for the points she makes, but it is not the legislation that does that: it is, in fact, the board that has developed a policy. The board, of course—

Ms Chapman: Change it.

The Hon. J.D. HILL: Of course, this picks up the point that the member for Kavel was making, which is that of outcomes versus process. The deputy leader in much of her comment was talking about the absence in the legislation of details of process. Yet, if you build into legislation a huge range of process, of course, you make it even more complicated. So, what legislators try to do is create the framework, give the outcomes and goals and produce the powers, and then allow those who have been given the exercise of those powers the responsibility to develop particular frameworks.

Other legislation is more stringent, as I understand it, in terms of when training is required. I think under our legislation after five years' absence from the field a nurse has to undertake some

training. After 10 years, as a matter of policy, as the board has implemented it, they are required to go through retraining completely. I think under the Medical Practice Act it is three years of absence from the field before some sort of training has to occur. I am happy to refer the deputy leader's comments in relation to training to the Nurses Board and ask it to consider its processes, protocols and policies, to see whether some more flexibility can be brought in. As I understand it, of course, there is flexibility and capacity to give some sort of benefit for prior knowledge and learning.

The deputy leader also raises the issue of spaces for training. This is an issue for us as a nation. There are about 200,000 registered nurses in Australia at the moment. We graduate about six and a half thousand. Given the age profile of nurses, we need to increase the number of graduates to about 14,000 over the next few years in order to maintain 200,000 by 2020, so there is a great deal of pressure on in-hospital training places. Of course, the government gives priority to the graduates of its own institutions and the universities over private providers.

I am not certain of the example that the deputy leader gave, but I do understand that there is difficulty from time to time, particularly when providers insist on the nurse doing the in-hospital training at a time which suits the timetable of the provider. Hospitals operate 24 hours a day. Providers tend to want nurses to do the in-hospital training in particular breaks in the curriculum. The department is working through that in an attempt to create extra training places in hospitals.

In relation to prescribing rights, I am not aware that there was any change in the legislation between the current act and the bill that is before the house. The intention is that the prescribing rights should be maintained in the same way. There is no sleight of hand in that. If one of the drafts had something slightly different, I cannot recall that being the case, but through the process of consultation and discussion we have adopted the position that we have now.

The deputy leader raised the issue of what is a fit and proper person; what disclosure is required; what is the obligation and so on. As I understand it, the board produces some guidelines and assists nurses to understand their obligations. So there is a process by which nurses and those who are obliged under the legislation to report are given support.

The deputy leader made reference to mental health nurses and the fact that they will now be contained on the general register. I should say to the deputy leader that this is an important and sensible thing to do. I know a little bit about mental health nurses through my family. My late sister was a psych nurse when she was a teenager. She left school early at 15 for a variety of personal reasons, and she decided when she was a bit older that she wanted to become a nurse. This was growing up in New South Wales.

She did not have the qualifications to get into general nursing so she got into psychiatric nursing. There was a different stream. The training was different, and a psychiatric nurse was a different kind of entity to a general nurse. I understand that it was roughly similar in South Australia. Psychiatric nurses were registered separately so that that restricted their areas of practice to psychiatric nursing.

Now, of course, the training is different. Everybody does general nursing and people specialise in different areas, and, of course, psychiatric nursing is one of those areas. So you no longer need to provide that protection to the public by restricting the areas of practice of psych nurses. I understand that there are a number of mental health nurses who trained under the old scheme, and the registration process will allow them to be identified. Over time, of course, all nurses will be trained with the same basic training package and then will specialise in a variety of areas. I think the deputy leader mentioned 60 or so identified areas of practice, so that is the general direction.

I think the deputy leader asked whether or not the annual reports could identify particular areas of specialty. That seems reasonable to me and I am happy to pass that on to the registration board to take that on board. The deputy leader may wish to seek further clarification during the committee stage about the corporate provider liability.

As I understand it, there are a number of exemptions. I may not get this exactly right, so I apologise in advance but, as I understand it, under the Health Care Act there are certain responsibilities for public hospitals, for example. Exemptions are given to organisations such as the Royal Flying Doctor Service and the Rural District Nursing Service (RDNS), as well as to some private hospitals I think, so they are covered by other means. This is a sort of general catch-all for anyone who is not covered—a small business, for example. If I were a nurse and my wife or partner were also a nurse we could set up a propriety limited company and rent ourselves out to

various bodies. If we were to do that then this part of the legislation would cover us (I think that is right).

The deputy leader made the point that carers were not covered by this legislation. It is true that they are not. This piece of legislation deals with the professions of nursing and midwifery. These are clear and identified areas of professional practice that have developed over a long period of time, and systems are in place for registration and accreditation and all the rest of it in relation to the duties of nurses and midwives. Carers, or people who work in aged care facilities and the like, come from a broad range of backgrounds. As I understand it, there is no settled or developed area of practice, and it would be an exaggeration to describe this work as a professional skill or as being in the area of health skills.

These people do a range of things in different circumstances. I do not disagree (and I have said this to the nurses union) with the fact that there should be standards or some sort of process for managing the work done by people in these industries, but this is not the piece of legislation in which to do it. I have asked the Department of Health to develop a paper and do some work in this area, and I understand that is progressing.

Finally, the deputy leader raised an interesting question. As a former English teacher I am always interested in language, and she made an interesting point about the language of enrolled and registered nurses. I cannot answer the question; I guess it is the way it has always been done. It is a reasonable point, and I suppose it is something that can be considered. However, even though 'midwifery' and 'midwife' are ancient terms, I think it would be at her peril if she advocated changing it to 'birth assistant' or some other phrase of that ilk. I think we will probably keep the term 'midwife', but the deputy leader makes a reasonable point about whether it should be different for an enrolled nurse, because I agree that it is not very contemporary.

I believe I have covered most of the issues. If I have not, I apologise, and I am happy to answer any questions the deputy leader may have in the committee stage. One other thing I would like to say is that this was a process of consultation. I have been Minister for Health now for almost three years, and I think the process of developing this legislation preceded me. There has been a huge amount of discussion and consultation with key groups, and there was advertising in the media, so I find it impossible to believe that anyone who had an interest in nursing or health would not have known that the legislation was being contemplated, and people were invited to participate.

The agency certainly went through a process of consultation with the main groups, and the deputy leader has been given a list of those groups. A number of them chose to make written submissions and others did not, but that is not to say that they were not consulted. A number of meetings were held that were attended by various groups (including some that the deputy leader mentioned) where they gave their support, although not in writing.

I understand there is now a broad consensus for the legislation. I thank the deputy leader for indicating opposition support. She asked me to consider a number of issues, and I give her an undertaking that I am happy to do that, and if I can assist I will.

Finally, I thank the officers from SA Health, who have been working on this for a very long time. I thank them for their patient consideration of all the submissions and for working towards a consensus in and across the profession. I particularly thank Jenny Butel, who is our chief nurse, and Heather Osborne and Lee Wightman, who have been working on this for a great deal of time. I also thank our parliamentary counsel, Christine Swift and Mark Herbst. I commend the bill to the house.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Ms CHAPMAN: In relation to clause 3, definitions, you commented, minister, on midwife, enrolled, and registered nurse, so I will not address those. In relation to exempt provider, you referred to hospitals, private hospitals and so on being exempt. I think you referred to the Royal Flying Doctor Service and others, and I understand that. That is relevant then to the obligations for a services provider, which are defined on the following page. The definition states:

services provider means a person (not being a nurse or midwife) who provides nursing or midwifery care through the instrumentality of a nurse or midwife but dos not include an exempt provider.

Are nursing agencies covered by this?

The Hon. J.D. HILL: Yes, I understand so. They are not exempt: they are service providers.

Ms CHAPMAN: In the very extensive list of consultations that was provided by your office, why were any of the nursing agencies or a representative association not consulted about this legislation?

The Hon. J.D. HILL: As I said, we advertised extensively, and the whole world had an opportunity to come to us: as far as I understand, it did not. That is the only answer I can really provide.

Clause passed.

Clauses 4 to 15 passed.

Clause 16.

Ms CHAPMAN: This clause provides for delegation by the board, and it is not an uncommon clause. It restricts it to the powers which, I presume, are those outlined in clause 14, but it excludes other than prescribed powers which, of course, from time to time may often be referred by you to the board to deal with. There are quite extensive powers here, including the approval of training programs. There is a consultation requirement, for example, with the education authorities, under clause 14(1)(b), but it could mean that one member of the board would have the delegated power to provide that. These are quite extensive powers. Is there some logical reason? Often there is a provision for a subcommittee of a board to meet, which obviates practical requirements; sometimes people are absent and all sorts of things like that. I understand the delegation power, but this seems to be fairly broad.

The Hon. J.D. HILL: As I understand it, this is just a general delegation power. It will be up to the judgment of the board, from time to time, what powers it ought to delegate. In general terms, most of the delegations, of course, would be to the registrar. But, from time to time, I imagine the chair of the board might be delegated particular things, or some other employee might be delegated with particular matters. It is true, they can exercise their power in this way. I guess it goes back to the point the member for Kavel was making that you have to create a framework with good outcomes in mind, and then set up a mechanism to create as much flexibility as you can to achieve those outcomes. If they make errors, of course there are appropriate appeal rights.

Clause passed.

Clauses 17 to 23 passed.

Clause 24.

Ms CHAPMAN: Minister, this relates to the annual report and includes the outcomes of proceedings before the board under part 4 as being part of the expanded information to be required. In my contribution, I indicated that I felt that, whilst, for example, the Medical Board had been given this, it provided only a snapshot, really, of all the complaints that had been received. So, there is no comprehensive data on this issue, and I ask why that is the case; that is, if it is going to be expanded and open and transparent and accountable, and all those sorts of things, we need to know what the outcomes are and the follow-up action of all complaints, other than those that are dismissed.

The Hon. J.D. HILL: I am not opposed to that. We can create a regulation that will do that, and I am happy to have a look at that and ask my officers to develop something along those lines.

Ms CHAPMAN: Under clause 24(2)(a)(iv), there is a provision for other information prescribed by the regulations. Will the minister take on notice for consideration also detailing the number of suspensions and/or removals from the registry per year? With a comprehensive report, that may be available, but they would also provide information to cover that. Again, in none of these requests am I seeking disclosure of individual names, for all the usual reasons.

The Hon. J.D. HILL: I do not think that is unreasonable. I will ask the officers to develop a regulation that will deal with those issues. I will obviously seek advice from the board and others who might have an interest as to whether there is a practical reason we cannot do it, but I cannot see any.

Clause passed.

Clause 25.

Ms CHAPMAN: I am not quite sure whether you have answered this, minister, but the register or nurses roll that is proposed now means that we have a nurses register or roll, depending on that definition we talked about before, and a midwives register and one for students. Is it accurate that nurse practitioners are no longer going to be recorded separately? Will they just be notated like mental health nurses? I was not quite sure about this when you gave the explanation as to why mental health nurses were going to be removed; that they previously had a separate type of qualification as distinct from a degree in nursing, and then an add-on, as the reason for mental health not being able to retain status. I am not quite sure where they have disappeared to. It was my understanding from the briefing that they were still going to have their own separate registration.

The Hon. J.D. HILL: The answer to that is on page 25. Clause 36—Endorsement provides:

(1) A registered nurse is eligible to have his or her registration endorsed with recognition as a nurse practitioner in a particular area of practice.

So, that is how nurse practitioners will be dealt with. It continues:

(2) A registered nurse or midwife is eligible to have his or her registration endorsed with—

(a) recognition in a particular area of nursing or midwifery prescribed by the regulations;

So, that would be mental health nurses, and so on.

Ms CHAPMAN: So there would be no separate register? My understanding is that nurse practitioners would still have a special status, not an endorsement status, which is what we are doing with mental health and any others.

The Hon. J.D. HILL: They have a special status. They are nurse practitioners.

Ms CHAPMAN: Separate registers?

The Hon. J.D. HILL: It is not a separate register. There will basically be a common roll or register, and additional skills or areas of practice will be highlighted on that. There is a different register for midwives because it is a different profession now, but nurses will be on the one register, with additions to point out their special skills.

Clause passed.

Clause 26 passed.

Clause 27.

Ms CHAPMAN: Minister, this is the provision for eligibility to enrol, which is under subclause (1)(c) and (d)—the requirement to be medically fit to provide nursing care and being a fit and proper person. I raised this during the debate and in response you indicated that the board already provides guidelines on this. I have never seen those guidelines and, in a briefing that I received, I was not provided with any details of their existence. In fact, I was left with the impression that they did not exist. Perhaps there may need to be a list.

I do not for one moment doubt that the board may well be the appropriate body to prepare a list of guidelines. As I have indicated, it does have guidelines as to what is appropriate regarding boundaries and the relationships that nurses have vis-a-vis patients, as to when they might use intervention or restraint action, and those types of things. So, I am perfectly prepared to accept that they may be the ones to do it, but is there something that gives them some guidance as to what they are expected to disclose to render the board able to say that they are medically fit and/or that they are a fit and proper person?

The Hon. J.D. HILL: What I will do at this stage is table a code of professional conduct for nurses in Australia which is prepared by the Australian Nursing and Midwifery Council. I gather that is used as a general guideline.

Ms CHAPMAN: So is there a provision in the code of practice that tells the nurse or applicant nurse a list of diseases that they need to disclose, or anything of that nature?

The Hon. J.D. HILL: It does not get into that, but it does go through a code of professional conduct. I will table it so that the deputy leader can have a look at it. I have multiple copies here. I am not sure if there is anything in addition to that but, if there is, I will happily get it.

The CHAIR: Can I just clarify that you are providing the deputy leader with some information rather than tabling something?

The Hon. J.D. HILL: Okay, I will do that. I will just give an indication that if there is anything in addition to that which is available I will certainly obtain it.

Ms CHAPMAN: In the same clause there is reference (and I think the member for Kavel touched on this in his contribution) where a board may, on conditions determined by it, authorise an enrolled nurse to be able to carry out nursing care without the supervision requirement. In what circumstances has that been already approved and in how many cases has that occurred—or does it currently apply, I should say?

The Hon. J.D. HILL: The advice I have is that there is only one person to whom this has applied.

Clause passed.

[Sitting extended beyond midnight on motion of Hon. J.D. Hill]

Clause 28.

Ms CHAPMAN: This clause relates to the registration of midwives. I referred to the medical fitness and fit and proper person clauses and I tried to look at the code of ethics that is provided for midwives. I raise this question because it is sometimes a dilemma in relation to the administration of medical practice for general medical practitioners who have a particularly strong view—for example, those who make a personal decision that they do not condone terminations of pregnancy (abortions)—and they are not under any obligation to provide that service if it is contrary to their views. One of the values stated at page 5 of the document in the code of ethics for midwives is quite reasonable:

> Midwives value quality midwifery care for each woman and her infant or infants.

Obviously, that is something that is to be universal notwithstanding, for example, the marital status of the expectant mother.

If the midwife holds a view that they do not believe in children being born out of marriage or condoning those relationships, that is the type of thing in some circumstances that may justify rendering that person not a fit and proper person to undertake those roles. Is that the type of thing we are talking about that would exclude a midwife from being a fit and proper person, other than the usual things—a criminal record or whatever? I am trying to get a clearer picture as to the grounds on which a board would disqualify someone for not being a fit and proper person or identify as rendering them as such, or any view, conduct or behaviour of theirs that would allow the board to use that clause to either refuse or terminate a registration.

The Hon. J.D. HILL: This is a very complex area in theory, but I think in practice it is probably pretty straightforward. It is hard, as I am sure the deputy leader would understand, to codify an area such as this and list every single thing that might render somebody unfit for a particular position. The point about this legislation is that it is really up to the profession itself to determine who is a fit and proper person to fill the role of nurse and midwife. Clearly, over time, that will change as standards and views change.

I do not think it is about a person's views or attitudes but rather their behaviour. Somebody might be a midwife who does not agree with children being born out of wedlock but, as long as they treat the patient before them in a professional way, I do not think that view matters. However, if they had a racist view and they treated a patient who was black or Jewish or whatever in a different way from another patient, I think that would render them unfit and there would be a review. I guess it is what they do in practice that is of importance, not what is in their head.

In terms of disease, illnesses and so on, if they are suffering from a condition or they have exercised behaviour that might lead to an assumption that they might be suffering from a condition, obviously they are under some obligation to report that if it might affect their professional work.

There is a lot of subjectivity in that, but essentially it is about: what would a professional do? As a society, we give a lot of subjective discretion to professionals; that is the essence of what makes somebody a professional, that they are self-determining in how they behave in relation to a

set of facts. I think we have to rely on the fact that we are talking about professionals here who have gone through a training process and they understand what is appropriate.

There are penalties for those who do not report what they should have, that is, if they behave in an unprofessional way not only in delivering a service when they are unfit for it but by not reporting it—that is a second offence, if you like. So, that is the structure that is put in place. I guess there are any number of people in all professions who are not always acting professionally, but I do not know whether you can have any scheme which is 100 per cent guaranteed that somebody is not doing the wrong thing at some particular time.

This is a structure that we have put in place, and I think it is common across all professions, as I understand it. It creates the right kind of framework so that you optimise the chances of unprofessional behaviour being discovered, but you do not want to create such an onerous burdensome structure that nobody would be able to do anything because everything would be subject to reporting. As I say, I think in theory it becomes really difficult, but in practice it is pretty straightforward.

We have a board which has lots of experience in dealing with these matters pretty well and, as other members have said, we have a very fine workforce, highly trained and highly professional, and they get good outcomes.

Ms CHAPMAN: I understand what you are saying in relation to that, minister, but there is no definition in this act as to what is medically fit or unfit or what is a fit and proper person. I am trying to identify—

The Hon. J.D. Hill interjecting:

Ms CHAPMAN: All right. Well, then let us go to that. Other than a prior criminal offence, or even where they have committed a crime and there has been no conviction recorded, is there any example that the minister can give me of which the board has determined that someone is not a fit and proper person and therefore should be denied registration or should be deregistered, and could you give me that example?

The Hon. J.D. HILL: I cannot answer that question on the spot, but I am happy, between the houses, to seek advice from the Nurses Board, which I will provide to the member, in relation to that matter. I assume what the member might mean is if, say, a nurse was arrested for being drunk and disorderly and did something foolish in an alleyway, would that be something which would have to be reported? I cannot answer that, but I will certainly try to get an answer for the member. My feeling is probably not. But if somebody had an alcohol problem and that affected their work then, I think, clearly yes.

Ms CHAPMAN: The sort of situation is this: somebody could be drunk and disorderly at a public function and they have not been prosecuted or not been charged, but it is not very suitable for somebody in a professional role, especially if it was in the presence of other professionals—it might have been at a Christmas party—and that is one thing. It is another thing if they are either charged with some criminal activity or they are charged but no conviction is recorded but it is noted that the behaviour has been acknowledged.

The common situation is that somebody will attend a job interview and say, 'Look, I've got 14 speeding offences,' and they are told, 'Well, Road Traffic Act issues aren't really a problem. Don't worry about that, that's not a problem.' That is why it is so undefined. We are trying to make it very clear to an applicant what they are obliged to disclose. It might be tell all and then the board will make a decision about whether or not it is relevant. I am not sure what guidance will be given to the applicants because, as the minister said, there are very severe penalties here, apart from loss of registration down the track. There are penalties for signing declarations (and we are talking about tens of thousands of dollars in this bill) containing information that is inaccurate.

The Hon. J.D. HILL: Perhaps I can give some further advice here. I am advised that the following is the Crown Solicitor's view :

There is ample guidance in case law as to what the phrase means—

that is, 'fit and proper person'—

and more aptly covers the range of issues which are relevant to the protection of the public.

It is accepted that the attributes necessary for a person to be 'fit and proper' must be considered in the context of the activities in which the person is or will be engaged. It is most often used in legislation in the context of

disciplinary tribunals where the focus is the protection of the public and not punishment of the professional concerned.

The term is to give the widest scope for judgments as to the appropriateness of a person for the position and takes into consideration a person's honesty, knowledge and ability. A person's criminal record is often a highly relevant fact in considering fitness and propriety, but it does not necessarily follow that a criminal record will automatically exclude a person from being regarded as fit and proper. It will often depend on the offence in question, the recency of the offence and its relevance to the ability of the person to operate effectively in the position of the profession in question. All of these matters the board will need to take into account when making a decision about a person being 'fit and proper person' to register.

I think, by extension, an individual would need to take into account all of these things when making a decision about what information they ought to provide to the board, of course. The opinion continues:

Under clause 64 of the bill, any decision of the board to not register a person based on this or another reason can be appealed in the District Court.

I am not sure that I can provide much further to the member. I am happy to take on board the member's concerns and ask the board to provide further advice, if it can, and also ask it to consider whether or not it would be useful to provide more explicit guidelines. I think the trouble with doing that, of course, is that, if you create a list, then there is an assumption that anything not on the list is okay. Then there is the problem of forgetting or leaving something out, or not contemplating something that might, in the future, be of concern. I think that there would be a reluctance to provide a really comprehensive list, but there might be some general information which can assist individuals to comply with this part of the legislation. I am happy to ask the board to think about that.

Clause passed.

Clauses 29 to 34 passed.

Clause 35.

Ms CHAPMAN: This clause relates to the obligation for nurses or midwives who have not practised for five years to have their position reviewed. As the minister said, after five years there is an obligation for the board to be satisfied that, in those circumstances, they have undertaken some re-entry or reassessment, depending on the time frame. As I have indicated, we totally support that.

Frankly I was astounded when the minister indicated, in response to this issue of the 10-year rule (the policy), that this is a policy of the board and we do not need to interfere with that, that the purpose of the legislation is to provide the framework and they can fill in the dots. Here we are in a situation where the legislation specifically states that conditions have to be imposed if they have been out of the workforce for five years. It does not mention the 10-year issue at all.

It may be a policy that has been developed and there may be some good reason for it. I have not heard from the Nurses Board as to why it does that. I have indicated that there are people in the real world who want to re-enter and that this is an impediment—for all the reasons I have said before—that should not exist. That does not mean necessarily that you take any notice of it, but I think we need some explanation; and to simply say that this matter will be left with the board, when we have issues of workforce and people who want to come back into the workforce, and that this policy is a unique requirement for professionals, is something for which I cannot see any justifiable reason.

Minister, you do not need to have that policy at all. You can still impose on the board, as you propose here, that it require a re-entry or reassessment after five years—I have no issue with that—but in relation to a policy where after 10 years they will have to redo it, I think the parliament deserves a response from the minister to indicate the reasons why that is just not able to be changed. But, having identified it as policy, it is up to us as a parliament to make those decisions. I would hope that we would have information from you, minister, as to whether opening it up is something that your government would support. It is clear from what I have said that we would support that. I would be concerned if this were left as a policy issue and not resolved.

The Hon. J.D. HILL: I attempted to answer this during my second reading explanation. I refer to clause 35(1)(e) which provides 'such other conditions as the board thinks fit'. That is a condition that the current board has thought fit. The whole essence of registration in Australia is based on the profession with some outside support—but, essentially, the professions themselves—determining what the rules are. Doctors determine the rules for doctors, nurses for nurses,

osteopaths for osteopaths and so on. That is what it is about. They fight strongly to maintain that kind of principle.

For us as legislators—who are not medical, clinical, nursing people—to put ourselves in the position of the profession is wrong. What we have done through the process of this legislation is to set some processes in place through which we believe the profession should go in order to make a determination about what the profession does in terms of creating standards. We have created a structure—and it is a similar structure for all the professions—but we do not actually say specifically what it is that is appropriate and what sort of retraining protocols should apply. We have given them some basic structures, so in this particular clause we have said, 'After five years you have to continue these things and you can do other things.'.

The Nurses Board—and I have absolute confidence in the application of its responsibilities—has made this determination. I understand that the 10-year rule is not a hard, fixed rule. There is some flexibility around it and, if people can demonstrate that they have certain experiences which will assist in retraining, that is allowed. I said to the deputy leader that I am happy to refer her concern back to the board and ask them to think it through. I must say that I share that concern, in part. An arbitrary rule set at a particular time does not have a lot of magic. Why is it not nine years or 11 years? What is magic about 10 years? It is just a round figure.

I am happy to ask them to go through it again, but having a clear rule such as that sends a message to those who have left the workforce for a period of time that they need to get back within a particular time. I am still a registered teacher, though I have not taught in a school since 1984, I think.

Mr Venning: No wonder you are grey.

The Hon. J.D. HILL: Yes, it was the first years that made me grey. I have not taught since 1984. I am still a registered teacher, but I am absolutely certain that, if I were to leave here and go back to teaching, I would be required to go through some retraining process, quite properly. There are requirements, as I understand it, under the teachers registration legislation. However, it is up to the teachers—and that is kind of the same principle. I do not know what the rules are for lawyers. I assume there are some protocols in place, but essentially it is the lawyers who make the rules and parliament sets the structure in place to allow the professions to make determinations about what those rules ought to be.

I do not disagree with the deputy leader. I think there is some merit in the point she makes. However, we do not want to get to the point where we say, 'Because we have a shortage of nurses'—and I will get to the point about whether or not we have a shortage of nurses at the moment—'or because there might be a shortage of nurses in the future, we want to make the rules as easy to comply with as possible to attract people into the workforce.' The Queensland government went through this process with the medical profession, and we have seen some of the disastrous consequences. We have pretty tight rules in South Australia. When we talk about national registration, we want to ensure that we maintain a fairly conservative framework in place so that we can protect the public and not compromise that level of protection because we have shortages.

We in South Australia and, indeed in the other states, recently (a year or so ago) increased the amount of English language proficiency that non-English speakers in nursing had to have before they could practise in South Australia. I think it used to be 6.5 points that they had to get and now it is an average of seven. That meant that it was harder to get nurses, but that was a decision made by the board, quite appropriately. It made life more difficult for the department, individual hospitals and the government, but we accepted that advice. They make it on a professional judgment basis. I do not think you can second guess that. However, I am happy to refer the deputy leader's concerns. I add my own: it makes sense to have a flexible regime in place, but I would not want to put any pressure on them to do anything which is contrary to what they believe is in the best interests of the safety of the community.

Ms CHAPMAN: Thank you, minister. I note the request that the minister will make of the Nurses Board in that regard. As they may receive a copy of the *Hansard* for that purpose, I place on the record reference to paragraph (e) which makes provision for other conditions. If there is some interpretation of that paragraph pursuant to the Acts Interpretation Act, then I suggest that it would not be consistent with what the minister is suggesting. Paragraph (c) outlines the condition relating to undertaking a specified course of education or training, and it is within that sub-placitum, I suggest, that this issue is introduced. What the minister makes absolutely clear by introducing this

bill on behalf of the government is that he requires conditions to be considered and imposed after five years.

We all agree that there has to be a re-entry process, and for every other profession either some refresher or re-entry course is required or recommended. No-one has an issue with that. I might say that, to the best of my knowledge, no other profession—whether they are ophthalmologists, medical people, optometrists, chiropractors (we have been through all those)—says that you have to redo the whole degree. Obviously their boards have made a decision and/or have had no direction from the parliament that says that they have to redo a whole degree after 10 years.

Minister, you say—and I say this for the purposes of the Nurses Board responding—at least if they have a 10-year rule as a policy, people know where they stand. However, the people who come to me saying, 'I have lined up to go back to do my nursing refresher, Vickie. I understood I had to do some course and I find that I have to do the whole degree again' did not know when they retired from their employment to have a family that, 15 years later, they have to do their whole degree again. No-one has told them that.

There is nothing—no literature—that I am aware of that tells people of that, so that you can say, 'Okay, I have got nine years and 364 days, I have to get back in there; children strapped to the hip, ready to get back into the workforce, otherwise I have to redo my degree.' The minister has indicated he will ask the Nurses Board to respond to the request that I have made, and we need to have some explanation from the board as to why it thinks this profession, uniquely, somehow or other evaporates capacity completely so that it fails to recognise this degree in this way.

No other profession is required to do it. No other board has determined that it is necessary. I do not know of any other parliamentary requirement that any former minister has decided it is necessary to impose. I think we are all entitled to have some explanation from the Nurses Board as to the justification—it might be a very good one—for putting so many women in this situation. It is only women who have complained to me about this. Why should they be treated in this manner? If there is a good explanation, I indicate to the minister that we will take that on board, also.

Clause passed.

Clauses 36 to 38 passed.

Clause 39.

Ms CHAPMAN: Clause 39 is in Division 3—special provisions for services providers—and the minister has explained that this does provide for agency nurses. I think I have clarified this question of why they were not consulted and, as I understand the minister's answer in this regard, it is because these are pretty significant organisations in our community. They place thousands of nurses and carers into hospitals, acute facilities, aged care homes and private homes every day. They were not told, although the minister tells me that he advertised this.

This is an obligation of recording information, providing detail if it is asked for in relation to their employees, and a number of these carry obligations of record-keeping for seven years. It provides $10,000 penalties for any failure on behalf of the agencies if they do not comply with this. On the basis of what we understand, just in the brief opportunity we have had to consult on this, they did not know about it. They were told about the general gist of it and have not described any specific complaint to me, but I have not even gone through the issue of the amount of penalty.

So my question is: what action does the government propose to take to advise those who are clearly in the business as services providers—and any others? I am not aware of others, but I just picked agency nurses because it seemed to be a logical group that would be covered by this after reading those that were exempt, and they were not in that category. As to what education process or what information is going to be given to these people in relation to what is proposed, it may be too late for them to have any say about it but, at the very least, advise them of the obligations they are about to have.

The Hon. J.D. HILL: In the normal course of events, once a piece of legislation has been passed through this place, regulations will be developed and various guidelines and communication strategies put in place. Given the deputy leader's great interest in services providers, I will pay special attention to ensuring they are provided with very adequate communication about what the legislation does and how it might affect them.

Clause passed.

Clauses 40 and 41 passed.

Clause 42.

Ms CHAPMAN: I again have a question about this area because of the extraordinary penalties that apply if a person holds themselves out to be a nurse, midwife or student, and the penalty is $50,000 or imprisonment for six months for pretending to be something that you are not. Whilst I have no issue with someone who pretends that they have these qualifications or holds someone else to do that, I am a bit worried about the student being in there with this sort of penalty and I just ask why pretending to be a nurse student should attract that level of penalty.

The Hon. J.D. HILL: It is the circumstances, obviously. The courts will determine how severe the penalty will be, depending on the circumstances. I think if you were in a pub on a Friday night and you said, 'I'm a nurse student. What are you doing?' I do not think that would be a very severe example. However, if you were wearing a uniform and wandering around a hospital heading for the drug cupboard, I think it might be a more severe case and, in those circumstances, the penalty is probably warranted.

Clause passed.

Clauses 43 to 46 passed.

Clause 47.

Ms CHAPMAN: This is about directions to a registered or enrolled person to do something unprofessional. This also has a very heavy fine of $75,000, and directing them to contravene a particular condition again has a fine of $75,000 or imprisonment for six months. This may be, for example, a person requesting a nurse to fill out a form and say that they have actually undertaken that particular procedure knowing that to be false.

I referred to one example with a carer where this has happened in other circumstances where there is a pressure on the nurse in a situation, and they do not have time to carry out certain things and are then expected to fill out the forms. I think that it is done not because there is a desire to fill out a false declaration for itself but to make sure that they are quarantined against losing some form of accreditation.

It may be to distort the statistics so that when the statistics go to the minister there is not some hoo-ha about it. So this question of keeping accurate data in relation to procedures is often one which is at risk of its integrity being breached and there is pressure on some of our professionals to fill these out. Is that the sort of thing you have in mind here: if somebody in the hospital hierarchy, for example, were to say, 'Fill out these forms. Don't worry about this; tick the box and everything will be fine.' Is that what we have in mind here?

The Hon. J.D. HILL: I think that it possibly covers that, but it is more to do with the treatment of patients, so that if the nurse were told to give a particular drug which was not appropriate or to wash a patient in kerosene or some other bizarre things that have been reported from time to time—not to give medication when somebody was in pain (and I can think of some examples and am aware of the case at the moment where that is happening—I think it is that kind of situation.

This is really saying that professional nursing is a discrete area of practice. Nurses are professional beings. They operate within an organisation. They can be directed to provide nursing for a particular person, but they cannot be directed as to the appropriate level of care in an unprofessional way. Clearly their supervisor can say, 'Do it this way' or 'Do it that way' or a doctor might say, 'I prefer to have this treatment done in a particular way', but if they were to say, 'I want you to do something which is outside the professional regime,' especially to the detriment of the patient, it is really appropriate that we have a very severe penalty against anybody who might do that. I am not sure that this happens terribly often—you would hope not.

Ms CHAPMAN: I raise this issue, minister, because in my contribution I referred to the ANF survey of mental health nurses. One of the things that they complain about is an expectation that they do just that—that they are expected to make decisions that are to the detriment of their patients.

An example provided to me was that a proposal had been made to a senior mental health nurse by another professional (not a mental health nurse) that there would be an agreement to see a particular patient conditional upon her agreeing that, in respect of other patients, there would be no change of shifts. This is very serious, and I have counselled the person to refer this matter to

the Nurses Board, because I believe that is exactly the type of pressure that is imposed when the workforce is in a pressure cooker environment—which is clearly the outcome of this survey.

They are not expected to do anything illegal in relation to shifts but, if they consider this to be to the detriment of patients and that they would compromise that in order to be able to access some other service—that is, another patient being seen by this other professional—that seems to me to be directing or pressuring another person to engage in unprofessional conduct. As proposed in this legislation, it attracts a very severe penalty. It may be a very important one, but it is not uncommon and it needs to be addressed.

The Hon. J.D. HILL: I am not aware of the circumstances and, as the honourable member knows, I am not responsible for the mental health part of the portfolio. I am aware, in a general sense, of concerns that have been expressed. I do not want to enter into a debate about this, because I do not know the circumstances; the member may be right that it may apply, but I do not think you can transport industrial relations issues into this area. There may be some circumstances where you can, but I think the industrial relations environment of any institution can sometimes be quite difficult. I believe this is really about someone being directed to do something that is unprofessional and contrary to the interests of the patient.

I guess from time to time people may argue about working particular hours or that the ward is not properly air conditioned. All those kinds of amenity issues may somehow lead into this, but I think that would interpreting it in a very broad way. Of course, it is not up to me to give an interpretation; it is up to us to create the laws and for the courts to give the interpretation, but that is the feeling I have.

Clause passed.

Clauses 48 to 54 passed.

Clause 55.

Ms CHAPMAN: I rise to speak on this clause because I want to highlight that here is a legislative proposal to direct the board to provide guidelines—in fact, within six months—to deal with the processes carried out by the inspectors in their investigations. Indeed, there is a whole provision for a review of those guidelines further on in the proposed act. I would make the point that if it is good enough to provide guidelines to inspectors it is good enough to provide guidelines to the very professional people who will be involved in this act.

The Hon. J.D. HILL: The member makes a debating point; however, these are guidelines regarding how officers implement legislation, so it is about how an inspector goes about inspecting. That is not a professional area of conduct except in the sense of what is an inspector's area of conduct. It is not about the health profession of nursing: it is about the behaviour of inspectors, so it is appropriate to seek guidelines in relation to that. I have already answered the other question more specifically, but I would just make that point.

Clause passed.

Clauses 56 to 58 passed.

Clause 59.

Ms CHAPMAN: I have a question on this clause that I am not sure has been covered. This is a provision for the obligation to report medical unfitness and unprofessional conduct by others, and I think we have covered that. Again, it is quite a significant penalty. I am trying to find the section in relation to students, because there is also a penalty for educational institutions—

The Hon. J.D. Hill: Paragraph (d).

Ms CHAPMAN: Yes; thank you. They are obliged to report if a student ceases to do the course. Of course, we will bring in students here. It is a $10,000 fine to the University of Adelaide if it forgets to tell the Nurses Board that somebody has withdrawn from a course. I wonder how that can possibly be justified.

The Hon. J.D. HILL: I do not think that the deputy leader is correct. This clause relates to who is obliged to report to the board behaviour as a result of medical unfitness or unprofessional conduct. It obviously applies in the workplace, but it also applies to those who are training students. So, if a director of a training institution became aware that one of the students had a mental or physical disability to the extent that they could not conduct themselves as a nurse, given that they

were registered as a student and would be in contact with patients, they would be obliged to let the registration board know. As I read it, it is not about their dropping out of the course.

Ms CHAPMAN: That is why I was trying to identify whether that was the relevant clause. My understanding is that, if a student ceases their course, there is an obligation for the educational institution to advise them. I read that somewhere, but I had not marked it. Is it there?

The Hon. J.D. HILL: It is not in that clause. I am advised that it is on page 23, removal from register or nurses roll. Clause 40 relates to records to be kept by service providers. I think that clause 32 is the applicable clause. It provides that the registrar must remove from the appropriate register or the nurses roll a person who completes or ceases to be enrolled in a course of study.

Clause 32(3) provides that the registrar may act under clause (2) without giving prior notice to the person. I do not think any penalty applies that I am aware of; I cannot see it. I am not aware of any penalty that applies. This is really a penalty that applies for the more serious concern about somebody who clearly has a problem and the educational institution has a responsibility to let the board know, so that is a different issue.

Clause passed.

Clauses 60 to 72 passed.

Clause 73.

Ms CHAPMAN: This clause relates to where a person who is registered or enrolled under the act becomes aware that he or she is medically unfit. I assume that somebody else must report the medical unfitness or it may just be the person themselves.

The Hon. J.D. HILL: No, the person themselves.

Clause passed.

Remaining clauses (74 to 85), schedule and title passed.

Bill reported without amendment.

Bill read a third time and passed.

At 00:47 the house adjourned until Thursday 16 October 2008 at 10:30.