HOUSE OF ASSEMBLY

Tuesday 12 May 2009

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

PRIVATE CERTIFIERS

Adjourned debate on motion of Hon. M.J. Atkinson:

That this house establish a select committee to inquire into the functions and duties of private certifiers in the state of South Australia with the following terms of reference—

1. The operation of part 12—Private Certification of the Development Act 1993, and in particular—
   - (a) the framework under the Development Act 1993 to handle complaints made against private certifiers;
   - (b) the current process for accrediting private certifiers in the state of South Australia;
   - (c) whether current methods of accreditation for private certifiers are appropriate and/or whether other streams of accreditation should be considered;
   - (d) the appropriate qualifications required by private certifiers to undertake tasks related to the structural integrity of buildings;
   - (e) the system of auditing approvals provided by private certifiers and adequacy of the current processes of enforcement in the event of a breach to the Development Act 1993; and
   - (f) any other matters directly relevant to this part of the Development Act 1993.
2. Whether the Building Advisory Committee or any of its members have been placed under any undue influence in the performance of their statutory duties.

(Continued from 30 April 2009. Page 2566.)

Mr WILLIAMS (MacKillop) (11:02): As the lead speaker for the opposition on this matter I indicate upfront that the opposition opposes the setting up of this select committee. In doing so, I say that the opposition believes it is an abuse of the house to bring this motion into this place. Both the minister and the shadow minister responsible for this matter work in the other place. The two members who know more about these matters than anyone in parliament are in the other place. Why would the government bring this matter to the attention of this house when there has been an ongoing debate on it for the best part of the last 12 months in the other place? That is the first question the opposition pondered as it addressed its reaction to this motion. Interestingly, the minister, when he spoke to the motion on the last day of sitting, said:

> The Development Act 1993 appears silent on the limitations of building surveyors in exercising their responsibilities under the act. Under the current legislative framework it appears that building surveyors as a profession are entitled to self-assess their own professional limitations.

He goes on to repeat that as if to say, 'Shock, horror! Why would you have a profession self-assessed? Why would you have a profession as the controlling body to assess the credentials of another member to join that profession?' The minister seemed to suggest that there was obviously some conflict of interest. It might surprise the minister and members of the government that I consult members of the medical profession, as I am sure most members of the house do from time to time. It is not some committee of non-medically qualified people who test, assess and register people who practise medicine. That work is done by professionally qualified people. To my knowledge, it is not some committee of non-qualified people who do the work and set up the regime to test and provide the qualification in any profession.

In any profession, the best and most qualified people to recognise who is able to operate in a professional capacity is the peer group within that profession. That is exactly what happens in regard to building surveyors, yet the government would have us believe—shock, horror—that there is something intrinsically wrong with that principle. The reality is that there is everything intrinsically right with that principle. Who other than qualified building surveyors, those who have the relevant theoretical and practical knowledge, would be more qualified to determine whether somebody should be certified to act within that profession?

Mr Pengilly interjecting:

Mr WILLIAMS: Yes. The opposition has asked itself: what is going on here and what is behind the call for this select committee? It is quite revealing. I do not have any intimate knowledge of the people involved or the games that have been played, other than I know that games have been played. However, as I said, it is in the other place and, if this matter were being debated in the other place, I am sure that a lot more would be revealed than I am in a position to reveal because I have not been following this issue for the best part of the past 12 months.

It appears that a discussion paper was issued by the Building Advisory Committee (a committee appointed by the minister) entitled 'Checking of structural engineering calculations.' I understand that this paper was as a result of the Coroner's inquiry into the collapse of the roof at the Riverside Golf Club where, from memory, there were several fatalities. It was a very serious matter, and there was a Coronial inquiry. In speaking to the motion on the last sitting day, the minister quoted part of the Coroner's recommendations, as follows:

> I recommend that the Minister for Local Government conduct an assessment to ascertain the extent to which Local Government is not enforcing conditions imposed on grants of development approval, not enforcing the laws in relation to Certificates of Occupancy, not conducting an independent appraisal of the structural engineering aspects of the roof of proposed buildings…

The committee's proposed terms of reference are all about private certifiers, and there is nothing about investigating the role or the lack of the role of local government in these matters, which was the very recommendation the minister read to the house only a fortnight ago. So, why are we proposing to set up a select committee to look into the conduct of private certifiers when the Coroner has suggested that the Minister for Local Government should look at the role of local government in this matter? What has happened to that recommendation?

In any case, the minister distributed the paper (Checking of Structural Engineering Calculations) and, interestingly, said at the time that the paper was a response to complaints from a number of councils. I have done a little bit of reading about what has been happening in the other place. The minister has read into *Hansard* some excerpts from one of those complaining letters but, unfortunately for the minister, he let slip the date of the letter which happens to be not only after he released his paper but after the closing date for comment on the paper. Yet, the minister would now have us believe that that is the reason why we have this matter before us now; that it was initiated by complaints from local councils.

It becomes even more involved. It seems that the chair of the Building Advisory Committee, who issued the discussion paper (one Demetrius Populous) supposedly in response to complaints from the councils, was previously a life member of the Australian Institute of Building Surveyors, and he, obviously, was appointed by the minister as the chairman of the Building Advisory Committee. It seems that the board of the Australian Institute of Building Surveyors recently stripped Mr Populous of his life membership and his fellow status in that institute.

That is an interesting thing; that a particular building surveyor, who was a life member of the Australian Institute of Building Surveyors and was the minister's appointed chairman of the Building Advisory Committee, put out a paper supposedly in response to some complaints from four councils, which is what I think the minister said in the other place, and yet the letters that the minister has so far exposed in the house were dated after the closing date for submissions. Furthermore, it seems that Mr Populous was, indeed, a consultant to each of those councils.

I have said several times that I am not intimately aware of what has been going on here but I am certainly aware of enough that raises considerable suspicion as to the motives of the government in this matter—considerable suspicion. The opposition would not oppose a select committee to look into the broader matters which came out of the coronial inquest into the failure of the roof structure at the Riverside Golf Club and other matters—and there are other matters, as I am aware, that have been raised from time to time by people within the industry, whether it be from local government or various building associations. I understand there have been discussions on some of these matters over time.

However, what the opposition does not accept is that this house should be used for some frolic because there has been an internal spat within the Institute of Building Surveyors; an internal spat which, it seems, the minister has firmly taken sides on. I do not believe, and the opposition does not believe, that that is the role of this parliament. We think this whole exercise raises some serious matters about the probity of the minister. It seems that the minister does not want this debated in his chamber with a shadow minister who has intimate knowledge of these matters and who could probably put a much more cogent argument than I am presenting.

In any case, the two key pieces of evidence the minister has put in support of this motion are, first, the coronial inquiry's recommendations, which are not addressed in the terms of reference in this motion, and, secondly, the fact that the peers within a professional organisation are not the best people to assess whether other people are suitable to enter that profession, which is an absolute nonsense. I challenge the government to name one other profession which is under the control of the statutes of this state where you would use a group other than the peers within that profession as the assessing panel.

Mr Rau: Politicians.

Mr WILLIAMS: I don't think that would be right in the case of the Labor Party. I do not think anyone gets into this place via the Labor Party without being assessed by their peers within the Labor Party. So, I think the member for Enfield has actually backed up my argument, and I thank him for that. Whilst the opposition can count and whilst it understands that the government is committed to this, we oppose the motion for the reasons I have just outlined.

Mr RAU (Enfield) (11:17): I want to quickly say a couple of things about this motion. The first is that I take serious issue with the honourable member's remarks to the effect that he would not be able to adequately deal with this matter in the same way as his colleagues in the upper house. I think he is hiding his light under a bushel. He always does that, and he is doing it again. I do not think anyone in this place was fooled: we know that he is perfectly capable of dealing with this matter.

The Hon. R.B. Such interjecting:

Mr RAU: Well, I think he is genuinely a modest person, and it is not false in that sense. It is not contrived; he just likes to be like that. I think his deference to his colleagues elsewhere is admirable but completely unnecessary.

The Hon. S.W. Key interjecting:

Mr RAU: Yes. Well, we know about his relations with the Chinese submarine as well, but we don't have to go back into that. What I want to say quickly is that, if you look at the terms of reference, they itemise a number of things and, really, the interesting one and the one that I think the member for Finniss should have a look at is paragraph (f)—

Mr Pengilly: What's that one? Tell me quickly.

Mr RAU: It's really good. It states, 'any other matter directly relevant to this part of the Development Act'. The honourable member made the point that it did not specifically refer to local government, therefore it is outside the purview of the review. Well, if it has something to do with the act, it has something to do with the proposed select committee's activities. Likewise, the question about the committee's recommendations coming out of coronial inquiries—that is the same thing, and that could presumably be part of it as well.

Since I have been in this house—and the honourable member has been here longer than me—we have been going through an exercise where we have been reviewing all of the professional standards for a whole range of people, whether it be architects or psychologists, or whoever it is, and a lot of this was driven by the former Liberal government in Canberra, which came up with this evil thing called national competition policy and which then inflicted it on all of us. So, we had to go through the process of disbanding perfectly good things, such as the Barley Board, because otherwise we would have been fined, and part of that was to go through a whole lot of professional reviews.

The honourable member might know something about this that I do not, and that is quite possible. However, it looks to me, from reading this, that all we are doing is basically reviewing whether the present circumstances applying to this type of activity constitute the best model. I have no idea what the answer to that is. I do not even know what the evidence might be that would be received by the committee if it were to be established. It will be sort of an adventure, I guess, if we take this thing forward. The honourable member could go on the committee and people would find out whatever they find out. We should not be frightened or worried about this: the facts will speak for themselves: either something needs to be done or it does not.

Speaking for myself and I am sure most members here, I have no predetermined view on whether that would be good or bad or what should or should not happen. It is a matter of hearing the evidence and seeing what comes of it. I am not worried about this. The last point I make to the honourable member and those who might oppose this is that a select committee is, after all, a

committee of the parliament. The function of the select committee is to go out and ascertain facts and information in the sort of—

Mr Pengilly interjecting:

Mr RAU: I will come to your point in a minute. In fact, if it makes you happier, I will come to it right now. Why are there so many select committees in the upper house? It is because members of the upper house cannot wait to get their teeth into finding out facts about things. In fact, they are finding out facts about so many things that most of them are rushing from one committee to the next every day. There are not enough hours in a day to do the burdensome work of being a legislative councillor in South Australia. When I first came here I was told that they had a reasonably easy run, but when I look at the list of select committees they are working on, my goodness, they are ornaments to the parliamentary system—every one of them. Why should we be shoving all the burden on those poor devils? Do they not deserve a little bit of respite?

We should try to do a bit of the heavy lifting ourselves. Remember, the parliament is only asking the committee to go away and find out some facts in detail that the parliament itself has no time to do, and report back. Then the parliament will do what the parliament will do. Interestingly enough, that report ultimately will have to become a matter considered by the upper house if any legislative change comes from this.

I know that the member for MacKillop was quite anxious that this might be a sinister thing or something about which he should be concerned. Quite frankly, I think he can relax. This is not the one he needs to be losing sleep about: it will only be an overview, if this motion is carried. Presumably this chamber will establish a committee, which will go off and ascertain the facts and make its recommendations. The executive arm of government will or will not do what it recommends, and there will or will not be a bill that would have to go through two chambers. The people the honourable member is talking about, such as the opposition spokesman on the subject, are in the upper house and will get to see it anyway. I am quite relaxed about all of this. The member for MacKillop can relax and feel comfortable: nothing disturbing will happen, and he need not worry.

The Hon. R.B. SUCH (Fisher) (11:24): This is an unusual proposal from the government, in that governments do not normally put forward select committee proposals. I am a fan of select committees, having chaired at least two: they can be very productive and useful. I am somewhat puzzled as to the government's real motive, but I will take it at face value as expressed here and trust that it is committed to some reform in this area.

Shortly I will read a letter from a constituent involved in the industry, but I raise some points first. Currently people having houses built privately have big deficiencies in the certification and standard imposed or enforced, including the inspections relating to those houses. Some councils do certain things and others do very little, but there are concerns, relating more to local government than to the private certifier area, that need to be addressed in terms of whether or not someone having a house built is getting what they think they are getting, and whether the standard of construction is what it should be.

One of the best things that has happened in this state is the establishment of the Construction Industry Training Fund, which goes back to the time of minister Lenehan; I was her opposite number. We brought in that fund and, as a result, we have upskilled a lot of people in the construction industry. Without that fund we would have few apprentices.

One way of tackling the quality issue—which, ultimately, leads to certification—is to improve the quality of people who are building things; and that is happening to some extent through the role of the Construction Industry Training Fund. Currently, a lot of people who are building houses and other properties are qualified trades people, but there are a lot who are not; and that is one of the reasons why we need to be concerned about the end product that they construct. In relation to this motion, I would like to read a letter from a constituent. I will not use his full name but, rather, call him Mr R. The letter states:

> I have a professional issue that I am seeking your assistance with, and as a voting member of your electorate I seek your support in achieving a fair outcome for our profession and the building industry.
>
> I note in the Notice of Motion for Parliament…that private certifiers under the Development Act 1993 are again under scrutiny by some people in the public arena with a chip on their shoulder.
>
> I have been suggesting for years that there should be an auditing system in place; however, I believe any system must be equitable and include natural justice provisions and therefore must audit all people under the Development Act including local government and government employees who undertake similar functions. To audit

private building surveyors and not public building surveyors is discriminatory, and to audit building surveyors and not planners is also discriminatory.

I suggest that if the minister uses scare tactics such as the Riverside Golf Club roof truss collapse he should be reminded that this failure was in a project under the public building surveyor process not a private certifier.

The disappointing part is that it is the minister who is responsible holding up the introduction of the auditing, and to waste taxpayers' money on a select committee on what appears to be a witch-hunt seems ludicrous given his own inaction on this matter.

One good result that may come out of a select committee investigation is that the committee may see how the current system is being manipulated by the minister and his advisers and that these manipulations are not in the best interests of the industry in general but self-serving personal opinions.

I will be pleased to meet and discuss this matter further and our professional association, the Australian Institute of Building Surveyors, will also be pleased to discuss their opinion on this matter.

The letter has been signed with the writer's full name and his position, although I have referred to him as Mr R. It is most unusual for a government to introduce a motion for a select committee. The government has not been keen to support select committees on education or speed detection devices but, nevertheless, the select committee process is a good one, and if this select committee does bring about reform which is equitable and fair to all involved I think it is a worthwhile thing to do.

The Hon. P.L. WHITE (Taylor) (11:29): I rise to support the motion. Like the member for Enfield, I disagree with the member for MacKillop's assertion that there is some sinister motive behind this motion. The member for MacKillop said that he is not aware of the circumstances behind this motion, and he referred to the coronial report that came out subsequent to the Riverside Golf Club roof collapse. As he rightly said, that event resulted in death and injury.

I want to pick up on one point made by the honourable member; that is, he sees this select committee as an attempt to deny a professional association the right to accredit its own members. I take a totally different point of view when looking at this. The key part of the select committee motion for me is: 'the current process for accrediting private certifiers in the state of South Australia'.

In making his statement, the member for MacKillop assumes that the process that is in place leads to the best qualified people being accredited. That is not necessarily the case. He says that he is not fully aware of how these things work: I say to him that one of the purposes of this select committee is to establish that. As most members would know, I am an engineer. I am not a structural engineer, but I can guarantee that I probably have more training in these matters than many members in this house.

Ms Breuer: Hear, hear! Excellent member.

The Hon. P.L. WHITE: Thank you, member for Giles.

Mr Venning: And you're going back to it. We're sad; we are sad, indeed.

The Hon. P.L. WHITE: Thank you; thank you for your devastation. The point is that these things really matter. Checking structural engineering calculations is so important, as we saw from the coronial inquiry and report from the Riverside example. Part of the training of an engineer and many of the associated professions is an understanding that, if you do your job improperly, if you get things wrong, people's lives can be put at risk. Many engineers wear a special ring, particularly structural engineers, made from material from fallen bridges around the world. It is something which the structural professionals know is a very important thing to bear in mind when doing their daily work—people's lives are at risk if you do not do the job well. Accreditation of professionals, the certifiers who check this work, is very important.

Rather than being suspicious (which is all that the lead speaker for the opposition has mustered to date), I say to members: let us have a good look at the processes that operate under part 12 of the Private Certification of the Development Act 1993. Do note, as the member for Enfield pointed out, that paragraph (f) of this motion is fairly broad. It does say 'any other matters directly relevant to this part of the Development Act'. I say: do not be suspicious—do probe what the system is and whether it can be made to work more effectively in the interests of the customers of these sorts of services, the very same customers who walk under roofs and structures and who are reliant on the professional skills of these people.

Mr VENNING (Schubert) (11:34): This is an unusual proposal for the government to be setting up a select committee. I do not think I can recall it in my time in this place. I note the point

that the previous speaker is an engineer. I certainly would not stand up and question any of the matters which she raised in relation to the craft of an engineer. My son is an engineer; and, yes, lives do depend on their skills, especially in relation to structural engineering.

The building surveying industry has been the topic of much questioning and ongoing debate, particularly in the other place, since the discussion paper was put out by the ministerially appointed Building Advisory Committee last year, which was entitled 'Checking of structural engineering calculations'. The minister has said that the paper was a response to several letters of complaint from councils—and I am aware of some as well.

I find it strange that the government's proposal to establish a select committee is in this house (as if we do not have enough work) rather than the place where detailed debate on the matter has occurred and where the minister and shadow minister both reside. It makes me wonder what the government's motives really are.

The minister has repeatedly indicated that a select committee to undertake a review with respect to private certifiers is necessary because of the Coroner's findings on the Riverside Golf Club building collapse, which occurred a few years ago and, tragically, claimed lives. However, there is nothing in the proposed committee's terms of reference that relate to that, apart from that one loose clause to which the member for Taylor just alluded.

The original Building Advisory Committee dealt with issues relating to building surveyors but, for some reason, the government has now placed the emphasis on private certifiers only. The issue of auditing has been around for at least 10 years. Every report and review to date has concluded that any form of auditing must apply to all building surveying professionals. We are now confining it to private certifiers. Why only private certifiers? Is this Big Brother government seeking to put public servants in these positions? That is the question and that is the bottom line, and no-one has asked that question yet. Is this an even wider spread of the footprint of the Public Service? I think that, if the minister is serious about public safety, all building surveyors should be the subject of the same review.

We on this side of the house are opposed to the formation of a select committee to investigate only private certifiers. However, I am sure that we would consider an expanded investigation to look at all professionals who assess the accuracy of building work. The question is: why do we need to do this?

I believe that most private certifiers are honourable, professional and honest people and are responsible in what they do. As the member for Taylor just said, they know that lives depend on their design. However, as with everything, we need to put in place checks and balances and, in particular, an overriding inspectorate to check the checkers. I believe that none of us in life should have carte blanche on anything, particularly something such as this.

The question is: do we need a select committee to do this? I very much doubt it. No two engineers will come up with the same specifications and plans. The bottom line is that the design has to be safe and has to be able to withstand storms and tempest. Also to be considered are the owner's requirements and the appearance. All those things come into it. The bottom line is that it has to be safe and it has to meet specifications. It is an extremely wide gamut.

I have just designed a house, and it is strange what engineers come up with when you talk to them. You end up with a mix of what the engineer wants and what you want. I am sure that, like most bureaucrats, they will deliberately change it to put their stamp on it just so they can send you the bill. That is fair enough. As a home-taught engineer, I can understand building in strength and safety, but architectural engineers put these matters into design strength using regulations established by the industry.

We will oppose a select committee into the broader matters that came out of this coronial inquiry, and we express caution on this issue. Are we looking for a scapegoat for the Riverside incident, where lives were lost? I think it is a pretty poor attempt if that is the case. If we have to have a select committee, we will put competent people on that committee. I am happy to listen to others with respect to this debate, and I appreciate the contributions of the members for Taylor and Enfield, because it is an issue that not a lot of us know much about. However, in this instance, I support the shadow minister, who has said, 'We certainly feel very sorry for those people who lost their lives, and there does need to be an investigation. However, we oppose a select committee.'

Mr PICCOLO (Light) (11:40): I will support this motion and I will briefly outline why. I want to consider two issues. The first is that I think it is appropriate to have a select committee of this

house. It makes good sense if you review something to have it reviewed by one body and then to have the implementation, if you like, done by the other place (the minister and the shadow minister in the upper house). So, it makes sense to keep the two decision-makers at arm's length, to some extent, so you get a freer review. I think it is worthwhile having the inquiry in this house.

The second and more substantial issue is that the inquiry is important and, therefore, the inquiry's terms of reference are important. I will give a case study to show why it is important that we have this inquiry. A constituent of mine came to see me regarding a veranda he had built on a house. This veranda was in excess of $40,000, so it was a substantial veranda. In fact, after building that veranda, they had more water under it than they did on top of it—it was leaking, the water went into the house—the whole thing was just bad engineering. But this had been approved.

Mr Griffiths: Poor construction is not necessarily engineering, is it?

Mr PICCOLO: If you listen for a moment, I will get to that point; that is the point I want to make. We must look at the whole process from design to installation and identify the weaknesses in the process. The weakness in the process in this case was that this matter—

Mr Venning: It rained.

Mr PICCOLO: If the member for Schubert would listen for once, it would help. In this case, the contractor who installed the veranda lodged the private certifier's engineering specifications with the council. In this case, though, the contractor had obtained a standard certification which he used for every veranda, irrespective of what the design was, and he lodged that. As a result, this person got a substandard veranda. The council, quite rightly, said that it had certification from the engineer and approved it.

We talked to the council. How could the council allow this to happen? They said that the documentation was there. The documentation was not quite all there, and this veranda had not been built for the purpose of that house but rather with the specifications that were based on a standard veranda which had been certified.

There is a very basic and important flaw in the process at the moment. It is not just about safety; it is about basic consumer law, too, to ensure that the consumer gets what they are buying. In this case, the law is tied up in this process of certification. So, because of those sorts of examples—and I am sure there are many of those examples which I have highlighted—this review is important, and I think the opposition is just being silly in opposing it.

Secondly, this is an appropriate house to have that review. I am not sure how the member for Schubert can stand up and oppose this review. I am sure this happens in his electorate, and I hope he has supported his consumers in his electorate because it does not sound like he is. That is not to say that all contractors are shonky; they are not, but there are people who are. This is a weakness in the process which needs to be rectified. Hopefully, this review will highlight that weakness and make some recommendations.

Mr GRIFFITHS (Goyder) (11:43): I wish to make a brief contribution to this motion. I will preface my comments by saying that my career prior to coming in here when working in local government allowed me to have some level of contact with private certifiers. On the Yorke Peninsula council, where I previously worked, a vast number of applications, collectively worth millions of dollars, were being considered every month.

There was a variety of applications, including some small ones such as verandas (as referred to by the member for Light), small homes, significant homes, commercial developments and some light industrial, too. So, there was a variety of areas in which private certifiers had some involvement. Local government, as I understand it, would prefer applications to be considered solely by councils so that it can refer any calculations relating to any such development to its consultant building engineer who would then check it, sign off on it, submit a report back to the council, and then the council, in the course of things, would consider it against the development plan and then issue the appropriate approval or conditions that might be attached.

However, it is rather interesting that the example the member for Light gave is really the fault of the person doing the work. I do not wish to lay any allegations about that. It may have been an innocent presumption by the contractor that one certified specification might apply to multiple levels of construction, but that seems to me to be a rather naive position to have taken. I would be disappointed if the council responsible for this did not ensure that the calculations signed off by a consulting engineer were relevant to the specific application that they were considering. In some that I have seen before, yes, I understand that calculations can relate to multiple applications

where the same construction is occurring each time; but, where it is a different structure, surely there is a reference at the start of the report as to what type of structure it relates to. I think some questions could be asked within local government about the capacity and how diligently they refer to that application for consideration.

I am all for a review of the appropriate qualifications of any person no matter what field they work in. However, I believe that any such review needs to be carried out by peers who have expertise and knowledge, cannot be conned easily, ask insightful questions, and who know what they are talking about when it comes to determining the capacity of a person to perform that work. That is why, along with my colleagues on this side of the house who have also spoken against the motion, I do not support the proposal for a select committee to be established.

It is important that the South Australian community has great confidence in the capacity of our structural engineers and private certifiers to ensure that developments that occur all around our state are safe. That is a basic philosophy in life. Any person who is spending good money for construction does so with the expectation that it is certainly built in line with approved plans and, therefore, built in line with the engineers' calculations, that it uses quality materials (certainly, everybody pays for quality materials), and that it has a guarantee that it is fit for its purpose.

Therefore, where there is fault there is great concern. The tragedy at the Riverside Golf Club should never have been allowed to happen. I do not think any of us would disagree with that. I am advised that it was approved via a different process with a different level of qualification involved in ensuring that that was considered. However, I do have some great concerns as it appears that only one level of the industry is to be considered. If I am wrong about that, I apologise to the house, but, from the information that I have read and from listening to the arguments today, it appears that not all levels involved in the consideration of development applications are being involved in the proposed review. For that primary reason the opposition wishes to ensure that when a review is undertaken it encapsulates all levels and does not just single out a certain specification.

We do not support this motion. I listened to the member for Light's debate about the fact that it is appropriate to have a select committee in this house because it then allows lower house members, who are removed from the minister and the shadow minister (who both sit in the upper house), to consider it. I can see some minor concessions in that, and I acknowledge that. However, I do have some great concerns that there is a vast number of projects out there. We need to make sure that they are approved in order to ensure the safety of those projects, but I still believe in the basic philosophy that the best qualified people to undertake a review are the people who work within the industry, especially people who hold senior roles within any management team, advisory bodies, or controlling board and who have been involved in the industry for many years.

The professional experience and qualifications they build up in that time allows them to ensure, with the greatest possible certainty, that the approval process is as diligent as possible and that the calculations are always performed as best as humanly achievable to ensure that the safety of South Australians is the paramount objective, and that has to be the primary focus. I am not interested in anything that allows a reduction of costs to occur; I am interested in safety, which has to be the primary focus. For a variety of reasons espoused by the opposition we do not support the proposal, and we hope that it is not supported by the house.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (11:49): I thank members for their contribution. We have heard from the member for MacKillop about games purportedly being played. Well, let me just say that we have seen games played in this house this morning. I cannot believe the opposition would oppose the establishment of this committee.

This is a committee that will look at circumstances around private certifiers, the framework under which complaints are handled, the current process for accrediting them, the current methods of accreditation and the streams of accreditation, the appropriate qualifications, the auditing system and, as members have pointed out, any other matters directly relevant to that particular part of the Development Act.

This came about—and the opposition glossed over this—as a result of a recommendation from the Building Advisory Committee. They are concerned that the current self-assessment may lead to poorer assessment of buildings and put our community at risk.

There is no doubt that the Riverside Golf Club building collapse was an enormous tragedy, and I am sure there are many people still living with the consequences of that. This is not about Big

Brother government, as the member for Schubert asserted; this is about responsible government, and you would think that the opposition would be pleased to be part of a committee that will ensure we have appropriate processes in place to ensure, as best we can, the safety of our community.

Motion carried.

Members interjecting:

The SPEAKER: Order!

The house appointed a select committee consisting of the Hon I.F. Evans, Messrs Kenyon and Rau, the Hon. P.L. White and Mr Williams; the committee to have power to send for persons, papers and records, and to adjourn from place to place; and the committee to report on 16 July 2009.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (11:51): I move:

That standing order 339 be and remain so far suspended as to enable the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the house.

The SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

STANDING ORDERS SUSPENSION

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (11:54): I move:

That standing orders be so far suspended as to enable the introduction forthwith and passage of a bill through all stages without delay.

The SPEAKER: There being an absolute majority of members present I accept the motion.

An absolute majority of the whole number of members being present:

Motion carried.

STATUTES AMENDMENT (PUBLIC HEALTH INCIDENTS AND EMERGENCIES) BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (11:56): Obtained leave and introduced a bill for an act to amend the Electricity Act 1996, the Emergency Management Act 2004, the Essential Services Act 1981, the Fire and Emergency Services Act 2005, the Gas Act 1997, the Public and Environmental Health Act 1987 and the Summary Offences Act 1953. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (11:56): I move:

That this bill be now read a second time.

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

Leave granted.

The World Health Organisation (WHO) in The World Health Report 2007—*A Safer Future: Global Public Health Security in the 21st Century* reminded the world that every day, the constant movement of people and products carries with it the potential to spread highly infectious diseases and other hazards more rapidly than at any time in history. As the WHO put it 'A sudden health crisis in one region of the world is now only a few hours away from becoming a public health emergency in another.'

'Today's highly mobile, interdependent and interconnected world provides myriad opportunities for the rapid spread of infectious, and radionuclear and toxic threats. Infectious diseases are now spreading geographically much faster than at any time in history. It is estimated that 2.1 billion airline passengers travelled in 2006; an outbreak or epidemic in any one part of the world is only a few hours away from becoming an imminent threat somewhere else.'

'Infectious diseases are not only spreading faster, they appear to be emerging more quickly than ever before. Since the 1970s, newly emerging diseases have been identified at an unprecedented rate of one or more per year. There are now nearly 40 diseases that were unknown a generation ago. In addition, during the last five years,

WHO has verified more than 1100 epidemic events worldwide. Among them was a deadly new disease, SARS—Severe Acute Respiratory Syndrome—which sparked an international alert in 2003. Today, there is a real and continuing threat of a human influenza pandemic that could have much more serious human and economic consequences'.

More recently, in the context of the unfolding H1N1 Influenza 09 (Human Swine Influenza) outbreaks, the Director-General of the WHO, Dr Margaret Chan, in a statement made at the Secretary-General's briefing to the United Nations General Assembly in May 2009, made the following points—

- 'Influenza pandemics are caused by a virus that is either entirely new or not known to have circulated among humans in recent decades. This means, in effect, that nearly everyone in the world is susceptible to infection.
- It is this almost universal vulnerability to infection that makes influenza pandemics so disruptive.
- Historically, influenza pandemics have encircled the globe in two, sometimes three, waves. During the previous century, the 1918 pandemic, the most deadly of them all, began in a mild wave and then returned in a far more deadly one. In fact, the first wave was so mild that its significance as a warning signal was missed.
- The world today is much more alert to such warning signals and much better prepared to respond.
- The pandemic of 1957 began with a mild phase followed, in several countries, by a second wave with higher fatality. The pandemic of 1968 remained, in most countries, comparatively mild in both its first and second waves.
- At this point, we have no indication that we are facing a situation similar to that seen in 1918. As I must stress repeatedly, this situation can change, not because we are overestimating or underestimating the situation, but simply because influenza viruses are constantly changing in unpredictable ways. The only thing that can be said with certainty about influenza viruses is that they are entirely unpredictable.'

Later in May, when addressing the ASEAN + 3 Health Ministers' special meeting, Dr Chan indicated that 'the world is better prepared for an influenza pandemic than at any time in history...'. The years of tracking the H5N1 avian influenza virus in humans and animals taught the world to expect a pandemic and to plan for such an event.

The Australian Government and each of the States and Territories have been planning, and continue to plan, for the possibility of an outbreak of pandemic influenza. The *National Action Plan for Human Influenza Pandemic* and the *Australian Health Management Plan for Pandemic Influenza* (AHMPPI) describe the overarching aim of pandemic preparedness as being to protect Australians and reduce the impact of the pandemic on social and economic functioning. As AHMPPI notes, 'An influenza pandemic has the capacity to cause economic and societal disruption on a massive scale. If Australia is prepared, we are more able to reduce dramatically the impact of an influenza pandemic by minimising the number of people who become infected, protecting critical infrastructure and essential services in our society and considerably improving the health outcomes for those who are affected.'

Planning is based on a set of assumptions that have been identified using the best scientific and medical evidence. Processes are in place for continual review of these assumptions, to ensure planning continues to be evidence-based and in line with the latest advances, and to reassess the assumptions as quickly as possible following the emergence of a pandemic, should it behave differently than initial assumptions suggested.

The South Australian government has been working, and continues to work, with other governments, the community and the private sector to plan for the challenges that may be faced during a pandemic.

Under the State's emergency arrangements, the Department of Health has responsibility for identifying and managing the response to a human disease incident. It will activate response phases and direct when activities and strategies need to change. In the event that a human disease outbreak involves a national and/or international response (such as an influenza pandemic) it will work in conjunction with Commonwealth, State and local governments.

The Department has developed a series of plans to guide South Australia's response to an influenza pandemic. These are 'live documents' and, as with AHMPPI, the plans will continue to be updated as new clinical evidence or other prevention and management strategies emerge or are developed. The plans will form part of, or be recognised in, the State Emergency Management Plan.

The key strategies that will drive South Australia's response to pandemic influenza are to delay it, contain it and sustain the response, control it and recover from it.

Each of these responses has specific triggers, actions and objectives which support both national and international strategies.

1. Delay it

Once the pandemic virus emerges overseas, the aim is to control or eliminate the virus within other countries to prevent, or delay to the greatest extent possible, the arrival of the virus into Australia and South Australia.

2. Contain it and sustain the response

Once the pandemic virus arrives in Australia, the aim is to contain the outbreak as much as possible and prevent transmission and spread for as long as possible. The response will be sustained while awaiting a pandemic vaccine.

3. Control it

The aim is to control the pandemic spread with a vaccine.

4. Recover from it

Once the pandemic is under control, return to normal, while remaining vigilant.

Legislative preparedness needs to take into account the nature of the development of a pandemic and provide the powers necessary to support response strategies.

Government response to pandemic influenza resides within a legislative framework of which the primary structures are:

- Commonwealth quarantine powers
- State public and environmental health powers
- National health security legislation
- Commonwealth and State emergency powers

The Commonwealth has express legislative power with respect to quarantine under the *Quarantine Act 1908*. While several SA public health doctors hold appointments under the Commonwealth *Quarantine Act 1908*, these powers are traditionally used for border control and operating under the direction of the Commonwealth Director of Human Quarantine.

It is possible under the *Quarantine Act* for the Governor-General to issue a declaration of an epidemic or the danger of an epidemic caused by a quarantinable disease in a part of the Commonwealth, which then enables the Commonwealth Minister to give directions to control and eradicate the epidemic by quarantine measures or measures incidental to quarantine. The Commonwealth has indicated that its powers could be used in the event that a State's or Territory's powers had gaps or were inadequate to address the outbreak.

As the *National Action Plan for Human Influenza Pandemic* noted, States and Territories have reviewed their powers in relation to quarantine arrangements within their own jurisdictions.

The State's public health powers under the *Public and Environmental Health Act 1987* (P&EH Act) currently provide a basis for health officers to respond to outbreaks of certain diseases by directing affected persons into quarantine. However, there are shortfalls in these provisions, most notably, that there is no clear power to quarantine asymptomatic (well) people who have had contact with a case or a suspected case to prevent them unwittingly passing on infection before they themselves become symptomatic.

It is critical that the State has adequate powers to address an outbreak of disease, such as an influenza pandemic, in the State and not be reliant on actions/directions from the Commonwealth. The two sets of powers and levels of government need to be able to work together in a co-ordinated manner.

The State's emergency powers under the *Emergency Management Act 2004* (EM Act) are far-reaching but the early recognition of warning signs of a pandemic by the Department of Health, together with its expertise, make it better placed to respond to such an emergency in the first instance. Under the State's emergency arrangements, the Department of Health has responsibility for identifying and managing the response to a human disease incident.

States and territories recently participated in the development of new national health security legislation (the *National Health Security Act 2007—'NHSA').*

The NHSA provides for the exchange of public health surveillance information between jurisdictions and with the WHO to enhance the early identification of and timely response to national or international public health emergencies, including an influenza pandemic. It also establishes the operational arrangements for Australia to meet its obligations under the International Health Regulations (IHR). (The IHR aim to prevent, protect against, control and provide a public health response to the international spread of disease in ways which avoid unnecessary interference with international traffic and trade.)

The NHSA is underpinned by an intergovernmental agreement which establishes a surveillance and decision-making framework to support co-ordinated national response to public health emergencies, such as an influenza pandemic. The Agreement recognises the responsibility of States and Territories for responding to public health threats within their jurisdictions in accordance with their own public health and emergency legislation and plans. The role of the AHPC will complement, and not impede, the authority of jurisdictions to act.

In parallel with the general planning for an influenza pandemic, the SA Department of Health, in collaboration with a number of other agencies such as SAPOL, has been reviewing its legislation to respond to public health emergencies. Regard has also been had to national work to ensure there are mechanisms that enable jurisdictions to respond in a nationally co-ordinated way in the event of a public health emergency such as a pandemic.

In addition, the unfolding international 'real life' situation with H1N1 Influenza 09 (Human Swine Influenza) has caused added focus on areas for further improvement in legislative powers.

The P&EH Act is over 20 years old and while it provides some powers, the potential for new epidemics necessitates complementing existing infectious disease controls with broader public health emergency powers to respond appropriately. The Government is engaged in a broad review of the overall P&EH Act and changes will be brought before this House in due course.

It should also be noted that, while the focus is currently on disease, public health emergencies may arise from agents that may be biological, toxins or poisons and not *'quarantinable diseases'* within the scope of the *Quarantine Act*. The proposed new provisions in the P&EH Act provide powers to deal with public health incidents and emergencies that are not disease-specific.

Some jurisdictions already have significant public health emergency powers in their legislation or are in the process of updating them.

The Bill makes significant amendments to the EM Act and the P&EH Act. A number of consequential amendments are made to other legislation.

The scheme within the Bill maintains the EM Act as the principal, overarching Act for management of a State emergency.

It provides an additional mechanism to respond to public health incidents or emergencies under the P&EH Act without needing to seek a declaration under the EM Act until such time as that may be required. This better reflects the Department of Health's responsibility for identifying and managing the response to a human disease incident.

The amendments enable a two-stage approach from an emergency management perspective—

In the initial stages, Health, with its expertise to manage a health issue, will manage the response. If the situation warranted it, the Chief Executive, Department of Health (CE Health) could declare a public health incident or emergency after consultation with the Chief Medical Officer and the State Co-ordinator under the EM Act. If that occurred, once a public health incident or emergency is declared, most of the EM Act powers 'come across' and the CE Health can exercise them under a public health incident or emergency declaration.

If the situation escalated in magnitude, such that a whole-of-government State emergency response was necessary, the State Co-ordinator under the EM Act would be approached, seeking a declaration under the EM Act. This would be with the aim of ensuring a co-ordinated approach to whole-of-government strategic decision making.

The scheme also allows for an easy transition from the P&EH Act to the EM Act if and when this is needed, that is, a scaling up in the level of response should it get to the stage where co-ordination of a number of agencies is required.

Each public health emergency would need to be considered separately, given the features would most likely be different and may have the potential to change rapidly (for example, there is much uncertainty about the nature of pandemic influenza virus and how it might develop).

However, it is likely that the stage at which an EM Act declaration would be sought would be when the situation had deteriorated to the point that the emphasis needed to shift to the provision of priority products and services and maintenance of essential services.

Once an EM Act declaration had been made, the State Co-ordinator could (under clause 26 of the Bill—new section 37C(3)—request the Chief Executive, SA Health (CE Health), to revoke a public health emergency declaration. If that occurred, the CE Health would be able to act under delegation of the State Co-ordinator to continue the Health response, using the same powers but under the EM Act.

It would be possible under the provision for declarations under the EM Act and P&EH Act to operate in tandem, with the State Co-ordinator attending to whole-of-government, maintenance of priority and essential service matters and the CE Health continuing the Health response.

Clearly, in such circumstances, Cabinet, the Emergency Management Council of Cabinet and the State Emergency Management Committee would be monitoring the situation.

Turning specifically to the key provisions in relation to the EM Act—

- Clause 3(2) amends the definition of *emergency* to clarify that the definition relates to an event occurring in the State or outside the State, or both. The amendment makes it clear that invoking the provisions of the Act does not rely on an event having reached the State. This provision is particularly important in relation to a public health emergency such as an influenza pandemic, given the unpredictability of influenza viruses.

- Duration of declarations—the experience gained from the Eyre Peninsula bushfires and the planning for a pandemic have shown the current timeframes for duration of declarations to be insufficient. The amendments therefore introduce greater flexibility by extending the maximum initial period for major emergencies to 14 days and clarifying that that period may be extended by such further periods of any length as approved by the Governor. In relation to a disaster declaration, the amendments extend the maximum initial period for disasters to 30 days and clarify that that period may be extended by such further periods of any length as approved by resolution of both Houses of Parliament.

- Clarification is provided that an emergency may be declared to be an identified major incident, major emergency or disaster whether or not the emergency has previously been declared to be a public health incident or public health emergency under the P&EH Act. Thus an emergency that has been dealt with under the P&EH Act may be taken over and dealt with under the EM Act.

- Important new powers are proposed for section 25. The State Co-ordinator or an authorised officer are provided with the following additional powers when dealing with emergencies declared under the principal Act:
    - to remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
    - to carry out, or cause to be carried out, excavation or other earthworks;
    - to construct, or cause to be constructed, barriers, buildings or other structures;
    - to direct a person to remain isolated or segregated from other persons or to take other measures to prevent the transmission of a disease or condition to other persons;
    - to direct a person to undergo medical observation, examination (including diagnostic procedures) or treatment (including preventative treatment);
    - to require a person to furnish such information as may be reasonably required in the circumstances.
- The first three of those powers were identified as being necessary, or requiring clarification, in the wake of the Eyre Peninsula bushfires. However, they may potentially have application in a pandemic situation and are therefore included.
- The latter 'health' powers are included to make it quite clear that in a declared emergency, persons, including well contacts of someone who has been exposed to a pandemic influenza virus, can be directed to remain isolated or segregated or take other measures to prevent transmission of a disease and may be directed to undergo medical observation or treatment.
- In addition, the State Co-ordinator is given the power, in extraordinary circumstances, to authorise authorised officers, or authorised officers of a particular class, to provide, or direct the provision of, medical goods or services or a particular class of such goods or services on such conditions as the State Co-ordinator thinks appropriate.
- The other 'health' power that is included is proposed section 26A which enables the Minister to modify the operation of the *Controlled Substances Act 1984* during the period of a declared emergency for the purposes of response or recovery operations. This can only be after consultation with the Minister responsible for the administration of the *Controlled Substances Act 1984.*
- The above 'health' powers are significant and are discussed in more detail below.

These proposals have been developed in consultation with SAPOL and SAPOL supports them.

Turning to the amendments to the P&EH Act, it is clear that there is a need to have modern public health law that can respond not only to 'traditional' public health issues, but also has the flexibility to deal with emerging public health concerns of the 21st Century. New and emerging dangers—including emergent and resurgent infectious diseases and incidents resulting in mass casualties, have focussed attention on the adequacy of legislative frameworks. As was observed in the *Exercise Cumpston 06 Report*, the community expects government to provide leadership in preventing disease outbreaks and, in the event of an outbreak, to respond and assist recovery quickly and effectively. Public health legislation therefore needs to be flexible enough to respond to a variety of emergency situations and integrate with other emergency responses.

Some communicable diseases can be infectious before an individual produces symptoms that would lead to a diagnosis. As a result it may be necessary to quarantine asymptomatic (well) people who have had contact with a case or a suspected case to prevent them unwittingly passing on infection before they themselves become symptomatic.

The existing powers under the P&EH Act do not provide a clear power to do that.

While people tend to be co-operative if the reasons for doing so are explained to them and it is made as easy as possible to do so, there also needs to be powers available to deal with non-compliance. It could be expected that in a situation of rapidly escalating magnitude, such as an influenza pandemic, compliance could become an issue.

The Bill therefore provides new powers for the Chief Executive, Department of Health (CE Health) to declare a public health incident or emergency after consultation with the Chief Medical Officer and the State Co-ordinator under the EM Act. This is not a power that would be exercised lightly. Once a public health incident or emergency is declared, most of the EM Act powers are applied and the CE Health can exercise them under a public health incident or emergency declaration.

A public health incident, which has application for 12 hours (mirroring the identified major incident under the EM Act) might be declared for a serious incident, but one not as dire as a public health emergency.

A public health emergency can be declared by the CE Health for a period not exceeding 14 days and any further period must be approved by the Governor.

On declaration of a public health incident or emergency, the CE Health must take action to implement the Public Health Emergency Management Plan and cause such response and recovery operations to be carried out as thought appropriate.

The Department has developed a series of plans to guide South Australia's response to an influenza pandemic. These are 'live documents' which will continue to be updated as new clinical evidence or other prevention and management strategies emerge or are developed. The plans will form part of, or be recognised in, the State Emergency Management Plan.

The powers available to the CE Health are significant. Clearly, they will not be exercised lightly or capriciously.

New clause 25(3)—

- Can only be exercised by the State Co-ordinator or Chief Executive for the duration of a declaration
- Must arise from advice of the Chief Medical Officer
- Who would be permitted to do what and on what conditions is within the control of the State Co-ordinator or Chief Executive and would be tightly controlled. It may, for example, be used—
  - in the event of workforce shortages and if interstate health professionals were available and brought urgently to assist, and there was not time for them to go through the registration process with the relevant professional board, the provision could be used to authorise them to provide specified goods or services on specified conditions;
  - in the event that flu clinics were established, perhaps with only one senior doctor if the workforce was stretched, and it was necessary for para professionals to assist, they may be authorised to do so. A clinical governance framework is being developed for flu clinics, with various sets of clinical guidelines to which staff will have to adhere. The conditions attached to the authorisation could explicitly require such compliance.
- The rationale for the inclusion of new clause 26A, which allows for the *Controlled Substances Act 1984* to be modified, was primarily to cover situations that may arise with the distribution and supply of medication during a pandemic where there may not be a formal prescription and nurses or other health professionals may need to assist with supply;
- There are checks and balances built in—
  - it is the Minister who would issue the notice;
  - the Minister must form the opinion that it is necessary or desirable to do so;
  - it could only be done for the purposes of the response or recovery operations;
  - the Minister is obliged to first consult with the Minister responsible for the administration of the *Controlled Substances Act*;
  - the notice can only be for the duration of a declaration.

The government recognises that the proposed powers in the Bill are significant and substantial powers. It makes no apologies for seeking to have such powers available should they need to be used to protect South Australians in the event of a public health emergency such as an influenza pandemic. The granting of significant powers does carry risk—that risk is outweighed by the recognition that the exercise of those powers would be for the purpose of promoting the common good.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Amendment provisions

This clause is formal.

Part 2—Amendment of *Electricity Act 1996*

3—Amendment of section 54—Emergency legislation not affected

This clause makes it clear that nothing in the *Electricity Act 1996* affects the exercise of powers that are able to be exercised under Part 4A of the *Public and Environmental Health Act 1987*.

Part 3—Amendment of *Emergency Management Act 2004*

4—Amendment of section 3—Interpretation

Clause 3(1) includes in the interpretation section of the principal Act, the definition of *Chief Medical Officer*.

Clause 3(2) amends the definition of *emergency* to clarify that the definition relates to an event occurring in the State or outside the State, or both. The amendment makes clear that invoking the provisions of the Act does not rely on an event having reached the State.

5—Amendment of section 17—Authorised officers

This clause clarifies that the appointment of authorised officers may be made subject to conditions specified by the State Co-ordinator.

6—Amendment of section 23—Major emergencies

This clause amends section 23 of the principal Act to extend the maximum initial period for major emergencies to 14 days and to clarify that that period may be extended by such further periods of any length as approved by the Governor.

7—Amendment of section 24—Disasters

This clause amends section 24 of the principal Act to extend the maximum initial period for disasters to 30 days and to clarify that that period may be extended by such further periods of any length as approved by resolution of both Houses of Parliament.

8—Insertion of section 24A

This clause inserts section 24A into the principal Act.

24A—Public health incidents and emergencies

Proposed section 24A clarifies that an emergency may be declared to be an identified major incident, major emergency or disaster whether or not the emergency has previously been declared to be a public health incident or public health emergency under the *Public and Environmental Health Act 1987*. This indicates that an emergency that has been dealt with under the *Public and Environmental Health Act 1987* may be taken over and dealt with under the *Emergency Management Act 2004*.

9—Amendment of section 25—Powers of State Co-ordinator and authorised officers

This clause gives the State Co-ordinator or an authorised officer the following additional powers when dealing with emergencies declared under the principal Act:

- to remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
- to carry out, or cause to be carried out, excavation or other earthworks;
- to construct, or cause to be constructed, barriers, buildings or other structures;
- to direct a person to remain isolated or segregated from other persons or to take other measures to prevent the transmission of a disease or condition to other persons;
- to direct a person to undergo medical observation, examination (including diagnostic procedures) or treatment (including preventative treatment);
- to require a person to furnish such information as may be reasonably required in the circumstances.

In addition, the State Co-ordinator is given the power, in extraordinary circumstances, to authorise authorised officers, or authorised officers of a particular class, to provide, or direct the provision of, medical goods or services or a particular class of such goods or services on such conditions as the State Co-ordinator thinks appropriate.

10—Amendment of section 26—Supply of gas or electricity

This clause enables the State Co-ordinator or authorised officer to direct a person to connect or reconnect a supply of gas or electricity to premises, adding to their existing powers to direct a person to shut off or disconnect such services.

11—Insertion of section 26A

This clause inserts section 26A into the principal Act.

26A—Modification of Controlled Substances Act

Proposed section 26A enables the Minister to modify the operation of the *Controlled Substances Act 1984*, if it is necessary or desirable to do so.

12—Insertion of section 31A

This clause inserts section 31A into the principal Act

31A—Confidentiality

Proposed section 31A makes it unlawful for a person to intentionally disclose medical or personal information obtained in the course of the administration or enforcement of this Act in relation to another person unless that disclosure is—

- made in the course of the administration or enforcement of this Act; or
- made with the consent of the other person; or

- required by a court or tribunal constituted by law.

Part 4—Amendment of *Essential Services Act 1981*

13—Amendment of section 6—Power to require information

This clause adds the requirement that any information obtained by the Minister under section 6 relating to the provision or use of an essential service be relevant or incidental to the administration of Part 4A of the *Public and Environmental Health Act 1987* (Management of Emergencies).

Part 5—Amendment of *Fire and Emergency Services Act 2005*

14—Amendment of section 3—Interpretation

This clause clarifies that the definition of *emergency* relates to an event occurring in the State or outside the State, or both. The amendment makes clear that invoking the emergency provisions of the Act does not rely on an event having reached the State.

15—Amendment of section 42—Powers

This clause gives an officer of SAMFS the following additional powers when dealing with a fire or emergency:

- to remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
- to carry out, or cause to be carried out, excavation or other earthworks;
- to construct, or cause to be constructed, barriers, buildings or other structures;
- subject a place or thing to a decontamination procedure;
- to direct a person to submit to a decontamination procedure.

16—Amendment of section 44—Supply of gas or electricity

This clause enables a person lawfully dealing with a situation under the Division to direct a person to connect or reconnect a supply of gas or electricity to premises, adding to their existing powers to direct a person to shut off or disconnect such services.

17—Amendment of section 97—Powers

This clause gives an officer of SACFS the following additional powers when dealing with a fire or emergency:

- to remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
- to carry out, or cause to be carried out, excavation or other earthworks;
- to construct, or cause to be constructed, barriers, buildings or other structures;
- subject a place or thing to a decontamination procedure;
- to direct a person to submit to a decontamination procedure.

18—Amendment of section 99—Supply of gas or electricity

This clause enables a person lawfully dealing with a situation under the Division to direct a person to connect or reconnect a supply of gas or electricity to premises, adding to their existing powers to direct a person to shut off or disconnect such services.

19—Amendment of section 108—Functions and powers

This clause adds to the functions of SASES, the function of assisting the Chief Executive within the meaning of the *Public and Environmental Health Act 1987*, in accordance with the Public Health Emergency Management Plan, in carrying out prevention, preparedness, response or recovery operations under Part 4A of that Act.

20—Amendment of section 118—Powers

This clause gives an officer of SASES the following additional powers when dealing with a fire or emergency:

- to remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
- to carry out, or cause to be carried out, excavation or other earthworks;
- to construct, or cause to be constructed, barriers, buildings or other structures;
- subject a place or thing to a decontamination procedure;
- to direct a person to submit to a decontamination procedure.

21—Amendment of section 119—Supply of gas or electricity

This clause enables a person lawfully dealing with a situation under the Division to direct a person to connect or reconnect a supply of gas or electricity to premises, adding to their existing powers to direct a person to shut off or disconnect such services.

Part 6—Amendment of *Gas Act 1997*

22—Amendment of section 54—Emergency legislation not affected

This clause makes it clear that nothing in the *Gas Act 1997* affects the exercise of powers that are able to be exercised under Part 4A of the *Public and Environmental Health Act 1987*.

Part 7—Amendment of *Health Care Act 2008*

23—Amendment of section 51—Functions and powers of SAAS

This clause enables SAAS to direct a person holding a restricted ambulance service licence to assist with the provision of response and recovery operations in such a manner as the SAAS sees fit if a public health incident or public health emergency has been declared under the *Public and Environmental Health Act 1987*.

Part 8—Amendment of *Public and Environmental Health Act 1987*

24—Amendment of section 3—Interpretation

This clause inserts a number of new terms in the Act that are required for proposed Part 4A dealing with the management of emergencies. The definitions are as follows:

(a) *Chief Medical Officer* means the Chief Medical Officer of the Department and includes a person for the time being acting in that position;

(b) *emergency* has the same meaning as in the *Emergency Management Act 2004*;

(c) *emergency officer* means a police officer or a person holding an appointment as an emergency officer under section 7A;

(d) *public health emergency*—see section 37B;

(e) *public health incident*—see section 37A;

(f) *Public Health Emergency Management Plan* means a plan (or a series of plans) prepared by the Chief Executive comprising strategies to be administered by the Department for the prevention of emergencies in this State and for ensuring adequate preparation for emergencies in this State, including strategies for the containment of emergencies, response and recovery operations and the orderly and efficient deployment of resources and services in connection with response and recovery operations;

Note—

It is contemplated that the Public Health Emergency Management Plan will form part of, or be recognised in, the State Emergency Management Plan prepared under the *Emergency Management Act 2004*.

(g) *recovery operations* has the same meaning as in the *Emergency Management Act 2004*;

(h) *response operations* has the same meaning as in the *Emergency Management Act 2004*;

(i) *State Co-ordinator* means the person holding or acting in the position of State Co-ordinator under the *Emergency Management Act 2004*.

25—Insertion of section 7A

This clause inserts section 7A into the principal Act.

7A—Emergency officers

This clause provides for the appointment of emergency officers and is equivalent to the provision enabling the appointment of authorised officers under the *Emergency Management Act 2004*. It is anticipated that emergency officers will be involved in the administration of proposed Part 4A (Management of emergencies).

26—Insertion of Part 4A

This clause inserts Part 4A into the principal Act.

Part 4A—Management of emergencies

37A—Public health incidents

This clause enables the Chief Executive to declare an emergency to be a public health incident. Such a declaration remains in force for a maximum of 12 hours.

37B—Public health emergencies

This clause enables the Chief Executive to declare an emergency to be a public health emergency. Such a declaration remains in force for a maximum of 14 days but may be extended by such further periods of any length approved by the Governor.

37C—Making and revocation of declarations

This clause provides that—

- the Public Health Emergency Management Plan may contain guidelines setting out circumstances in which an emergency should be declared as a public health incident or as a public health emergency;
- consultation with the Chief Medical Officer and the State Co-ordinator (within the meaning of the *Emergency Management Act 2004*) must take place before a declaration is made; and
- the Chief Executive must revoke a declaration under this Part at the request of the State Co-ordinator.

37D—Powers and functions of Chief Executive

This clause sets out the main powers and functions of the Chief Executive on the declaration of a public health incident or public health emergency. These are—

- to take any necessary action to implement the Public Health Emergency Management Plan and cause such response and recovery operations to be carried out as he or she thinks appropriate; and
- to provide information relating to a public health incident or public health emergency to the State Co-ordinator in accordance with any requirements of the State Co-ordinator.

37E—Application of Emergency Management Act

This clause applies certain provisions of the *Emergency Management Act 2004* (modified in accordance with subsection (2)) with the effect that, on the declaration of a public health incident or public health emergency, the Chief Executive or emergency officers will be able to exercise most of the powers that are able to be exercised by the State Co-ordinator and authorised officers under the *Emergency Management Act 2004*. The applied provisions of that Act are:

- Part 4 Division 4 (Powers that may be exercised in relation to declared emergencies) except section 25(1) and (2)(n);
- Part 4 Division 5 (Recovery operations);
- Part 5 (Offences);
- Part 6 (Miscellaneous) except sections 37 and 38; and
- definitions in section 3 of terms used in the above provisions.

27—Amendment of section 47—Regulations

This clause adds to the regulation making powers in section 47 of the principal Act, the power for the regulations to provide for such matters as are necessary in consequence of conditions directly or indirectly caused by an emergency declared to be a public health incident or public health emergency under the Act.

Part 9—Amendment of *Summary Offences Act 1953*

28—Amendment of section 83B—Dangerous areas

This clause provides that a declaration of a dangerous area, locality or place under section 83B of the *Summary Offences Act 1953* may not be made in relation to circumstances arising in an emergency for which a declaration under the *Emergency Management Act 2004* or Part 4A of the *Public and Environmental Health Act 1987* is in force.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (11:56): I indicate that, although I have not yet read the minister's second reading explanation (which is some 11 pages in content), I have discussed with opposition members the draft bill and the explanatory memorandum that was presented to me last Thursday. That meeting arose out of my reading in the Adelaide *Advertiser,* the day before the government's announcement, that it intended to introduce legislation in the parliament this week, essentially as a matter of some urgency, to prepare for a potential flu epidemic—they were the words published in *The Advertiser*—with a proposal to 'strengthen the existing laws to manage medical emergencies'.

I will read the minister's second reading explanation in detail in due course on the assumption that it confirms the information orally conveyed by a member of the Department of Health and a representative from the minister's office last week, and on the basis that the opposition accepts that the government has a responsibility to ensure that the people of South Australia and, indeed, stock, animals, pets and property are protected in the event of emergencies

(including health incidents and emergencies), and that it has a very important responsibility to act in this regard.

It is the opposition's view that we need to be prepared and that a responsible government would act to inquire and inform the parliament in the event of there being a need for legislative change in an emergency, such as has occurred with the potential pandemic arising out of what is commonly known as the swine flu virus. This health emergency (the virus is past its embryonic stage) has been with us for some weeks and apparently has emanated from Mexico, having spread to several other continents. I think there is now one confirmed carrier of the virus in Australia—not in South Australia—someone who has come into Queensland from the United States.

In all those circumstances, and on that basis, the opposition indicates that it supports the government in undertaking any responsible initiative and will support the government in any change of legislation to ensure that the people of South Australia are protected in those circumstances, that is, with a health incident that could develop into an emergency or a disaster, and that we are in a position to appropriately manage, advise, inform and protect the people of South Australia.

With those comments, the opposition has raised no objection to this legislation being presented at the first available time, but I qualify the opposition's readiness to come in and support any emergency legislation with the fact that I am informed that the government has already, by regulation, initiated the new powers that we are about to debate. It has used its powers for the promulgation of regulation to introduce new powers, expand that to other officers and, essentially, swine influenza—I do not know what the correct medical terminology is, probably some very complicated name, but I think we all understand what we are talking about—is already, by regulation, identified and will be treated as a notifiable disease, of which the Public Environmental Health Act obligations attract.

I say at the outset that the opposition will agree to the debate and the passing at second reading of this bill, but already, in the couple of days that we have been examining this material, there are a number of aspects that we raise a question mark to and of which we will reserve the right to debate further in another place. In an abundance of caution, to ensure that the government is not impeded in any way by what may be required, of which it is able to subsequently satisfy the opposition in due course of the necessity for the implementation of new regimes, some of which are in this bill, we will, nevertheless, allow this to proceed at the second reading stage.

I am not here to identify what will happen in another place. Of course there is another chamber in this parliament and those members will make decisions about what they think is appropriate when it comes to their attention and in the order of which they determine the priority of legislation should go through, but we will be continuing to work to identify what is appropriate, what is necessary, what is just a possibility of being on the safe side, all those things, identify those and indicate to the government, as we work through this, together with other stakeholders, what we should be doing on this.

I mention other stakeholders because in the briefing that was provided to me last week I was assured that all the relevant stakeholders had been privy to and had participated in, over a very sustained period, I think some two years, discussions that had been undertaken by the relevant parties, whomever they may have been. Nevertheless, the usual stakeholders, as presented in the briefing, had been consulted and had been participating in these discussions over a period of time in respect of reform that may be necessary.

Some of that has arisen because there have been other health incidents potentially quite dangerous to the public, namely the equine flu, which was a circumstance in the last couple of years that penetrated through the Sydney quarantine facilities, and which caused considerable difficulty, particularly in Victoria, New South Wales and South Australia.

In that instance, it was contained and identified; a vaccine was developed; it was appropriately managed and we had an inquiry. Sometimes when these incidents occur, it alerts public officials, particularly public health officials, to the need to review what our legislation does or does not do, whether or not it is adequate and the necessity to reform it if that is what is called for.

So, it is a great thing that, when these things occur, the public officials will sit down and have a look at what is necessary, what will work, what may not work and what are new factors. In the equine issue, it was a question of being able to get around our restrictions on genetic modifications or protocols required for the development of vaccines. We needed to look at that and reform it. As a parliament, we did so, and that is the proper course.

I am advised that the public health officials here in South Australia had been looking, over some time, at how adequate our provisions would be in these types of events. I did not ask for, and I have not yet been provided with, a list, so I do not know which actual stakeholders were consulted, but when I rang the AMA (Australian Medical Association) shortly after receiving the briefing and a draft copy of the bill, it had not heard of it. That puzzled me a little given that I would have thought that that is a body that would obviously be on the list of stakeholders.

The Australian Medical Association, of course, represents the medical profession. Similarly, I think it is fair to say that the principal voice for nurses in South Australia is the Australian Nurses Federation. It too, it appears on inquiry, had only just got these documents. It had not been consulted over the last two years about changes to the Controlled Substances Act or changes to the protocols for distribution of vaccines or immunisation procedures that would be undertaken. That is what I am told as a preliminary.

Those two organisations, I would have thought, would be very involved in this. When it comes to health, I would have thought that, as well as the police force and emergency services, such as the Country Fire Service, the Metropolitan Fire Service or State Emergency Services—all the usual suspects in a state of emergency—the two most significant bodies that would at least be on the list, if not near the top, would be the Australian Medical Association and the Australian Nurses Federation. However, probably some of their members in either category read it in the paper as we did.

It is a little bit of a concern that, in such a briefing, we would not see these two significant players. One would have thought that, when this whole regime of interference with the legal obligations that people have—that is, breaking the law—and the requirements under the Controlled Substances Act as to who is qualified to prescribe and administer drugs, etc. are under consideration to be not just ignored but in fact exempted from the obligations under that type of legislation, those bodies would have been consulted. That is very disappointing to me, because it raises questions about the credibility of everything else we are told. It is very disappointing.

Let me say that, just a week before, the government offered a briefing on the swine flu situation, which we appreciated and which we accepted. A number of people had been identified as possible carriers of the virus in South Australia and, obviously, concern was increasing. There was a public inquiry and there was a responsibility (which, I place on the record, I think the government responded to appropriately) to keep the public informed as to any difficulties that may be encountered and the important things that individual South Australians can do to minimise their own exposure to risk. They are very simple things such as washing hands and hygiene, issues in relation to food and getting flu shots. All those sorts of things are advised, helpful and important. I cannot say I was overly impressed with the advertisement that was put out for television, but that is just a personal thing. Nevertheless, it is the responsibility of government to advise the public, and it did so.

During that briefing, a number of questions were asked about how well South Australia will be prepared for a pandemic with a very large number of people becoming contaminated within a short period. How many of these face masks do we have? Do we need them at all? If we do need them, do we have enough? Those are all the mechanical things. Where is the testing being undertaken for South Australians? It was explained that it is in Victoria. That is taking it a distance away, of course, because you have to physically transfer the samples to the testing site and presumably have the results emailed or faxed back. However, they are the mechanics of those sorts of things.

What is the process to be undertaken for the development of a vaccine to deal with a new strain of virus? Representatives of the public health division of the Department of Health (including Professor Paddy Phillips) were at that briefing to explain to us that all these viruses come from an animal or bird at some stage and that the issues that surround the exposure to risk for humans somehow or other (and I paraphrase this) are a result of how quickly they mutate and are able to transfer from human to human. I am not a biologist. Professor Phillips is the expert in this area and we take his advice and, in this case, it is whether the swine flu is more potentially dangerous than any other flu and whether he was satisfied that a process was being undertaken by the relevant public and private authorities or companies for the development of a vaccine, which we were told sometimes can take up to six months.

At the briefing on that occasion—a week before last week's briefing—things were in order and under control. The processes were going as expected and there had been no significant outbreak anywhere in Australia at that point. There had been some identified suspects, but people

were complying and staying at home if they had been asked to. People were being screened as they came through airports and were cooperating, as you would expect, and that is great.

I asked the question: is there any impediment, currently, under South Australian law that we would need to consider changing to ensure that there is sufficient power to protect South Australians in the event of a swine flu pandemic (which is the language being used)? The answer was: no, there is no need to change the law because there are sufficient powers and there is the backup of commonwealth quarantine powers. So, I left that briefing reassured by the most senior of public health officials that we are safe and the issue is being properly supervised and managed; and that the public was being given appropriate information, caution, advice and reassurance. I felt things were pretty much in order for what can always be a difficult period if there is any kind of disaster, major incident or emergency. In any event, we seemed to be prepared.

At the time, I remember refreshing my own memory of the Emergency Management Act 2004, because that piece of legislation went through this place shortly after I came into parliament. This legislation established a new regime and sets of strategies to manage emergencies that might occur in South Australia where persons would be at risk of death or injury, or property would be at risk of destruction, or whatever.

The legislation established a new process to be undertaken in the event of an emergency. It also established the State Emergency Management Committee, with a state coordinator, defined as the Commissioner of Police. The committee comprised the most senior members of the emergency services (the CFS, the MFS, etc.), that is, all the usual people you would expect to be on a state emergency management committee. Various other parties could be nominated by ministers, and they were selected from nominations made by the Commissioner of Police, St John Ambulance, the Local Government Association and so on. So, it was a pretty comprehensive committee.

In 2004, this new law fundamentally shifted the responsibility of who called the shots and made the decisions in the event of an incident, an emergency or a disaster, all of which were defined at different levels (and I do not think I need to repeat those), and enabled very significant powers to be invoked to protect South Australia and its people.

In certain circumstances, they could be activated by a select and restricted group of people, under the supervision and control of the Commissioner of Police, for a certain number of hours and, in some instances, days; originally, it was 12 hours for an incident, 48 hours for an emergency and 96 hours for a disaster. So, they were very restricted time frames. The definition of 'emergency' in the legislation we are being asked to amend today is, as follows:

> *emergency* means an event that causes, or threatens to cause—
>
> (a) the death of, or injury or other damage to the health of, any person; or
>
> (b) the destruction of, or damage to, any property; or
>
> (c) a disruption to essential services or to services usually enjoyed by the community; or
>
> (d) harm to the environment, or to flora or fauna;
>
> Note—
>
> This is not limited to naturally occurring events (such as earthquakes, floods or storms) but would, for example, include fires, explosions, accidents, epidemics, hi-jacks, sieges, riots, acts of terrorism or other hostilities directed by an enemy against Australia.

So, 'emergency' is defined as an event that has to cause or threaten to cause the harm identified, and the notation identifies examples. Notations are now common in drafting, and I think they are very helpful, since, because of the need to be brief, it could be rather misleading and things could be left out.

In this case, I think it is pretty clear that, if there were a major flood, an earthquake, a huge bushfire, an invasion or a war declared by Victoria or a terrorist attack on our water supply in this state, these events would trigger the opportunity for the committee to get together, identify a declaration and use these extraordinary powers within the hours in which they are given operation, with powers of extension upon certain rules.

I think it is important to appreciate that this legislation today is going to replicate those powers into a new structure within the Public and Environmental Health Act to establish a new regime for what is to happen, a new category on its own, identified specifically, namely, a public health incident or emergency. I will come to the definition of that in due course.

One of the things that I think needs to be clear is that, when one reads section 25 of the Emergency Management Act 2008, the powers of the state coordinator (the Commissioner of Police) and authorised officers (who are police officers and the like, I will simply say, for the purpose of this, but it is restricted), can do a number of things during those hours in which they are permitted so to do. The declaration having been made—and it can be in the categories I have indicated—the state coordinator can take any necessary action to implement the State Emergency Management Plan and cause such response from recovery operations to be carried out as he or she thinks appropriate.

Then, under subsection (2), without limiting or derogating from the operation of the general powers just indicated, if the state coordinator thinks it necessary to do so, he or she or the authorised officer under this legislation can enter or, if necessary, break into any land, building, structure or vehicle using such force as is necessary—that is all in the opinion of the authorised person. They can take possession of, protect or assume control of any land, body of water, building, structure, vehicle or other thing—whatever that is; presumably everything. They can subject a place or thing to a decontamination procedure. They can remove or destroy or order the destruction of any building, structure, vehicle, vegetation or seriously injured animal.

The list goes on. An authorised officer is able to direct the owners of property to take charge of real or personal property, to place it under control, to dispose of it; to remove or cause to be removed to such place as the state coordinator or authorised officer thinks fit, any person or animal, or direct the evacuation or removal of any person or animal; direct or prohibit the movement of persons, animals or vehicles; direct a person to submit to the decontamination procedure which, as I have indicated, is subject to a thing or place being decontaminated; to remove flammable or hazardous material—all sorts of laws and powers in relation to being able to shut off fuel supplies, electricity, gas or any other hazardous material and to disconnect those from operation; to direct a person who is in a position to do so, to do any of the things necessary. In other words, to tell the gas company or whatever that it has to shut down various operations, etc. They can cut off the water supply, any drainage facility—and the list goes on.

Except for shooting somebody, the state coordinator and his authorised officers clearly have very extensive powers. In a really big emergency it may be that all or any of those powers need to be invoked for the limited time that is allowed. As would be obvious to everyone in this house, these are powers that, in the exceptional circumstances of a major incident, disaster or emergency, are implemented and imposed because of the emergency. Only in those circumstances is it justified that people's rights, property and freedom are crushed—because that is what these do—but they do it on the basis that the situation is so serious that it is necessary to protect South Australia and its assets, including its stock and so on. So, in very extreme situations and extraordinary circumstances, where the South Australian public and/or property is at risk, these provisions will be imposed. However, just a cursory look at these provisions informs us of the extraordinary powers we have given to the Commissioner of Police and those concerned in order to implement these provisions, and those powers are there for good reason.

Personally, I have taken the view—and I remain of the view—that the cabinet of the day, and the ministers responsible, ought to have retained more power and responsibility in these circumstances. However, it was the will of the government at the time, which the parliament accepted, that the decision to implement a lot of these powers would be transferred very substantially to members of the Public Service, and that regime still exists. Personally, I think it is the responsibility of government to ensure that it retains supervision of these powers, especially in extreme circumstances, and especially when the rights of certain organisations are extinguished for at least a short period of time, but the government has elected not to that.

I am not suggesting that members of the Public Service will in some way trample on people's rights unfairly, inappropriately or unconscionably, but sometimes in these circumstances the parliament is not in a position to meet what is required. The very nature of a disaster requires that all effort goes into remedying and protecting those who might be injured or otherwise affected in the disaster. It is not for parliaments to have to come together to hurriedly try to resolve whether or not it will bring in the army, for instance. Events occur where a prompt response is required, and that is when I think senior members of the cabinet ought to play a greater role in retaining the responsibility for when the provisions of this legislation come into effect, in particular whether a declaration is made that any of these other protocols or procedures are to be put in place.

I think it is entirely appropriate for government and senior ministers to obtain advice from senior members of departments, because those people very often have the most expertise to

provide that advice. I would have thought that they would be the obvious people the government would consult and that they would express their opinion. I would have thought it is logical that, before a senior officer in one department (for example, a police officer) acted in relation to a health issue, that officer would consult with the senior person in the health department. Indeed, the decision, ultimately, as to whether a declaration is made, particularly at the disaster and emergency stage (perhaps not at the incident stage for reasons I will explain later) will involve invoking almost all the powers of the various authorities.

I would have thought that, if the government is asking the parliament to set up a whole new structure and a whole new definition of public health incidents and emergencies—especially if it wants to include in due course other types of incidents including fire or flood emergencies, and the relevant department also wants to have its own army of emergency officers—the government, at the very least, needs to look at the Emergency Management Act, which is the primary source of the power and the responsibility for emergencies, and ask itself whether, along with its senior members of cabinet, it should come into the equation and then take the responsibility to ensure that they are involved at the declaration stage. Then, of course, what flows from that is the position concerning the people who are qualified to implement the containment procedures—the protective mechanism or pre-emptive action as may be necessary to protect the public—to be invoked by those with the necessary professional qualifications, whether they be police, fire brigade or SES officers, public health officials, and so on. I certainly ask the government to look at that matter.

The bill before us seeks to amend various acts and contains, in part 3, significant amendments to the Emergency Management Act. Here, the government's published position concerning these amendments was along the lines—and they may have been expanded in the minister's second reading explanation, which I am yet to read—introducing regulations to 'add powers to order medical assessments and mandatory isolation', involving home detention or at least staying at home while potentially you can contaminate others. That related to an event involving an outbreak reaching a level of a state emergency. Further, it would include new powers for senior health officials in the event of a state emergency, again including a direction for a person to remain in isolation or to undergo medical observation, examination or treatment. That is what the *Advertiser* told us was the government's intention here, and that may or may not be right.

There is another aspect to swine flu being declared a controlled notifiable disease, which I will come back to in the Public and Environmental Health Act proposed amendments. We have no issue with swine flu (or whatever is its medical name) being declared a controlled notifiable disease, with the whole process and powers under the current Public and Environmental Health Act then being brought into play in the event of that virus being identified in any carrier (which I assume can be anywhere at any time), whether a human or animal carrier. If the virus lives in the dirt or in the air, there can be notification in a particular area where potentially it can be quarantined.

I return to the Emergency Management Act amendments. The definition of 'emergency' is proposed to be changed (when talking about the event that is the trigger to a declaration process) by adding the words 'the event that causes or threatens to cause' (all these dastardly things) to the words 'whether occurring in the state, outside the state or in and outside the state'—which covers both scenarios.

My understanding is that it is being inserted as an abundance of caution to ensure that, if there is a virus outbreak in dealing with a health issue in, say, Mildura, which is just over the border in Victoria, the public health officials must be absolutely sure that they are able to activate quickly the necessary restrictions, controls and powers they are vested with, whether they are those they have currently or those we might add by way of this legislation. So there would be absolutely no confusion or question that that power would be able to be initiated.

I can remember, for example, that the equine flu was identified as having arrived at a private quarantine facility out of Sydney. I cannot remember who was the minister or acting minister at the time, but I can remember that he issued a regulation, even though no horse had been identified as carrying the equine influenza in South Australia. They issued a regulation which prohibited any horse, donkey, mule or ass coming into the state.

A regulation was promulgated, quite appropriately, to deal with that situation by saying, 'It's not yet in our state, we don't want it in our state, but we will activate the necessary precaution to ensure that we don't get it or, at best, minimise the risk of its occurring.' The government sent out a notice to the world that people were not to truck in, even for a local gymkhana, what could be seen

as carriers of the equine flu, which could potentially have a devastating effect on the stock of horses, asses, donkeys and mules etc. in our state.

Clearly, that is an example of the capacity to act—and appropriately so. On the abundance of caution, in order to make it absolutely clear, the government says that it wants to introduce an expanded definition of emergency. I am of the view that it is probably not necessary, but the opposition will not stand in the way of the government introducing it on the basis that, clearly, I may be wrong and some interpretation may be read down in the future to say that our current legislation was inadequate, and some direction or power implemented at a future date in setting up a barrier or destroying property on our side of the border, when the virus is on the other side of the border, is ultimately determined to be ultra vires.

We will support the government in expanding that definition. Similarly, in the notation they add the words pandemics and radiation or other hazardous agents in the list of examples. Again, the notation is not an exhaustive definition of what applies. It is an example given to the reader and those who may be interpreting this legislation of what it would apply to. It was never envisaged that this notation would be some exhaustive, definitive, confining, interpretive mechanism to legislation. Adding in 'pandemics' when you already have epidemics, accidents and other events seems superfluous, but it is the new trendy word to use so we do not have any objection to it being put in.

Radiation or other hazardous agents comes in. I am not sure where this comes from, but it is possible that over a period of time other emergency services personnel have said, 'Look, we are doing more than just chemical spills and explosions. Radiation is on the radar, so to speak, as a contaminant and we may need to specifically look at it. Let's at least alert those who might have to implement legislation in the future by adding it in.' Again, it is not a prerequisite, but it possibly gives some clarity.

Then we come to authorised officers. This is the new army of people who can be appointed and who are subject to conditions specified by the state coordinator, which I suppose raises the question of whether it is even necessary to insert a section 31A confidentiality obligation, which, for the benefit of the parliament and those who have not yet read the bill, introduces a penalty of $5,000 if a person who obtains information—for example, medical information—during these emergencies intentionally discloses it. They have committed an offence and can be punished. I would have thought that that is exactly the sort of thing that would be inserted as part of an obligation and condition of appointment as an authorised officer. At the very least, it puts them on notice of the very sensitive personal information of which they might become informed as a result of an emergency and which can and should be kept confidential.

The next most significant change in this legislation is to extend the number of days (or hours) for which the declaration remains in force. We are moving from 12 hours, 48 hours, 96 hours to 14 days in major emergencies, which is currently 48 hours. This bill proposes that, in the case of a disaster, it be increased from 96 hours to 30 days. I do not understand that extension. I have not yet received any real explanation as to why that would be permitted, especially as there is always the power, even under the current act, for extensions; and under this act, even after the 14 days or 30 days respectively, the government, through the minister, can approve further extensions.

As members have heard, I am of the view that the minister, at the very least—preferably cabinet and/or a team of senior ministers—should be in on the act at the declaration stage, and so I will never object to them continuing to have a role post that stage, but, at the moment, they come into play a matter of hours after the initial declaration is made. It is a protective mechanism. It is important again because, at the end of the day, the government is elected to take on that responsibility. Here we will have a situation where it is determined by a team who are not accountable to the public of South Australia. They are accountable to the government that appoints them, but they are not accountable to the people of South Australia. They will have the power for two weeks, or up to a month, without any impediment to the powers under section 25 which are very extensive and from which the government sits back.

The government needs to explain to us as a parliament why it is necessary to have this for such a sustained period without their having their hands on it. That seems to me irresponsible at first blush. There may be a good reason for it—and the opposition is happy to hear it if there is one—but, at first blush, I think it is irrational and irresponsible. It is also proposed that the powers be extended. Again the second reading explanation may identify where this would be necessary. I was trying to think of some as I was being briefed on this matter. For example, instead of having

the right to be able to remove or destroy only seriously injured animals (in a long list of things that they could destroy), this bill proposes that they can destroy any animal in the declaration period.

I assume that means that, if a dog is suspected of having rabies, under the current declaration the suspected seriously injured animal can be shot and under this power all the dogs in the street can be shot. I am not sure. There may be good reason for it, and it may be an important precaution and a power that is necessary for public health officials to have to protect the public against, in this case, a public health issue.

However, we must remember that this power is being extended for all events. So, it could be a fire, a flood, an invasion from Victoria, or whatever, and the government wants to change that to not only the seriously injured ones but all animals. I assume that relates not only to pets but also to stock. Our quarantine laws overlap this in some regard, in the sense of stock diseases, and I am sure that there are members of the house who can tell us about foot and mouth disease and all sorts of things and the importance of protecting, in that instance, the value of livestock and the livelihood of many people. At times, that means the sacrifice of a whole herd or flock to protect the core. That is one of the sacrifices that sometimes has to be made in those circumstances. So, I can envisage situations where that may be needed. I just note that that is being extended.

I have not heard of the swine flu virus being found in any other animal yet. It may have been and I may have just missed that. However, this legislation (not just commonwealth legislation) would provide the power to be able to destroy all pigs or animals in a particular suburb, region, country zone or council area if the department head, Dr Sherbon, thought it necessary. My interpretation of this legislation is that they would be able to do so.

The other measure that is being sought is to be able to carry out or cause to be carried out excavation or other earthworks. I am not sure what that relates to. Clause 9(1)(bb) relates to being able to take control over any particular asset and/or destroy any building structure, and so on, and we are going to add in 'carry out any excavation or earthworks'. Again, I would have thought that, in the course of being able to do anything that is necessary to carry out those things, excavations or other earthworks would be part of it. Bulldozers are frequently brought in for fires and floods, and so on, as a mechanism or tool to provide a firebreak or to build a wall or a dam for floodwaters. I do not quite understand why that is there, but we have no objection to it.

An interesting new addition relates specifically to health and transmission of disease with respect to people. What is proposed here is that, rather than just having the power to direct a person to remain isolated, whether it is home detention or otherwise, they are to be kept separate from others, and the like.

I want to place on the record how pleased I am that, in a situation like we have at the moment with swine flu, people are cooperating, as you would expect. They are being asked to do certain things but they do not need to be ordered or tattooed or instructed or issued with directions. They are being compliant, because it is in their interest and also that of their family, neighbours, and so on, that they do so. They are doing the right thing, and that is great. However, one always has to prepare for the fact that some people will disobey what would be seen on the face of it to be a reasonable direction in the circumstances. For example, if a child is identified as being a carrier of a virus and the health officials think that it is important that that child be isolated from others, they may direct that the child be kept in a particular facility and that only authorised officers should service the child and that family must be removed.

A parent who may be concerned for the physical and emotional wellbeing of that child may object to that and say, 'No, irrespective of whether I might become contaminated, I want to be in there with the child,' or 'She is asthmatic,' or 'She has other conditions and I want to be there to help her and keep her calm.' So, situations can arise where the thinking of a public health official, who is concerned with the child and the public at large, is not necessarily matched with the thinking of a close relative, and they may be tempted to disobey what would otherwise be a reasonable instruction.

Bear in mind that we should take into account that we are debating this in the clear, calm light of day, not in the midst of a disaster when people may make decisions and conduct themselves differently because it is an emergency. So, we have to appreciate that people will make decisions that are not always in the interests of others, that could cause harm to others, in a situation where they are distressed, sick, frightened, etc.

The government proposes that all of these powers can be introduced where the person is a suspected carrier (not just an identified carrier) where there is a possibility of it. The government

has added in the direction clauses regarding people remaining isolated, etc. the words 'to take other measures to prevent the transmission of a disease or condition to other persons'. That is pretty broad. I understand the government's intention here; I do not have any objection to it. Again, quite probably, it is already covered but, if it is not, this is the abundance of caution.

I suppose they could have said to a person suspected in the opinion of one of the authorised officers rather than these sort of waffly words that go around it but, nevertheless, they have decided to take the broad approach, and I suppose it is just important that the parliament understands that this opens up a whole new group of people who come within the gamut of being able to be detained, directed, decontaminated, sprayed down, squirted down, to have their water supply cut off, the house destroyed, etc. It adds a whole new group in there, and I just want the parliament to understand that potentially that can occur, and it is very clear that it can occur.

There is also provision for shutting off and disconnecting. To me, this is pretty stupid because they have decided that instead of just having the power to shut off or disconnect, they want to be able to say that they can connect, reconnect, disconnect or shut off. I would have thought that that is going overboard. Of course, there is a power to shut off and, surely, it is implicit that you can turn it back on. It seems to me to be silly. However, we are not going to stand in the way of that.

There is a new provision to require a person to furnish such information as may be reasonably required in the circumstances, other than information that may be required to be furnished under section 6 (the essential services). I will not go into the detail of what is there, but this is basically to get people to answer questions and disclose information. I am yet to be given some other explanation for this. I can only imagine that this is to cover people, for example, who might be coming from another region so that they would be obliged to disclose who they had travelled with and where they had travelled, even if it is in circumstances where it might cause them embarrassment or a breach of something. For example, they could be on work duty travelling in an area where they should not have been, and having a bit of a holiday along the way, or they could be with someone they should not be with; I am just trying to hazard a guess as to what the case might be.

What the government is trying to do is make sure that in a state of emergency members of the public have to cooperate; they have to answer those questions as to where they might have travelled and with whom they may have come into contact. I do not necessarily mean in some intimate way, but what restaurant they may have visited and where they may have potentially exposed others to risk. Again, on the face of it, that seems reasonable.

Now we come to another new power, bearing in mind that the other provisions are really just expansions or clarifications of what already exist. The new power means that, essentially, if the chief medical officer advises the state coordinator, and he or she then forms the opinion that the emergency is so bad or of such a magnitude that the demand for medical goods or services cannot be met without contravening the laws of the state, the state coordinator may authorise the officers to break the law to deliver the necessary requirements.

In terms of disasters, it would be obvious that you would not be allowed to enter an earthquake area and loot somebody's house. While you cannot steal, you will not get arrested for jaywalking to get across the street to help somebody who needs assistance. Obviously, there are circumstances where rules and laws, which we otherwise comply with in our normal day-to-day living, become subservient to the higher need to protect people, and they certainly should be.

However, here we have carte blanche. If the state coordinator, after receiving advice, thinks it is necessary for officers to break the law, they can do so. I think that is too broad, although there may be some justification for it. It may be that those responsible for drafting the measure had not given this a lot of thought—and that is no reflection on them—or did not have time to come up with something more specific. However, that provision, along with new clause 26A, which is a modification of the Controlled Substances Act, is far too broad, and I place on the record my concern about this.

New clause 26A allows the minister (as distinct from the chief medical officer) in this instance to ignore the provisions of the Controlled Substances Act during the declaration period in relation to even an incident let alone a disaster or emergency, or when in their opinion it is necessary or desirable to do so. So, it does not even have to be during the declaration; it can be at a different time. It may be that the declaration period has expired, for example, and the officer in question still thinks it is reasonable to be able to get around the provisions of the Controlled

Substances Act. That act, among other things, sets out rules, quite properly, as to who can handle, prescribe and administer legal drugs, as well as specifying those illegal drugs that cannot be distributed.

Having a very important role in our legislative management, it is a piece of legislation that recognises that certain drugs can be very dangerous in anyone's hands. Other drugs need to be properly and carefully administered because they can be dangerous in inexperienced or untrained hands, and certain training needs to be undertaken in order to administer this provision correctly.

Debate adjourned.

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

AUTHORISED BETTING OPERATIONS (TRADE PRACTICES EXEMPTION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

PAPERS

The following papers were laid on the table:

By the Speaker—

Police Complaints Authority—Report 2007-08

By the Premier (Hon. M.D. Rann)—

Regulations under the following Acts—
- Emergency Management—General
- Mutual Recognition (South Australia)—Temporary Exemptions
- Trans-Tasman Mutual Recognition (South Australia)—Temporary Exemptions

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

Development Plan Amendment Report—District Council of Franklin Harbour—
- Development Plan—General and Coastal

Regulations under the following Acts—
- Development—Mawson Lakes
- Motor Vehicles—Number Plate Exceptions
- Road Traffic—Photographic Detection Devices

By the Minister for Health (Hon. J.D. Hill)—

Regulations under the following Acts—
- Prohibition of Human Cloning for Reproduction—Reproduction
- Public and Environmental Health—Notifiable Diseases

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

Regulations under the following Acts—
- Land and Business (Sale and Conveyancing)—Sale of Land
- Liquor Licensing—Wattle Park

Local Council By-Laws—
- Wudinna District Council By-law No. 2—Moveable Signs
- City of Holdfast Bay By-law No. 50—Cats

By the Minister for Agriculture, Food and Fisheries (Hon. P. Caica)—

Regulations under the following Acts—
- Aquaculture—Fees—Oysters
- Primary Industry Funding Schemes –
  - Sheep Industry Fund
  - Cattle Industry Fund

By the Minister for Industrial Relations (Hon. P. Caica)—

Regulations under the following Act—
Fair Work—
General
Representation

By the Minister for Employment, Training and Further Education (Hon. M.F. O'Brien)—

Further Education, Employment, Science and Technology, Department of—Report 2008

DEFENCE WHITE PAPER

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:02): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: On Saturday 2 May, the federal government released the 2009 Defence White Paper which confirmed Adelaide as the location for the construction of a fleet of 12 new Royal Australian Navy submarines at a reported cost of $30 billion. When the project begins 20 years from now, it will be the single largest contract in Australian history and will entrench long-term defence manufacturing in South Australia out to the middle of this century and, quite probably, beyond.

In short, this Defence White Paper signals that our state has a future in manufacturing, one that will offer generations of South Australians thousands of jobs and, with those jobs, long-term career paths. It means white and blue collar workers, tradespeople, engineers, designers, systems analysts and scientists can not only build and develop their own careers but also their children can be offered the same opportunities. It affords our state the strong foundations for an industry that we can build on and, like our rapidly growing mining industry, will provide a valuable economic base the type of which could only be dreamed of just a decade ago.

This has come about because this government strategically pursued huge defence contracts in an effort to diversify our state's economy. That is why we embarked on a campaign to win the $8 billion air warfare destroyer contract, even though Melbourne in Victoria was the favourite. To back it up, this government made an investment of well over $300 million in building the most modern and sophisticated shipbuilding facility in the southern hemisphere—which is the Techport Australia facility at Osborne.

Federal Labor's 2007 defence election policy summed up our strategic approach like this:

> South Australia is the only credible location for the construction of Australia's next generation of submarine. This commitment is also necessary to give certainty to the long-term maintenance and expansion of the defence industry and technology base in South Australia, capabilities necessary for Australia's long-term national defence.

Techport Australia and the Australian Submarine Corporation's new shipyard have put our state in the box seat to benefit substantially from the larger and more potent maritime force announced in the White Paper.

This government intends to aggressively pursue more than three air warfare destroyers and more than the 12 new submarines that will eventually replace the six Collins class submarines. We now also set our sights on the contract—revealed in the White Paper—to build eight new anti-submarine frigates to replace the Anzac class frigates. We are delighted that the federal government has left open the option of building a fourth air warfare destroyer.

The White Paper abounds with other opportunities—if not to get whole contracts, then at the very least to get large components of those contracts. The federal government has also announced plans to purchase around 20 new offshore combatant vessels to consolidate and replace the Navy's patrol boats, mine counter measure vessels and hydrographic survey ships.

Six new ocean-going landing craft will replace the aging landing craft heavy vessels, while the Navy's oldest underway supply ship, *HMAS Success*, will be replaced with a new replenishment vessel to enable combat ships to refuel at sea without going into port. The government will also acquire a large new strategic sealift ship that will complement the two landing helicopter dock (LHD) amphibious ships that will enter service in the first half of the next decade.

South Australia is well positioned to compete for a large portion of the shipbuilding work that will flow on from these plans to improve and strengthen our maritime forces. The Edinburgh

defence precinct also plays a crucial role in our future defence planning, as outlined by Prime Minister Kevin Rudd during his recent visit here. The White Paper outlines significant funding to increase the combat power and survivability of the Army, as well as improving its ability to operate as a modern networked, mobile and highly adaptable force.

Construction is well underway for the Army's new 7RAR mechanised battalion to arrive in 2011, which is generating, I am advised, about $100 million worth of investment into the South Australian economy and around 1,600 jobs. I should put that into context: it is a nearly $700 million expansion which, when completed and when the battalion arrives, will be spending about $100 million each year into the South Australian economy.

Edinburgh is also central to the Air Force's future plans, following the government's proposal to replace the aging AP-3C Orions with eight new maritime patrol aircraft and up to seven large and advanced maritime surveillance UAVs. The federal government has also decided to upgrade half the fleet of 20 FA-18F super hornets for the potential future conversion to the Growler electronic warfare variant. If taken, this decision will provide a substantial boost to defence's electronic warfare capabilities which, again, will have a direct benefit to South Australia.

As outlined in the White Paper, defence will establish a joint electronic warfare centre through the collocation of a number of existing organisations. The White Paper indicates that this centre is likely to be located in Adelaide.

The Defence Science and Technology Organisation also benefits greatly from the new White Paper, with the federal government committing $10 million to fund a program of technology upgrades to its laboratories and technical facilities. The federal government will commit $53 million to deepen defence science relationships and ensure our men and women will continue to benefit from access to leading edge technology. It has also recognised the need to remediate a large amount of important supporting facilities that were overlooked and neglected for so long by the former government. That is why the federal government will be spending around $30 billion over the decade to fix core capabilities, including $118 million over the next four years to remediate the Woomera Test Range.

Finally, the White Paper also outlines reforms in the way reservists are managed, which will focus on better integration between part-time and full-time service in the Defence Force and removing administrative barriers so that reservists can make a full contribution to the capability of the Australian Defence Force. This will again have a positive impact for South Australia, given the comparatively large and dedicated reserve workforce that is resident in this state.

While many of these projects are still off in the future, it is important to recognise that the complex task of preparing for these contracts has already begun. For instance, Pacific Marine Batteries, adjacent to the Techport Australia shipbuilding yard at Osborne, recently won one of the very first contracts to identify the best new technologies available for the new submarine batteries on the next generation of submarines. The contract and PMB's own R&D work has already created 20 new engineering and technical jobs at Pacific Marine Batteries.

The Defence White Paper made it clear that the capability definition, design and construction for the new fleet of submarines 'must be undertaken without delay, given the long lead times and technical challenges involved'. In other words, many jobs will be created over the coming years in preparing for the next generation of submarines and other possible contracts. I want South Australian companies to be ready and in the front line to win as many of these jobs as possible. We believe we can easily exceed South Australia's Strategic Plan target of taking our defence workforce from 16,000 jobs to 28,000 jobs by 2013.

MURRAY RIVER, LOWER LAKES

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:13): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.A. MAYWALD: I wish to advise the house today of a serious event in the Goolwa Channel and Lower Lakes region. I am advised that parts of the Finniss River and Currency Creek catchments have become acidic, as predicted by the modelling last year. Recent rainfall has mobilised acid in a creek bed that feeds into the Finniss River catchment and it is considered that the water in that area is currently unsuitable for livestock consumption and human contact. Last year, the state government predicted that the Finniss River and Currency Creek would acidify at a water level of approximately minus 0.75m AHD. I am advised that water levels in

the Goolwa Channel are now well below this point and the tributaries have disconnected and a large amount of acidic material has built up. Recent rainfall has mobilised this acid in a section of the Finniss River catchment near Wally's Landing. There are also pools of acidic water in parts of Currency Creek wetlands, but it is not flowing.

Health SA advises that the water could cause irritation, particularly to sensitive tissue such as the eyes, and contact with water in the downstream sections of the Finniss River and Currency Creek should be avoided. Landholders are advised to provide alternative water supplies for stock and to restrict livestock access to the acidic water as a precaution. The Department of Water, Land and Biodiversity Conservation will today be directly contacting all landholders in the area whose stock and domestic water supply could be affected by this mobilised acid.

The situation is being monitored extremely closely. I am advised that there are no impacts on the Goolwa Channel at this stage. In anticipation of the acidic material being mobilised, more than 300 tonnes of micro-fine limestone has already been placed in Currency Creek and 80 tonnes in the Finniss River to neutralise the acid. The state government is currently investigating further options to address this situation, which includes the option most likely to implement additional limestone dosing as a matter of urgency.

The state government has proposed a series of environmental flow regulators across Goolwa channel at Clayton and in Finniss and Currency Creek tributaries to manage acidification issues in these tributaries. I am advised that the federal Minister for the Environment, Heritage and the Arts has today provided environmental approvals for the implementation of the Goolwa Channel Water Level Management Project. Financial and cultural approvals for this project will be concluded in the very near future. People who draw water from the Finniss River or Currency Creek who require further information should contact the Department of Water, Land and Biodiversity Conservation.

VISITORS

The SPEAKER: I draw to the attention of honourable members the presence in the gallery today of students from Samaritan College, who are guests of the member for Giles.

QUESTION TIME

PRIVATE HEALTH INSURANCE REBATE

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:17): My question is to the Premier. Has the government undertaken any proprietary work to assess what new costs and demands would be placed on South Australia's health system by a commonwealth decision to alter the private health insurance rebate, and how will our hospitals cope with extra demand as people move from private health to the public system? Public reports have indicated in recent days that the 30 per cent private health insurance rebate is expected to be means-tested for singles earning more than $74,000 and families with combined incomes of $150,000.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:18): Of course, there have been a number of statements about what might be in the federal budget. I guess we will just have to wait until tonight to see—

Members interjecting:

The Hon. J.D. HILL: I didn't say where those leaks came from: I said there had been a number of leaks.

Mr Pengilly interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: We will have to wait to see what is in the budget—but I certainly hope I will be able to catch a train in here one day, member for Finniss.

In relation to modelling, I have seen some (I am just trying to recall exactly where I have seen it in the last little while; I am not sure whether it has been a parliamentary briefing note or in a newspaper report) in relation to the impact of a potential reduction in the subsidy to higher income earners' private health insurance. The likely event, of course, is that such a reduction would have very minimal effect on the number of high income people who take out private insurance, particularly if it is backed up by a disincentive against dropping out of private insurance, because I

understand that one of the options (and this also was in the media over the last week or so) the federal government is looking at is putting on a higher Medicare rate for those who have a higher income who choose not to have private insurance. So, there is more than one way of getting the desired outcome for those—

Members interjecting:

The Hon. J.D. HILL: This is not my policy. You asked me a question about the impacts it might have on the state health system. I am trying to explain it to you. If you have objections to it that is fine. I am not arguing whether it is a good or bad thing, I am just telling you what the impacts might be.

If the federal government, or any government, were to put in place a policy framework where there would be a disincentive to drop out of private health insurance, the impact would be very minimal. Even if they were to remove just the bonus it is unlikely to reduce the number of people who have private insurance by a huge amount.

The final point I would make is that people in the workforce who are on high incomes are likely to have fewer health problems than those who are out of the workforce and retired. The older population is the most likely group in the community to require ongoing health care, and that is the population group that has the lowest rate of private insurance.

That is where the great growth in demand is. People in the paid workforce have a lower rate of access to health insurance because of their age and general wellness. So, we do not think it will have a huge impact, but we will wait to see what is in the budget before we make any proper projections.

APPRENTICESHIP AND TRAINEESHIP PROGRAM

Mr KENYON (Newland) (14:21): My question is to the Minister for Employment, Training and Further Education. What is the government doing to support jobseekers to gain an apprenticeship or traineeship in skills shortage areas?

An honourable member: You said this on the radio this morning.

The Hon. M.F. O'BRIEN (Napier—Minister for Employment, Training and Further Education, Minister for Road Safety, Minister for Science and Information Economy) (14:21): No, I did not. I do not know what you were listening to, probably inner voices, and none of them making terribly much sense.

I thank the member for Newland for the question. Today I would like to apprise the house of the pre-apprenticeship and traineeship program which first commenced as a pilot project in 2005 in response to the shortage of skilled tradespeople in South Australia. Over the 2006-08 period, the program engaged over 175 participants, with 70 per cent of those gaining employment in a skills shortage area at the cessation of their training.

I am pleased to announce today that eight registered training organisations across the state will share in $715,000 of state government funding over the next two years to help another large group of young people gain the skills to assist them to enter into an apprenticeship or a traineeship. The program aims to assist up to 180 job seekers by delivering pre-apprenticeship or pre-traineeship training in areas identified as experiencing skills shortages.

The pre-apprenticeship and traineeship program will be delivered across 12 pre-apprenticeship courses with a minimum of 15 people in each course. Training will be delivered in areas of construction, engineering, electrical and plumbing, and will now also include community services, and child, aged and disability care.

Work placements are also offered as part of the program and are seen as a vital component in increasing the knowledge base and skills of participants while also providing reference and context to the learning already undertaken. Along with at least 370 hours of accredited training being delivered, participants will also benefit from support and mentoring to ensure foundational skills are obtained for a successful transition into an apprenticeship or high level traineeship.

The timing of the program aligns extremely well with the federal government's Nation Building and Jobs Plan, which members may be aware is rolling out a whole range of educational infrastructure through our primary and high schools. The federal government initiative aims to

provide economic stability and support, up to 90,000 jobs nationally, many of them in the construction sector.

The pre-apprenticeship and traineeship program is yet another example of the government's commitment to assisting our young people obtain employment and VET qualifications while concurrently addressing skills shortages in the state's economy.

SELF-FUNDED RETIREES

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:24): My question is to the Premier. Will the combined effect of federal government cuts to benefits to self-funded retirees and the state's land tax regime force more self-funded retirees onto the pension? Self-funded retirees living off property investment income have expressed alarm about significant rises in state land taxes over recent years eating into their retirement income. The federal government has foreshadowed that the tax-free status of super for the over-60s will end, that tax breaks for imputation credits will be lost, that a 15 per cent surcharge on super savings is likely to return and that private healthcare benefits will be reduced.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:25): Can I just say that it is extremely difficult to answer a question about a budget document that none of us has seen. It is actually hypothetical; we have not seen what the decision is. One thing I can say is that what I would like to see in tonight's budget is a lift in the pension. That is what we all want to see.

We are playing our part in terms of offering totally free public transport on trains, on trams and on our buses for people who are holders of a Seniors Card—hundreds of thousands of South Australians—at off-peak times from 9am until 3pm during weekdays and on weekends and public holidays. We are not responsible for the pension. I would like to see an increase in the pension tonight to perfectly dovetail into what we are offering for senior South Australians with totally free public transport.

Members interjecting:

The SPEAKER: Order!

SOUTH AUSTRALIA POLICE OFFICER OF THE YEAR

Ms FOX (Bright) (14:26): Will the Minister for Police advise the house about today's presentation of the South Australia Police Officer of the Year?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:27): It gives me great pleasure to announce that Senior Constable Andrew Murphy, of the Elizabeth Local Service Area, was today named the South Australia Police Officer of the Year in a public ceremony held in Rundle Mall. Senior Constable Murphy is a crime scene examiner, and his nomination is underpinned by advice provided by Mr Euan Ferguson, Chief Officer of the South Australian Country Fire Service. In making the nomination, Mr Ferguson advised of the extraordinary duties undertaken by Senior Constable Murphy in his role as an active member of the Dalkeith Fire Service Brigade. The association with CFS spans some 30 years.

The roles undertaken by Senior Constable Murphy and his close involvement with the community also include his role with the Hillbank Neighbourhood Watch, as the School Watch liaison officer with the Munno Para Primary School, his continued involvement with Blue Light and as a regular lecturer at school presentations.

Today's ceremony was the 31st presentation of this annual award. Since its inception in 1978, the annual South Australia Police Officer of the Year Award has sought to highlight the service provided to our community by South Australia Police and recognises outstanding acts of courtesy, courage, kindness, understanding, compassion and devotion to duty by any member of the South Australian police department. The award also recognises the police officer's voluntary work outside their policing duties.

The high quality and number of nominations received by the club each year demonstrates the high regard the community hold for members of South Australia Police and the importance South Australians place on the Police Officer of the Year Award. I congratulate Senior Constable Murphy on his efforts.

SOCCER WORLD CUP

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:29): Does the Premier now accept that South Australia's only chance of being part of the bid for the 2018 or 2022 FIFA World Cup is to build a stadium in the city? Football Federation Australia's Mr Ben Buckley reportedly rejected, in meetings yesterday, AAMI Stadium and the Adelaide Oval as World Cup venues and asked the state government to build a 40,000 seat arena, suggesting two locations.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:29): I have not met with Mr Ben Buckley in recent times, and I might reflect on that on another occasion. The key thing is that you have to win the World Cup. Let me just explain. I have been to FIFA headquarters in Switzerland, and I perhaps have a tad more knowledge of this issue of members opposite. The next World Cup will be in South Africa, in the Southern Hemisphere, and the following World Cup will be in South America, in the Southern Hemisphere. The suggestion is that the European power brokers are going to then allow a third World Cup in the Southern Hemisphere. Three in a row.

As I understand it, the particular World Cup that we are referring to, the bidders are likely to be Australia, China and London, and there has been various speculation that London was on a promise. Of course, there is also that old FIFA mantra that you have to actually bid for a World Cup in order to get the next one. I do not accept. I do not believe that someone of the standard of the President of FIFA would ever operate in such a way, given the millions of dollars required to secure a World Cup. So, Ben Buckley thinks there will be three in a row in the Southern Hemisphere and that Asia and also Europe are going to say, 'That's fine. Okay.'

What I will do is make a promise to this house that, upon the announcement of a World Cup win, there is a substantial amount of time available for the host nation or continent to then make sure that in those years ahead that there are stadia—and I use that word advisedly—available to cater for the World Cup games. We remember the United States of America and South Africa—so much so that they will have a series of stadia ready for the coming World Cup.

So, when and if we win the World Cup, whether it is in 2018 or whether it is 2022, I look forward to joining everyone at the World Cup games then. I am looking forward to being there. I am not sure what positions members opposite will hold at that stage because who can predict the future? None of us can. I am looking forward to going into that World Cup stadium, and I am looking forward to seeing World Cup games in Adelaide, because we will have facilities available. However, the first thing to do, rather than count your facilities before they hatch, is to actually go out there and understand FIFA politics. I am more than happy to advise the Football Federation of Australia, or anyone else, given that I was asked by other Labor leaders to look into this issue some time ago.

An honourable member interjecting:

The Hon. M.D. RANN: Yes; and it is true that, while members opposite were in government, they lost the Grand Prix.

WORKPLACE HEALTH AND SAFETY

Mr RAU (Enfield) (14:33): My question is to the Minister for Industrial Relations. What strategy is the government supporting to help improve the—

Ms Chapman interjecting:

The SPEAKER: Order, the deputy leader!

Mr RAU: —occupational, health and safety culture in South Australian workplaces?

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:33): I thank the member for Enfield for his question, and I acknowledge his keen interest in all matters relating to workplace safety. Since 2006, SafeWork SA has been developing and implementing a strategically targeted Industry Improvement Program to help employers reduce the number and cost of work-related injuries that occur in our state.

The program is a key in SafeWork SA's occupational health, safety and welfare injury prevention strategy, and it targets industry sectors and employers who contribute disproportionately to workplace injury and illness. The program is focused toward achieving a reduction in the number

and cost of work-related injuries and supports the achievement of South Australia's Strategic Plan targets and the national OH&S strategy.

The Industry Improvement Program involves SafeWork SA working in close collaboration with employers and unions and all partners to the program, and it should be congratulated on the promising outcomes to date. The program includes specific strategies which are targeted to meet the circumstances of small, medium and larger enterprises. Key elements of the program include the provision of information, advice, education and the use of enforcement actions, where necessary, to ensure the achievement of a systematic approach to managing health and safety in our workplace.

The 2007 Medium Size Employer Strategy, which targeted 169 work sites, including residential care facilities, supermarkets, factories and construction sites, is illustrative of what the government hopes can be achieved more broadly. I think this is very telling statistical data. It indicates that in the cohort of 169 medium size employers, there was a 16.2 per cent reduction in all claims in the period July 2006 through to June 2008. The targeted cohort of medium size employers also showed a 21.2 per cent reduction in income maintenance claims and, in the same time frame, the reduction of income maintenance claims of all WorkCover registered employers was 10.5 per cent.

SafeWork SA has also received highly positive feedback from employers who have participated in the Medium Size Employer Strategy, with almost all of the 50 employers participating in the program indicating their satisfaction with the standard of service provided and an overwhelming majority having made changes to their policies and procedures as a result of this strategy.

Mr Bignell interjecting:

The Hon. P. CAICA: It is. Whilst the initial results of this intervention program point towards an improving workplace safety culture in South Australian workplaces, the government remains committed to working in partnership with employers, unions and others to ensure that this trend is achieved and sustained across all workplace sectors. Delivery of each of the five strategies under the program will continue throughout 2009.

SOCCER WORLD CUP

Mr PISONI (Unley) (14:37): What steps has the Premier taken to develop South Australia's sporting and tourism infrastructure? On 7 June 2006, the Premier stated that a planning team was needed 'not only to develop a bid but also plan for the infrastructure, facilities and security needed to host a 2014 World Cup, if only to establish our credentials to secure the 2018 World Cup finals'.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:37): I think you have to listen to previous questions and answers. I actually went—

Mr Pisoni interjecting:

The Hon. M.D. RANN: Do you want to hear or don't you want to hear? This is the problem. If you want interject—make up your mind.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: What we did is that I went to see FIFA in Switzerland, basically to explore the nature of the potential bid process. I have met on a number of occasions with various people, including former prime minister John Howard. I have also spoken at COAG to other premiers and to the Prime Minister, Kevin Rudd, about the nature and extent of a bid to secure the World Cup.

Let me just tell you some of the nonsense that goes on. I had a visit a year or so ago (maybe last year) from an Adelaide soccer group. They came to see me and they presented to me a picture of a stadium. They pointed out this was not a stadium that would be shared with cricket or football. No, this was a brand new, purpose-built soccer stadium capable of handling the two preliminary World Cup games that we are likely to have.

It looked very much to me like the Frankfurt World Cup stadium. It was pointed out to me that it would need to have an opening and closing roof. I said, 'Hang on a minute. Soccer in

Australia is a summer game, and it does not rain that much in winter.' Then it was put to me that we needed to buy the Clipsal factory site to have a training stadium there. The training stadium would be shared with Manchester United, who, by the way, I am tipping to win the UEFA Cup against Barcelona in a week or so.

The point of the matter is this: when I asked, 'Do you have any costings?', the answer was no. When I asked whether they had any plans, the answer was no. When I asked whether there was a marketing plan, a business plan, the answer was no. I guess I then asked the important question about the second stadium because I remember the former government building Hindmarsh Stadium, which was opened in time for the Olympic Games—a couple of games along the way there—and that was supposed to be—and it was sold to the public to be, and it was embraced by the soccer community to be—something that would stand the test of time for soccer in this state. Now they are saying they want a brand new purpose-built stadium, that would presumably cost around $450 million to $500 million, and then a second stadium, that would be a training stadium, that would be shared with Manchester United. By the way, I asked that question—

Mr PISONI: I have a point of order, Mr Speaker. The question was quite specific. It was about what the Premier has done to develop South Australia's sporting and tourism infrastructure. It was not about what others have proposed, but what the Premier has done.

The SPEAKER: Actually, the question was very general, so the Premier is in order. Premier.

The Hon. M.D. RANN: Thank you. So I then asked that question: how does Manchester United feel about this stadium down at the site—

The Hon. A. Koutsantonis: Manchester or Adelaide?

The Hon. M.D. RANN: Manchester United's stadium down under. I asked, 'Have you discussed this with Manchester United?' Answer no. It is interesting if that is the kind of presentation that is put to the opposition and they say, 'You beauty, we'll buy this one, let's announce it today.' What they put to me was: this will make you very popular. I thought: yes, it is going to make me very popular with taxpayers in this state to fork out this amount of money.

What have we done? We have made a big commitment to Adelaide Oval. We have made commitments along the way and paid for improvements at AAMI Stadium. We have put money into netball and countless other sports in this state. We secured world Pro Tour status—the first place outside Europe in history ever to secure Pro Tour status—and we were up, I am told, against California, Beijing and, also, Russia. Of course, we made that even bigger because we then secured Lance Armstrong to race here and make his comeback into world sport to give us five times more publicity than when we achieved Pro Tour status.

However, the point of the matter is—and I send this message clearly to the opposition—that you cannot promise everything to everyone who comes along. You cannot be reckless with the public purse. You cannot tell everyone what they want to hear and believe everyone who comes through your door.

MENTAL HEALTH SERVICES

Ms THOMPSON (Reynell) (14:42): My question is to the Minister for Mental Health and Substance Abuse. Can the minister inform the house on the government's progress in implementing the recommendations of the Stepping Up report?

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) (14:42): I thank the member for Reynell for her question because, in this time of economic uncertainty, it is important to reiterate the Rann government's commitment to reforming mental health, and that is about reinvesting, rebuilding and reinvigorating our mental health system. I will restate our investment of $250 million to reforming our mental health services and implementing the recommendations of the Stepping Up report that was handed down by the Social Inclusion Board in 2007.

The Rann government will continue to work closely with Monsignor Cappo, and also the board, to ensure that this reform plan is rolled out as quickly as possible. Our investment will provide a state-of-the-art mental health hospital at Glenside, as well as extra mental health services to be based closer to people's homes so people can access them without having to travel to central Adelaide. I know that to have treatment, rehabilitation and support close to people's

homes is an issue that the member for Reynell has felt strongly about for some time, because there is nothing more disruptive and debilitating for a family than to have to travel for treatment, to be separated from their loved ones, and to have the extent of that long-term treatment spent so long away from home.

Today I have announced extra detail of our four year bed strategy developed by SA Health and ways we will deliver those 86 more adult mental health beds across South Australia. The strategy for this mental health reform puts beds into the country areas for the first time, and this new system of intermediate care as well as rehabilitation services will serve people in outer metropolitan areas as well as rural South Australia.

The bed strategy sees the implementation of the stepped model of care. As people become ill they can have facilities that suit their level of illness with support and care, and, as they recover from the most intense and acute forms of treatment, they can be put into facilities that are intermediate in type; and they can have long-stay facilities where they will be rehabilitated—develop self-preservation skills, cooking skills and life skills—before returning to the community. This program will be humane and modern and will take people back into the community so that they are no longer stigmatised, locked away and marginalised—so they are treated within the community closer to home.

I have to say that this model provides for the sort of support and care that we would want for ourselves or our families, if they were ill. I must say that, whilst those opposite deride an investment of $250 million, this is an enormous investment in mental health facilities. It is hard to understand how they can justify that to the people who come into their electorate office and are concerned about their family members. I cannot imagine how they would justify it to regional and rural South Australia where we are investing in beds for the first time. It is hard to understand how they can make up any sort of argument to deride this massive investment and massive reform agenda that will bring our mental health facilities up to world-class status.

I can assure all South Australians that the Rann government is committed to this reform agenda and massive rebuilding agenda and is committed to investing a large sum of money into facilities—which, obviously, those opposite are opposed to.

OLYMPIC DAM

Mr PEDERICK (Hammond) (14:47): My question is to the Premier. How does the government intend to ensure that the full benefits of the Olympic Dam expansion flow to South Australia now that it has stepped back from its position that BHP Billiton will process its concentrate in South Australia? BHP Billiton advised in its draft EIS in respect of copper rich concentrates that the likely location for further processing is China. On 12 July 2007 the Premier gave a public commitment that the processing of ore from a planned expansion of the Olympic Dam mine will be done in South Australia. He said that he met with representatives from BHP Billiton and he had told BHP Billiton that all value adding must be done in South Australia.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:48): Those opposite do not like good news about our future. Let me go through a few things because this must be put into context. Five years ago—

Members interjecting:

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

Mr Goldsworthy interjecting:

The SPEAKER: The member for Kavel! The Premier.

The Hon. M.D. RANN: About five years ago there were four operating mines in South Australia. There are now 11. We anticipate that there will be 16 by the end of next year. There are about another 20 in the pipeline. How did this come about? It came about because of a very strong recommendation from the Economic Development Board and Robert De Crespigny. They said that what we needed to do in order to help the regions was to try to get exploration going in South Australia. Of course, that has meant that we have seen a tenfold increase in mining exploration in the past five years. We have gone from about $35 million or $40 million a year to about $365 million—around that figure—last year. So we have seen a tenfold increase in mining exploration. The great news is that they have found stuff everywhere.

Members interjecting:

The Hon. M.D. RANN: I am happy to get into the detail. People are saying that mines are being deferred. Well, I met recently with the proprietor and CEO of Iluka, which is based in Western Australia. Their deposits in South Australia of zircon, rutile and also ilmenite are absolutely world class.

Ms Chapman: When are they going to dig it up?

The Hon. M.D. RANN: Thank you for the question. Because you are so addicted to bad news because of what goes on in your own ranks, I can tell you when it is going to happen: it is happening ahead of time. It is due to open in the middle of next year, but I can announce today that it will be opening at the beginning of next year, which is a wonderful time for it to begin. So, I am looking forward to that. It is not a mine—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: What Iluka has found is not a mine: it is a province. It is a province which is in the vicinity of Ceduna but going up to Ooldea, on the railway line, which is also very fortunate. For members opposite, zircon is the shine and the sheen that is found in crockery, china and tiles. This is a massive mine—what the company itself calls a province—and it is coming on stream ahead of time.

This government has got mining going in this state and we have been negotiating with Olympic Dam for some time. The EIS I did not regard as bad news. The expansion is valued at $20 billion to create the world's biggest mine and the world's biggest uranium mine, with 35 per cent of the world's uranium. To put that into perspective, currently the uranium mines of Canada are the biggest producers and exporters of uranium in the world. Olympic Dam will produce and export more uranium than all the Canadian mines put together—35 per cent.

Do you know that, to get to the ore body, they will be shifting 1.1 million tonnes of overburden a day for about five years—every day, not every week or every year. That is bigger, I am told, than the amount shifted on the Panama Canal when it was being built. We are talking about a resource that is valued at $US1 trillion, I am told. We have been negotiating. We have scores of different groups and committees negotiating about water, royalties and everything else, but what I have said to Olympic Dam is that I want to see a doubling of the processing capacity on site at Roxby Downs.

PLASTIC SHOPPING BAGS

The Hon. L. STEVENS (Little Para) (14:52): My question is to the Minister—

Members interjecting:

The SPEAKER: Order!

The Hon. L. STEVENS: My question is to the Minister for Environment and Conservation. How has the ban on checkout style plastic bags been received by South Australians?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:53): Last Monday, South Australia took an important practical step in reducing waste in this state—we implemented the ban on light-weight checkout style plastic bags. Thanks to the actions of South Australians, 400 million fewer of these plastic bags will be going into our landfill and litter. Banning checkout style plastic bags is a small change but will reap big results for our environment.

I am very pleased to say that it has been embraced by most South Australians. It is great to see the schools getting involved. We have the Hills Christian Community School distributing 1,000 re-useable bags in local supermarkets. The Star of the Sea students have created their own designs for environmentally friendly bags. We have also seen the implementation of the ban go particularly smoothly. Most South Australians are keen to do the right thing and bring their own re-useable bags to do their shopping. They are also keen to do the right thing by checkout assistants by bringing clean bags and enough of them so that they do not get overloaded.

It is not surprising that, on the whole, the feedback we are getting from customers across the state has been very positive. The manager of Coles in Bridgewater has commented that there are 'no dramas at all'. Likewise, Steve Mackay, who owns the Mount Barker Foodland, said that

people have accepted the change well. In fact, Russell Markham, Chief Executive of Foodland, said that the ban had a good start across all Foodland stores.

The Hon. K.O. Foley: And Ryan Foley—

The Hon. J.W. WEATHERILL: Apparently, Ryan Foley has given it the big thumbs up. Woolworths spokesperson, Kerry Fotie, said that the implementation of the ban went very well at Woolworths. Just before question time I called the Secretary of the SDA, Mr Malinauskas, and he said—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: To see how the employees of retailers were faring. He said that it was 'so far, so good'. A large part of the reason it has gone smoothly has been the preparation. There has been a lot of good work happening between retailers, the union and the employees. There was a good education campaign, and a lot of work went into that. Also, during the transition, retailers worked hard to make sure that shoppers were aware of the upcoming change and, of course, the union ran an important campaign advising people to respect the shop assistants.

Some retailers have taken extra steps. Target recently announced that its experience in South Australia had been so positive that it is now banning checkout style plastic bags from Target stores across Australia. Joseph Romeo, from Romeo Foodland and IGA, demonstrated his commitment to the change by giving away 10,000 re-usable bags to help his customers make the change. Support for the ban is coming from all quarters. Anne Marie Byrne from Planet Ark, Ian Kiernan from Clean Up Australia, John Dee from Do Something! and David West from the Boomerang Alliance have all praised South Australia for providing a great example to the rest of Australia by biting the bullet to make these changes.

Lachlan Jeffries, who runs one of the state's biggest composting businesses, has also publicly welcomed the ban. As well as the environmental benefits, one of the important benefits is to ensure that these plastic bags do not end up in the green bins, which has the effect of contaminating the organic recycling stream. And, of course, last Wednesday the Editor of *The Advertiser* told readers that the environmental benefit outweighs any minor inconveniences that the ban may cause.

I have always been confident that South Australians would easily make this change, and last week has shown that my confidence in our community is justified. Of course, there have been some people who have been reluctant to make this small change. It has been difficult to discern the attitude of the Liberal Party. Barely audible, in fact, has the Liberal Party been on this question—although we did have the highly relevant contribution of a federal senator, Mary Jo Fisher, on radio last week, who said that she opposes the ban. So, we must presume that that is the Liberal Party position on this measure.

Some of the media commentariat have had difficulty coming to grips with the ban. Some have predicted that it would be the end of the world. To those curmudgeons, can I just repeat the words of a listener—

The Hon. K.O. Foley interjecting:

The Hon. J.W. WEATHERILL: No. The member for Port Adelaide is often seen around the shops of Port Adelaide doing his own shopping and carrying his own recyclable bags. He is a man who shops for himself: he is a man of the people. Some useful advice was tendered by Jenny of Malvern on talkback radio, one of Matthew Abraham's listeners, who said, 'Oh, Matt, you need to have a bit of a lie down and a cup of tea.' I think that was a—

Ms Thompson: One which doesn't have to be in a plastic bag!

The Hon. J.W. WEATHERILL: Exactly. That is great advice for those who cannot come to grips with what is a tiny change that will have important environmental benefits.

OLYMPIC DAM

Mr WILLIAMS (MacKillop) (14:58): My question is to the Minister for Water Security. Why did SA Water request BHP Billiton, as a part of its EIS process, to look at a proposal to extract water from the River Murray? The following is stated on page 77 of Volume 1 of the EIS for the Olympic Dam expansion, 'The extraction of water from the River Murray was assessed at the request of SA Water.'

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:59): I will answer the question because I am the minister in the lower house responsible for the BHP negotiations through our steering committee, headed by eminent South Australian and Chair of our Economic Development Board, Mr Bruce Carter.

Mr Williams: It was SA Water that asked them to do it.

The Hon. K.O. FOLEY: Yes, okay, and I am going to give you an answer.

Mrs Redmond interjecting:

The Hon. P.F. Conlon: She's the only chirpy Liberal, isn't she?

The Hon. K.O. FOLEY: She is, isn't she? Why would that be? Marty doesn't look chirpy.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Pardon?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: BHP had a number of options for water, one of which was sourcing water from the River Murray.

Members interjecting:

The SPEAKER: Order!

Mr Kenyon interjecting:

The SPEAKER: Order, the member for Newland!

The Hon. K.O. FOLEY: SA Water, as a commercial entity, likes to sell water. No surprise about that. It may well have been of the view that it could sell water to BHP Billiton using the Murray. We made it clear, as the government that is in charge of policy—

Mr Williams interjecting:

The Hon. K.O. FOLEY: I beg your pardon?

The SPEAKER: Order! The member for MacKillop has already been warned once.

The Hon. K.O. FOLEY: I beg your pardon?

Mr Williams: I said you don't know the answer to the question.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am just giving it to you.

Mr Williams: You are making it up.

The Hon. K.O. FOLEY: Mr Speaker, the member just said that I am making up the answer. By inference he says that I am misleading the house. He either apologises and withdraws or he moves a substantive motion.

Members interjecting:

The SPEAKER: Order! The member for MacKillop has already been warned for interjecting. The minister is giving a very straightforward reply to the question and should be heard in silence and should not have to deal with interjections, either from opposition benches or from government benches. The Treasurer.

The Hon. K.O. FOLEY: BHP had three options. One was the Murray, one was further extraction from the Great Artesian Basin and the third was desalination. We made it clear, and the Premier did in meetings with Chip Goodyear, I certainly made it clear in meetings with a number of senior BHP executives, and I am certain, but I stand to be corrected, that we also made it clear in discussions with Marius Kloppers who, of course, succeeded Chip Goodyear, that extraction from the Murray would not be permitted by the government.

There were some issues about the basin that it had some capacity to provide some water but would not be able to provide all of the water for that particular—I mean, I am being accused of

not answering the question. He is not even listening to what I am saying. I have just answered it. I have answered it that SA Water—

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The Hon. K.O. FOLEY: No; I have answered it, that is, that we ruled out, as a government, the policy option of extraction from the Murray. We were upfront about it.

Members interjecting:

The Hon. K.O. FOLEY: SA Water is a publicly owned corporation. SA Water is in the business of selling water.

Members interjecting:

The Hon. K.O. FOLEY: You know nothing about the operations of a publicly owned corporation.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Sorry?

Mr Williams: SA Water asked them to look at the options.

The Hon. K.O. FOLEY: Yes, and we ruled it out.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The member for MacKillop does not understand, and I guess no member opposite does because they have not been in government, but—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: SA Water is a publicly owned corporation. It is in the business of selling water, and it may well have thought that it had the capacity to provide water via the Murray. We had a view, as a government that makes policy which SA Water will implement, that we would not allow the Murray to be the source of that water and that they would have to look at desalination as the only option, and they agreed to that. Now, I cannot be any more upfront, honest and open than that. We ruled it out, they went to desal and we are glad that they did.

SEAFORD RAIL EXTENSION

Mr WILLIAMS (MacKillop) (15:04): My question is for the Minister for Transport—and he is out of his place.

Members interjecting:

The SPEAKER: Order, members on my right!

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order, the Attorney!

Mr WILLIAMS: Thank you, Mr Speaker. My question is to the Minister for Transport. What is the earliest possible time that a Seaford rail extension could start? On 16 March, Rod Hook advised the Budget and Finance Committee, as follows:

> In relation to the government's first priority project, which is the Seaford rail extension…but the design work, concept design, through to design development, through to detailed design, all this has to occur.

Mr Hook also noted an environmental assessment of the project would also have to be undertaken.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (15:06): There was one thing left out by the opposition before the Seaford extension could occur. We did a lot of work in the department of transport with the commonwealth government seeking federal funding for the Seaford extension. The first thing that had to occur was

that the commonwealth government had to agree to extend that funding. My understanding is that we may not have terribly much longer to wait until that is the case.

I can assure the house that our bid to Infrastructure Australia has been recognised by many independent observers as being among the best or the very best, so we are quite hopeful that we will be successful. The first thing you hear from the opposition is the very chirpy Vickie Chapman, the deputy leader. Why is it, I ask, that we can find but one chirpy, happy Liberal today? Is it because—

Ms CHAPMAN: On a point of order—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: I am happy that the minister is concerned about my emotional state or that of others on this side, but we do want to hear about the Seaford line.

The SPEAKER: I uphold the point of order.

The Hon. P.F. CONLON: The point is that if the deputy leader, this stickler for standing orders, when I am answering questions would cease interjecting for, say, 30 seconds straight, perhaps I would not be distracted from my answer. The truth is that South Australia has made an extremely strong bid for Infrastructure Australia funding, particularly on the Seaford extension. I know that the Minister for the Southern Suburbs is sitting on the edge of his seat (while he is texting somebody on his mobile). We have made a very strong bid, and we are very hopeful

I have had a discussion with Rod Hook as recently as this morning. I point out that, on occasions, he has been criticised by the opposition, but he is doing an outstanding job for South Australia, and he is being recognised nationally for doing an outstanding job for South Australia.

Ms Chapman interjecting:

The Hon. P.F. CONLON: I point out yet again, sir, that that stickler for standing orders is interjecting. It would not so bad if occasionally she was slightly interesting or amusing—but I guess she is cheerful at least. It could be something to do with Colonel Klink making a major mistake or something like that. I cannot remember what the wording was.

The Hon. M.J. Atkinson: The bus is on its way!

The Hon. P.F. CONLON: He did try very hard to throw himself under a bus, but I do not know about falling under one. I can say this: I spoke to Rod Hook this morning and, should we, as I hope, be successful in gaining federal funding, I have asked him to make sure that we have a project officer in the department appointed so that we can go through the necessary processes immediately and start work immediately. I give the house this guarantee: just like the stimulus package on schools, which we will do better than any other state, we want to spend the commonwealth money as fast as it can deliver it to us. I give the undertaking that we will spend commonwealth money as fast as the commonwealth can send it over to us. I look forward to being congratulated by the member for MacKillop if we do win that funding. I have no doubt that he will be back tomorrow saying, 'Well done, minister Conlon!'

Mr Venning interjecting:

The Hon. P.F. CONLON: And the member for Schubert occasionally says it. But, no, I asked Rod Hook this morning. If we get that funding, we want the process to start immediately—we want to be out there starting the process, unlike the former government, which used to do things, shall we say, in a rather colourful and slapdash way. I note that the Premier talked about Hindmarsh Stadium today. We will follow all the laws, and we will have due process. We will do whatever the planning laws require of us, and we will do whatever the Auditor-General requires of us, but we will do it as quickly as we lawfully can, and it will be a great outcome for South Australia.

STATE BUDGET

Mr GRIFFITHS (Goyder) (15:11): My question is to the Treasurer. On current forecasts, when will the state budget return to surplus? The Treasurer was quoted in *The Advertiser* on 11 May 2009 as saying, 'We're now looking at a budget deficit of $500 million.'

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:11): You will have to wait until budget day.

MALVERN POLICE STATION

Mr PISONI (Unley) (15:11): My question is to the Minister for Police.

Members interjecting:

The SPEAKER: Order!

Mr PISONI: Can the minister confirm that the staffing and operating hours of the Malvern Police Station will again be reduced and that it will soon be open only Monday to Friday, 9am to 5pm?

Members interjecting:

The SPEAKER: Order!

Mr PISONI: In the past 18 months, the Malvern Police Station has had its operating hours reduced from 8am to 9pm, seven days a week, to the current hours of 8am to 7pm. A looming further reduction in hours is of concern as the figures in the area reflect a significant increase in crime.

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (15:12): Unfortunately, I missed the first part of the question, but I gained—

Members interjecting:

The Hon. M.J. WRIGHT: —yes, I know—from the explanation that it was about Malvern Police Station. I will seek the advice of the commissioner and come back with that information for the member.

Members interjecting:

The SPEAKER: Order!

NATIONAL VOLUNTEER WEEK

Ms CICCARELLO (Norwood) (15:13): My question is to the Minister for Volunteers. Can the minister provide the house with some information about National Volunteer Week, which is being held from 11 to 17 May?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Gambling, Minister for Youth, Minister for Volunteers, Minister Assisting the Minister for Multicultural Affairs) (15:13): I thank the honourable member for her important question, and I acknowledge her keen interest in volunteers. This week, thousands of volunteers will be honoured at a series of events held across South Australia as part of National Volunteer Week. Morning teas, luncheons and award ceremonies will make up the week-long celebrations dedicated to those generous South Australians who selflessly donate their time in order to help others.

I have the great honour of attending many of the events, including a thank you ceremony for the South Australian volunteers who assisted in the Victorian bushfires. The Victorian bushfires were a dark, dark day in Australia's history. The entire nation watched in horror as the inferno ripped through Victoria's bushland and towns. Amid the terror, volunteers from this state and others valiantly battled what must have been hell on earth.

Mr Pengilly: Are you a volunteer, Tom?

The Hon. A. KOUTSANTONIS: Yes, I am. Are you?

Mr Pengilly: Yes; I am. We've got something in common.

The Hon. A. KOUTSANTONIS: Not very much. These volunteers deserve our utmost respect, and I, on behalf of the state government, thank them and acknowledge their selfless heroism. Yesterday, the Governor-General and I officially launched Volunteer Week in South Australia, and I acknowledge that the shadow minister (the member for Goyder) attended. At the event, I reiterated that the Rann government understands the value of volunteers and their significant contribution to the state's economy. Recently, this government launched several initiatives to highlight volunteering in our community. They are as follows:

- 2009 Community Projects Award, which recognises the innovation and resourcefulness of a community in a voluntary capacity;
- 2009 Premier's Business Award for valuable contribution by a business to the volunteering sector;
- 2009 Joy Noble Medal, to be awarded to an individual who has made an outstanding contribution to the South Australian community through volunteer service.

South Australia has a proud tradition of volunteering, with nearly 600,000 volunteers involved in various community activities. Nationally, 5.4 million adults—that is, 34 per cent of the population—undertake voluntary work each year. Volunteers contribute more than 700 million hours annually, and 50 per cent of volunteers do so because they believe, and rightly so, that they are helping others.

In these tough economic times, pitching in and getting involved is more relevant than ever. It not only helps people build skills and make themselves job ready but also it assists others in our community who may be doing it tough. It also inspires other volunteers to get involved and for the next generation to pick up the mantle and volunteer. On behalf of the South Australian government, I wish all volunteers a wonderful week. I urge all members to attend as many events as they can—and I notice you are wearing your badge—and thank our volunteers.

Honourable members: Hear, hear!

MURRAY RIVER, LOWER LAKES

Mr PEDERICK (Hammond) (15:16): My question is to the Minister for the River Murray. What has occurred between January and May to change the minister's understanding of what is 'delusional'? On 18 January, in response to the opposition's calls for the purchase of temporary water for the Lower Lakes, the minister stated:

> The state opposition's suggestion that purchasing 30 gigalitres of water will save the Lower Lakes is delusional.

She went on to state:

> Adrian Pederick needs to understand the facts...If he thinks 30 gigalitres will save the lakes, he is delusional. He is making statements that give false hope to people.

Today, federal minister Garrett has announced that he has agreed that temporary flow regulators can be constructed in the Goolwa Channel and the mouths of the Currency Creek and Finniss River without further environmental assessment. He stated:

> The South Australian government will be required to provide an additional 50 gigalitres of freshwater into the Lower Lakes.

Who is delusional?

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:17): I think the member just answered his own question: 30 gigalitres is not going to save the Lower Lakes, and neither is 50 gigalitres.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: Fifty gigalitres is not going to save the Lower Lakes. It needs hundreds and hundreds of gigalitres to save the Lower Lakes.

Mr Goldsworthy interjecting:

The SPEAKER: Order, the member for Kavel!

The Hon. K.A. MAYWALD: What we are doing—

Members interjecting:

The SPEAKER: Order! Sorry to interrupt the minister. The member for Hammond has asked his question; the minister should be given an opportunity to respond without having to contend with a barrage of interjections.

The Hon. K.A. MAYWALD: The answer I gave back in January still stands: the member for Hammond is delusional if he thinks 30 gigalitres is going to save the Lower Lakes.

Members interjecting:

The SPEAKER: Order!

GRIEVANCE DEBATE

HEALTH POLICY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:18): Yesterday, I received a letter from the Department of the Premier and Cabinet signed by Chris Eccles, Chief Executive. If ever there was another act of the government attempting to gag the people of South Australia, and now members of parliament, which is bordering on interference with parliamentary privilege, I suggest, it is this. It is a letter from Mr Eccles asking that any further complaint or statement that I have to make in respect of a public servant—in particular, Dr David Panter—should be raised with the chief executive of the department or 'if it is more acceptable to you', he suggests, the Commissioner of Public Employment, Mr Warren McCann.

He claims in this letter that—and this is very important—'as you know, public servants are unable to comment and reply to such public criticisms'. Let me explain to Mr Eccles what the situation is. Dr David Panter is a senior employee in the Department of Health. In fact, I met him a number of years ago in 2006, I think, shortly after I took over shadow health responsibilities. He was then the head of the Central Northern Health Service. He seemed like a reasonable fellow and he provided a briefing in respect of the area of responsibility he had. What is really important is that since that time the minister has elevated him to two areas of responsibility that I can think of immediately. One is the country health plan. What a monumental disaster that was! He was the architect of that. Now, of course, we have—

The Hon. K.O. FOLEY: Mr Speaker, I have a point of order. Sir, I find it very sad that the deputy leader would attack a public servant who is doing an outstanding job and is incapable of defending himself—

The SPEAKER: Order!

The Hon. K.O. FOLEY: It is weak and gutless.

The SPEAKER: Order! There is no point of order. The Deputy Premier will take his seat.

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! The deputy leader.

Ms CHAPMAN: It is the government's responsibility to make policy decisions. It is the responsibility, obviously, of those in the Public Service to carry that out. However, when the Treasurer interrupts with words such as 'gutless', it brings to mind how many occasions on which the minister has been missing on policy matters on health. Who is trotted out? Dr David Panter. He is the poor peanut who is sent out to the public to have to present—

The Hon. K.O. FOLEY: Mr Speaker, I have a point of order.

Ms CHAPMAN: —to the public a government decision about—

The SPEAKER: Order! There is a point of order. The Deputy Premier.

The Hon. K.O. FOLEY: Mr Speaker, it is not appropriate that a senior public servant going about his or her work should be referred to as a peanut by the deputy leader. I ask her to withdraw and apologise to Mr Panter.

The SPEAKER: Order! There is no point of order. The deputy leader.

Ms CHAPMAN: Thank you, Mr Speaker. I repeat: it is the government that is being gutless when it sends out public servants not only to bat for it but also to explain its policy (which is perfectly reasonable and there is that expectation that they will do that because it is what they are paid to do). However, in the case of the $1.7 billion Royal Adelaide Hospital, the government hides away and presents a senior public servant as the architect of the proposal—and Dr Panter is sent out to discuss it on radio and advocate for it, and to public meetings at hospitals. Most recently, I can think of a public meeting with Dr Jim Katsaros, about which an allegation has been made, by me, which I stand by, that there had been an instruction by Dr Panter's office not to allow members

of the public to attend a certain meeting. We say that was an attempt to silence the publication of information about an important policy decision of the government, and we say that is unacceptable.

If the government says, 'We knew nothing about that. We did not give that instruction. That was not our policy. We did not decide to do that and he was acting out of order,' let it come out and say it. However, if it was on the government's instruction (as we must presume, because a senior public servant was the spokesperson and, as the architect of this plan, advocated publicly for it), let the government members have the courage to come out and say, 'We instructed them to do it.' The government cannot send out public servants to do its job while the ministers hide away in their little castles. That is not acceptable. The government expects that members of the opposition—including me as health spokesperson—will be silent. We will not be silent. We want some answers from the government on this.

Time expired.

ASHFORD ELECTORATE, INFRASTRUCTURE PROJECTS

The Hon. S.W. KEY (Ashford) (15:23): In my grievance speech today I would like to talk about an issue that is very dear to me, and that is the difference between information sharing and consultation. As an industrial advocate, one of the test cases I coordinated for the United Trades and Labor Council was the termination change and redundancy case, which was a flow-on from the National Australian Council of Trade Unions case in employment. This was, admittedly, in the mid-1980s and it was important to establish—and still is, in my view—workers' rights and entitlements in a turbulent and changing employment market.

Although some awards and industrial agreements provided for workers when they had been made redundant or there had been major changes in the workplace (such as amalgamation, rationalisation and restructuring), most of the industrial provisions did not make that allowance.

I have been reminded of the difference between consultation and information sharing in the past few weeks, particularly with regard to some infrastructure projects that are happening in the electorate of Ashford. As much as I am pleased to see those infrastructure projects happening—and I compliment the government on that—I have been to a number of community meetings and information sharing in relation to those projects, particularly with regard to the tram overpass project.

Certainly I congratulate the department on conducting these information sessions, and I congratulate the minister on making this part of the philosophy with regard to big projects. Of course, the problem is that the residents, like workers, know the difference between information sharing and consultation. This has been evident in the case of residents living along the tramline, particularly those living in Glengyle Terrace and Norman Terrace—the site of the proposed tram overpass.

The community around Blackforest Primary School should also be mentioned. They are concerned about traffic management on South Road and the school crossing just before the Gallipoli Underpass. In both these examples, the community has been not only patient while being inconvenienced in many cases—and will be even more inconvenienced as the project gets underway—but also positive in relation to changes in local surrounding areas—even taking on the chin that tram stop No. 6 will be temporarily closed until the overpass project is completed. It would be fair to say that the community is being very reasonable and positive in this case.

As the local member, it is my view that the challenge will be in the response. In my view, it will be consultation—harking back to my industrial relations' experience—if the issues and suggestions raised at the community meetings are taken seriously, responded to and, where possible, acted on. I will give one example. At the Blackforest Primary School meeting last night, a number of suggestions were made to ensure the safety of the school community and local residents at the crossing on South Road. It would be fair to say that these suggestions did range from what one would call in industrial terms the high ambit stakes right down to the practical and less expensive ideas.

One of the major proposals that came from the meeting was that Blackforest Primary School should have an improved footbridge, similar to that which Pulteney Grammar students enjoy on South Terrace. Practical suggestions were also made by the school crossing monitors, who said that if the pedestrian crossing was widened motorists would have to stop at a greater distance from the people crossing the road—which seemed to be a good suggestion. Another suggestion was that a permanent speed camera be placed either side of South Road, as well as

extra red light time. In my view, these are all practical suggestions and I hope the department responds.

Time expired.

ANZAC DAY

Mr PENGILLY (Finniss) (15:29): I would like to spend a few moments today talking about ANZAC Day, which in my view is Australia's national day and the most important day of the year, by far, on the Australian calendar. As did other members in this place and the other place, I attended marches and services. It was my good fortune to attend the service and march at Goolwa, the service and march at Victor Harbor, the service and march at Kingscote, and the service at Penneshaw on ANZAC Day.

In addition, I attended the commemoration of the Battle of Kapyong at the state War Memorial on Friday 24 April, along with some other members from this place. It is a most important day. It was a sign of just how adaptable our Defence Force and former members of the Defence Force are that, indeed, when the padre failed to show up on the Friday, Moose Dunlop and Mike Denness took the service through without a hitch, so to speak, and did a great job.

I will raise a few points which I believe are important in the commemoration of ANZAC Day. Indeed, one is that word. What irritates me is that we still see, when advertising concerts and other activities, 'celebrating' ANZAC Day. We do not celebrate ANZAC Day: it is a day of commemoration. I believe that, as members of parliament, we should be getting the message out to any organisation that it is a commemoration, not a celebration. I think they use that word with the best intent in the world, but they are quite wrong. It is not appropriate to use that term and we need to get that right, as well as some other protocols.

Some protocols are pretty straightforward; however, they are difficult to ascertain. There are some service orders and some service sheets. I have discussed this with Mr Jock Statton, the President of the RSL in South Australia. He put me onto other places interstate and also South Australia to get some established protocols for services, wreath laying, etc. There does not seem to be a set protocol for organisations to carry out the ANZAC Day services, marches, dawn services, etc. Everywhere does it a little differently. Indeed, on Kangaroo Island, the service has been adapted by the RSL and its members have changed the service around to suit themselves, which is fine, but there is no established protocol.

In many cases, progress associations and community groups run the ANZAC Day commemoration services. They are not au fait with it. They do their best without really knowing. I believe that we have a responsibility to work closely with the RSL and veterans' organisations to have some of these protocols in writing and to have some services set out so that we do know. Then, if a community group comes to my office or any other member's office and asks, 'What are the protocols for ANZAC Day?', we can give them the sheet with the services as agreed by the RSL and there is some consistency across the line on this matter.

It does concern me and I do think we have to get it right. The tens of thousands of Australians who have died serving their country and the tens of thousands who have also served their country and who continue to serve their country need this matter put right so that, when we do attend services, it is straight down the line, it is there in black and white (so to speak) and the proper protocols can be adhered to. I think it is an important thing that we have to do.

It is interesting to note—and I am sure other members of this place have—the increasing numbers attending the marches and the increasing numbers of young people. There again, it now seems that, in some cases, if you have a medal from some particular organisation, you take part in the ANZAC Day service. There are certainly issues around that. I think a multitude of organisations have contributed in wartime—going overseas and serving Australia—and whether or not they are members of the Defence Force, they are entitled to wear some form of decoration.

FRIENDS OF THE MARINO CONSERVATION PARK

Ms FOX (Bright) (15:34): It is appropriate in this National Volunteers Week that I raise the activity of a group of outstanding volunteers in the electorate of Bright. I recently attended the Friends of the Marino Conservation Park annual general meeting. The Friends of the Marino Conservation Park is a group of highly dedicated people committed to preserving this park, as well as the environment in general. The Marino Conservation Park was proclaimed in 1989 and was once part of the lands of the Kaurna people. The Friends of the Marino Conservation Park (who I shall perhaps refer to as 'the Friends' from hereon) work together with the Department for

Environment and Heritage to protect the park's remnant coastal vegetation, as well as taking a hands on approach to returning the remainder of the park to a natural condition. This is extremely difficult.

The hands-on approach involves regular working bees to assist with the maintenance of the park, weed control, direct seeding, seed propagation and planting and watering of tube stock. In the past, the Friends have also mapped and counted threatened plant species and identified and photographed new species found in the park.

In 2007, I was very privileged to be appointed by the then minister for the environment (Hon. Gail Gago) as the Chair of the Hallett Cove and Marino Conservation Parks Community Reference Group, in preparation for the community draft management plan, which is now open for public comment until late June this year. Chairing this committee was very interesting (and it was interesting to listen to the member for Ashford, who talked about information and consultation and the difference between those two things) because I was able to assess for myself just how much expertise and knowledge the Friends bring to the day-to-day running and preservation of these places.

I really hope that the staff at DEH will incorporate the comments of residents and Friends into their plan, because I understand that there is some disquiet amongst the Friends about the draft management plan. In particular, I refer to concerns that the document will be of limited assistance to volunteers working in the parks, because the objectives and strategies summarising each section are very broad and generally suggest tasks that are appropriate for staff of DEH, rather than volunteers. As they stand in the draft plan, they provide guidance for volunteers on their day-to-day activities in the park—or, at least, that is what one would want.

Because of the work carried out by the Friends, many native plants have survived and continue to do so, and I think it is incumbent upon local members and the government departments in question to bear in mind that the collective knowledge and wisdom of Friends, such as these groups, should not be ignored. In reality, it is the Friends who keep the parks going. It is the Friends who monitor and maintain the area with help from the rangers and it is the Friends who are preserving this bio-heritage site for generations to come, and we ignore their input at our own peril.

Membership of the Friends of Marino Conservation Park is open to everyone. A large number of people have been financial members, but the physical work has been undertaken by a much smaller group. For the majority of the past 15 years, a very reliable group of less than 10 members has been working in the park for more than 10 years. As the majority of the members are 60 years of age or over, the group would encourage younger members of the community to become actively involved and help maintain and care for this park, but it does seem to be quite difficult to get younger people involved.

Nevertheless, the group's hard work, dedication and commitment is as strong as it has ever been. The group continually invites guest speakers to its meetings to gain further education about the ever-changing environment and climate and how this affects the park. I commend everyone involved in this group for taking such an active approach and for their high level of commitment to the Marino Conservation Park, especially at a time when our environment requires such attention. I am very proud to have them in my electorate.

OLYMPIC DAM

Mr WILLIAMS (MacKillop) (15:38): Today during question time I asked the water minister why SA Water requested BHP Billiton to undertake as part of its EIS process a proposal for the extraction of water from the River Murray. I asked the question because it was stated in the EIS documentation from BHP that, as part of its EIS process, it undertook a proposal to take water from the River Murray for its expanded project, at the request of SA Water.

It surprised members of the opposition when we read that in the EIS documentation because, to the best of our knowledge (which was received via a briefing directly from BHP Billiton a long time ago), the option to take water from the River Murray was one that it discounted of its own volition right at the start.

The interesting thing today was that the Deputy Premier and Treasurer chose to answer the question instead of the water minister. The Treasurer bumbled along, making the excuse that he was responsible for negotiations with respect to the expansion at Olympic Dam. That may be so, but he is not responsible to this house for SA Water. The Minister for Water Security is. Why is

it that the Deputy Premier did not trust the Minister for Water Security to answer the question? It was a fairly simple and straightforward question.

The reality is that the Premier continues to have us believe that he has instructed BHP about what it can and cannot do on a whole range of things, not the least being where the ore that it mines and converts into concentrate is processed. We heard in another question today that several years ago the Premier was most adamant that all of the processing would happen in South Australia. We know now that his latest statement is that we will have double the amount of processing in South Australia, notwithstanding that the capacity of the mine will increase about fivefold. The reality is that BHP Billiton has told the Premier where it will have the processing done and he has cowered into the corner and said, 'Well, how do I get out of this?'

I will go back to water. With regard to water, the Premier would have the people of South Australia believe that it was he who stopped BHP from taking water out of the River Murray. He would also have South Australians believe that it was he who said to BHP Billiton, 'You will not take water out of the Great Artesian Basin.' Nothing could be further from the truth.

The reality is that at the very first briefing that I had from BHP Billiton, well before the Premier made any of these statements, BHP Billiton made it quite plain to me, as the shadow minister for mineral resources, as I was at that stage, that there is no way it would contemplate taking water out of the River Murray. In fact, with respect to building a pipeline from the River Murray to Roxby Downs, the additional length of the pipeline to come beyond where it was going to be at Whyalla (Point Lowly) would cost more than building and operating the desalination plant, and that was even if the water was available, and it knew it was not.

Similarly, to continue to take water out of the Great Artesian Basin would mean that it would have to build, from memory, 600 kilometres of pipeline in the Far North. It discounted that out of hand because it was totally uneconomical. Its only plan was to build a desalination plant. That is what it told me at the first instance.

Is the government going through a charade? Has the government, through SA Water, instructed BHP Billiton to put this into its EIS statement or to look at this proposal simply to try to make the Premier look as though he has actually been wielding the big stick over BHP Billiton? I strongly suspect that that is the point. It is disgraceful that the Premier and the Deputy Premier would put BHP Billiton to the extra cost just because the Premier wanted to gain a headline a couple of years ago.

GENERATIONS IN JAZZ

Ms BEDFORD (Florey) (15:43): Over the past weekend a group of the best of Australia's young jazz musicians gathered in Mount Gambier for the 20th annual Generations in Jazz. This event is a highlight of the musical year of many of South Australia's schools and most talented music students, many coming through the education department's special music schools and others from my personal favourite, Modbury High School.

I commend John Duncan and Ms Joan Baker, who is also a deadly bus driver, for their dedicated work with the 18 who represented the school, along with the other music students at Modbury High. It would be remiss of me not to mention students, parents and families who support them and the wonderful staff of the Instrumental Music Branch of the education department.

This special anniversary year of Generations in Jazz saw a wonderful array of past winners return to where, in most cases, it all began. Generations began humbly in 1987, the dream of three friends living in the Limestone Coast region. Leigh O'Connor, Dale Cleves and Malcolm Bromly wanted to pay homage to their musical upbringing by gathering young jazz artists together to share their talents and learn from each other.

They held a cabaret with a guest big band and asked James Morrison, who admitted that at that time he did not even know where Mount Gambier was, to be the special guest musician. The rest is a wonderful history of fantastic weekends with many highlights and innovations. James has introduced a jazz scholarship which sees young artists submit audition tapes, and the field narrowed to six finalists who are showcased during the weekend. This weekend's instrumental finalists were fantastic, as usual. James is also the division 1 judge, and he had 11 bands to adjudicate this year.

In 1989, Graeme Lyall became musical director of the event, and his involvement continues and has grown to see him now living in the area and working at local school Tenison College, which will now offer 18 places in an intensive music course that will provide successful

students an entree to many music opportunities. Places will be highly sought after, and they will be gained through an audition process. Graeme judged division 2, and he presented Modbury High School's all-female saxophone line the shield for best saxophone line in division 2.

In 1991, Yamaha became a national sponsor for James's scholarship, the winner that year receiving a return trip to Paris, and 1993 saw the inaugural City of Mount Gambier National Stage Band awards, with the council this year providing $23,500 in cash prize money; no doubt, it also provided a good deal of in-kind help. The year of 1994 saw the involvement of now patron Daryl Somers, through the Hey Hey Scholarship, and the legendary Tommy Tycho as a guest adjudicator.

The year of 1998 saw the first all-female band from Wilderness School and this year's vocal scholarship adjudicator, Emma Pask, appear with a 13 piece big band as special guest vocalist. She wowed us again this year with her performances. In 1999, Generations in Jazz deservedly won the Tourism South-East Award for Event or Festival. I think 2001 was my first year of experiencing this fabulous event, and it also saw Frank Cleves' 89th birthday. He was there in the audience to hear the RAAF Big Band.

The year of 2002 saw the introduction of the Joe Hannigan Memorial Prize, and 2004 saw the inaugural Jazz Vocal Scholarship and an invitation from the International Association of Jazz Educators for the winners to visit the USA. BMW provided sponsorship to showcase winners and musicians in New South Wales and Victoria.

In 2005, a Mount Gambier local won the James Morrison Scholarship, and Hugh Stuckey again featured over this just finished great weekend. In 2006, division 4 was introduced, and the event moved to Schleter's Paddock for the enormous marquee that now holds the hundreds of students, their support staff and family and the general public lucky enough to have tickets. In 2008, the family of the late Ron Evans took over the sponsorship of the James Morrison Scholarship, and I had the pleasure to meet his wife that year. The Future Finalist award is possible because of and through the generous support of Pat Corrigan.

Generations in Jazz is run by a fantastic board and owes much to it, as well as to Karyn Roberts, the 'go to' person for the event, and the many volunteers and businesses who support the event. It is a fantastic logistical undertaking. John Morrison is now a musical director, and other musical directors, Ross Wilson and Bill Broughton, provide wonderful support and experience to the kids in the competition. Every sponsor is important, and I thank them all.

Perhaps the highlight of the weekend is for participants to gain selection to the Super Bands. Stand-out instrumentalists in divisions 1 and 2 work with musical directors on charts for a performance at Sunday's concert. Tilley Duncan from Modbury High School won a cap in the division 2 Super Band this year.

There were 81 bands competing this year, and there are too many other great things to say about Generations in Jazz. Mother's Day is a great weekend, and it will always be special to me. I commend to members the trip to Mount Gambier to support the schools, which are often from their electorate. It is a great place to visit any time, and never more so than when Generations in Jazz is in town.

MENTAL HEALTH BILL

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

No. 1. Clause 3, page 6, after line 37—

After definition of *community treatment order* insert:

community visitor means—

(a) the person appointed to the position of Principal Community Visitor under Part 8 Division 2; or

(b) a person appointed to a position of Community Visitor under Part 8 Division 2;

No. 2. Clause 10, page 12, after line 16—

After subclause (1) insert:

(1a) In considering whether there is no less restrictive means than a community treatment order of ensuring appropriate treatment of the person's illness, consideration must be

given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis.

No. 3. Clause 16, page 15, after line 19—

After subclause (1) insert:

(1a) In considering whether there is no less restrictive means than a community treatment order of ensuring appropriate treatment of the person's illness, consideration must be given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis.

No. 4. Clause 21, page 17, after line 31—

After subclause (1) insert:

(1a) In considering whether there is no less restrictive means than a detention and treatment order of ensuring appropriate treatment of the person's illness, consideration must be given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis or in compliance with a community treatment order.

No. 5. Clause 25, page 20, after line 25—

After subclause (2) insert:

(2a) In considering whether there is no less restrictive means than a detention and treatment order of ensuring appropriate treatment of the person's illness, consideration must be given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis or in compliance with a community treatment order.

No. 6. Clause 29, page 23, after line 8—

After subclause (1) insert:

(1a) In considering whether there is no less restrictive means than a detention and treatment order of ensuring appropriate treatment of the person's illness, consideration must be given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis or in compliance with a community treatment order.

No. 7. Clause 42, page 29, line 24 [clause 42(8), penalty provision]—

Delete '$20,000' and substitute:

$50,000

No. 8. Clause 43, page 30, line 7 [clause 43(3), penalty provision]—

Delete '$20,000' and substitute:

$50,000

No. 9. Clause 44, page 30, line 16 [clause 44(3)]—

Delete '$20,000' and substitute:

$50,000

No. 10. New heading, page 30, after line 19—

Before clause 45 insert:

Division 1—Patients' rights and protections

No. 11. Clause 47, page 32, lines 6 and 7 [clause 47(2)(d)]—

Delete paragraph (d) and substitute:

(d) a community visitor.

No. 12. Clause 48, page 32, after line 38 [clause 48(3)]—

After paragraph (e) insert:

(ea) a community visitor;

No. 13. Clause 49, page 33, line 7 [clause 49, penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 14. New heading and clauses, page 33, after line 7—

After clause 49 insert:

Division 2—Community visitor scheme

49A—Community visitors

(1) There will be a position of Principal Community Visitor.

(2) There will be such number of positions of Community Visitor as the Governor considers necessary for the proper performance of the community visitors' functions under this Division.

(3) A person will be appointed to the position of Principal Community Visitor, or a position of Community Visitor, on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

(4) However, a person must not hold a position under this section for more than 2 consecutive terms.

(5) The Governor may remove a person from the position of Principal Community Visitor, or a position of Community Visitor, on the presentation of an address from both Houses of Parliament seeking the person's removal.

(6) The Governor may suspend a person from the position of Principal Community Visitor, or a position of Community Visitor, on the ground of incompetence or misbehaviour and, in that event—

(a) a full statement of the reason for the suspension must be laid before both Houses of Parliament within 3 sitting days of the suspension; and

(b) if, at the expiration of 1 month from the date on which the statement was laid before Parliament, an address from both Houses of Parliament seeking the person's removal has not been presented to the Governor, the person must be restored to the position.

(7) The position of Principal Community Visitor, or a position of Community Visitor, becomes vacant if the person appointed to the position—

(a) dies; or

(b) resigns by written notice given to the Minister; or

(c) completes a term of appointment and is not reappointed; or

(d) is removed from the position by the Governor under subsection (5); or

(e) becomes bankrupt or applies as a debtor to take the benefit of the laws relating to bankruptcy; or

(f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or

(g) becomes a member of the Parliament of this State or any other State of the Commonwealth or of the Commonwealth or becomes a member of a Legislative Assembly of a Territory of the Commonwealth; or

(h) becomes, in the opinion of the Governor, mentally or physically incapable of performing satisfactorily the functions of the position.

(8) The Minister may appoint a person to act in the position of Principal Community Visitor—

(a) during a vacancy in the position; or

(b) when the Principal Community Visitor is absent or unable to perform the functions of the position; or

(c) if the Principal Community Visitor is suspended from the position under subsection (6).

49B—Community visitors' functions

(1) Community visitors have the following functions:

(a) to conduct visits to and inspections of treatment centres as required or authorised under this Division;

(b) to refer matters of concern relating to the organisation or delivery of mental health services in South Australia or the care, treatment or control of patients to the Minister, the Chief Psychiatrist or any other appropriate person or body;

(c) to act as advocates for patients to promote the proper resolution of issues relating to the care, treatment or control of patients, including issues raised by a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act;

(d) any other functions assigned to community visitors by this Act or any other Act.

(2) The Principal Community Visitor has the following additional functions:

(a) to oversee and coordinate the performance of the community visitors' functions;

(b) to advise and assist other community visitors in the performance of their functions, including the reference of matters of concern to the Minister, the Chief Psychiatrist or any other appropriate person or body;

(c) to report to the Minister, as directed by the Minister, about the performance of the community visitors' functions;

(d) any other functions assigned to the Principal Community Visitor by this Act or any other Act.

49C—Visits to and inspection of treatment centres

(1) Each treatment centre must be visited and inspected once a month by 2 or more community visitors.

(2) 2 or more community visitors may visit a treatment centre at any time.

(3) For the purposes of any visit to a treatment centre, at least 1 of the community visitors is to be a medical practitioner or registered psychologist or a former medical practitioner or registered psychologist.

(4) On a visit to a treatment centre under subsection (1), the community visitors must—

(a) so far as practicable, inspect all parts of the centre used for or relevant to the care, treatment or control of patients; and

(b) so far as practicable, make any necessary inquiries about the care, treatment and control of each patient detained or being treated in the centre; and

(c) take any other action required under the regulations.

(5) After any visit to a treatment centre, the community visitors must (unless 1 of them is the Principal Community Visitor) report to the Principal Community Visitor about the visit in accordance with the requirements of the Principal Community Visitor.

(6) A visit may be made with or without previous notice and at any time of the day or night, and be of such length, as the community visitors think appropriate.

(7) A visit may be made at the request of a patient or a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act.

(8) A community visitor will, for the purposes of this Division—

(a) have the authority to conduct inspections of the premises and operations of any hospital that is an incorporated hospital under the *Health Care Act 2008*; and

(b) be taken to be an inspector under Part 10 of the *Health Care Act 2008*.

49D—Requests to see community visitors

(1) A patient or a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act may make a request to see a community visitor.

(2) If such a request is made to the director of a treatment centre in which the patient is being detained or treated, the director must advise a community visitor of the request within 2 days after receipt of the request.

49E—Reports by Principal Community Visitor

(1) The Principal Community Visitor must, on or before 30 September in every year, forward a report to the Minister on the work of the community visitors during the financial year ending on the preceding 30 June.

(2) The Minister must, within 6 sitting days after receiving a report under subsection (1), have copies of the report laid before both Houses of Parliament.

(3) The Principal Community Visitor may, at any time, prepare a special report to the Minister on any matter arising out of the performance of the community visitors' functions.

(4) Subject to subsection (5), the Minister must, within 2 weeks after receiving a special report, have copies of the report laid before both Houses of Parliament.

(5) If the Minister cannot comply with subsection (4) because Parliament is not sitting, the Minister must deliver copies of the report to the President and the Speaker and the President and the Speaker must then—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(6) A report will, when published under subsection (5)(a), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

No. 15. Clause 55, page 37, line 11 [clause 55, penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 16. Clause 74, page 45, after line 33—

After subclause (3) insert:

(4) If a review under this section relates to a patient to whom a treatment and care plan applies, the Chief Psychiatrist must cause a copy of the plan to be submitted to the Board at or before the commencement of the Board's proceedings on the review.

No. 17. Clause 76, page 46, after line 20—

After subclause (2) insert:

(2a) If an appeal under this section relates to a patient to whom a treatment and care plan applies, the Chief Psychiatrist must cause a copy of the plan to be submitted to the Board at or before the commencement of the Board's proceedings on the appeal.

No. 18. New clause, page 50, after line 15—

After clause 86 insert:

86A—Annual report by Chief Psychiatrist

(1) The Chief Psychiatrist must, before 30 September in each year, present a report to the Minister containing—

(a) in respect of each level of community treatment order and detention and treatment order—

(i) information about the number and duration of the orders made or in force during the preceding financial year; and

(ii) demographic information about the patients, including information about areas of residence, places of treatment and, in the case of detention and treatment orders, places of detention; and

(b) in respect of the administration of Part 10 (Arrangements between South Australia and other jurisdictions)—

(i) a statement of the number of occasions during the preceding financial year on which powers have been exercised under each of the following provisions:

(A) section 61(1) (South Australian community treatment orders and treatment in other jurisdictions);

(B) section 64 (Making of South Australian community treatment orders when interstate orders apply);

(C) section 65(1) (Transfer from South Australian treatment centres);

(D) section 66 (Transfer to South Australian treatment centres);

(E) section 69(1) (Transport to other jurisdictions when South Australian detention and treatment orders apply);

(F) section 70(2) (Transport to other jurisdictions of persons with apparent mental illness);

(G) section 71(1) or (4) (Transport to other jurisdictions when interstate detention and treatment orders apply);

(H) section 72(1) or (3) (Transport to South Australia when South Australian detention and treatment orders apply);

(I) section 73 (Transport to South Australia of persons with apparent mental illness); and

(ii) information about the circumstances in which the powers were exercised.

(2) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

No. 19. Clause 96, page 52, line 29 [clause 96(1), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 20. Clause 96, page 52, line 39 [clause 96(3), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 21. Clause 96, page 53, line 8 [clause 96(4), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 22. Clause 96, page 53, line 13 [clause 96(5), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 23. Clause 98, page 53, line 24 [clause 98, penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 24. New clause, page 53, after line 24—

After clause 98 insert:

98A—Harbouring or assisting patient at large

(1) A person who, knowing or being recklessly indifferent as to whether another is a patient at large, harbours the patient or assists the patient to remain at large is guilty of an offence.

Maximum penalty: $25,000 or imprisonment for 2 years.

(2) In this section—

interstate patient at large has the same meaning as in Part 10;

patient at large has the meaning assigned by section 3, and includes an interstate patient at large.

No. 25. Clause 99, page 53, line 30 [clause 99(1), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 26. Clause 100, page 54, line 34 [clause 100(1), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 27. Clause 100, page 54, line 41 [clause 100(3), penalty provision]—

Delete '$10,000' and substitute:

$25,000

No. 28. Clause 103, page 55, lines 40 to 42 [clause 103(2)(a)]—

Delete paragraph (a)

No. 29. New clause, page 56, after line 15—

After clause 103 insert:

104—Review of Act

The Minister must, within 4 years after the commencement of this Act or any provision of this Act—

(a) cause a report to be prepared on the operation of this Act; and

(b) cause a copy of the report to be laid before each House of Parliament.

STATUTES AMENDMENT (PUBLIC HEALTH INCIDENTS AND EMERGENCIES) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2623.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:50): Earlier, I was referring to the broad—probably too broad—proposal to grant power during a declared period in relation to a public health incident essentially to circumvent the provisions of the Controlled Substances Act 1984. During the luncheon adjournment, I briefly perused the second reading explanation, which for reasons explained this morning, was tabled but not read. I have yet to identify any explanation as to why it is necessary for this to be so broad. The second reading explanation states:

> The other 'health' power that is included is proposed section 26A which enables the minister to modify the operation of the Controlled Substances Act 1984 during the period of a declared emergency for the purposes of response or recovery operations. This can only be after consultation with the minister responsible for the administration of the Controlled Substances Act 1984.

I cannot identify anywhere else where this is detailed other than on page 11 of the second reading explanation (I am not sure what page it will end up in *Hansard*), where it states:

- The rationale for the inclusion of new clause 26A, which allows for the Controlled Substances Act 1984 to be modified, was primarily to cover situations that may arise with the distribution and supply of medication during a pandemic where there may not be a formal prescription and nurses or other health professions may need to assist with supply;
- There are checks and balances built in—
  - it is the minister who would issue the notice;
  - the minister must form the opinion that it is necessary and desirable to do so;
  - it could only be done for the purposes of the response or recovery operations;
  - the minister is obliged to first consult with the minister responsible for the administration of the Controlled Substances Act;
  - the notice can only be for the duration of a declaration.

Some of that is obvious because, quite clearly, for a public health incident we are talking about a period of up to 14 days and, for a general major incident, disaster or emergency, up to 30 days. I again make the point that, as that is all that is disclosed in the second reading explanation, it seems inappropriate simply to have a general remit and power to modify this act and not specify what it is for.

The example that is referred to was briefly discussed at the briefing I had. One can imagine, for example, a vaccine being developed and packaged, presumably in some kind of a vial or capsule containing the prescribed dose for an adult or child (maybe in different doses) and that someone may need to inject it. As it is a drug that would be available only when prescribed by a medical practitioner or some other authorised medical person nominated in the legislation, in an emergency there may not be enough doctors around to do that, especially if there was a mass invasion of the virus and a need for the vaccine to be distributed quickly to a huge number of people.

If that is the case, surely that modification should be included in the provisions of the act to allow for prescription, distribution and even injection to be carried out by persons other than those who are qualified to do so in an emergency, as determined by the minister.

It seems to me that it is quite open for that provision, which I can see may be necessary. It would be reasonable for that to be included with the appropriate checks and balances as indicated. I ask that, between houses at the very least, some careful consideration be given to how that could

be provided for without having this blanket notice in the *Government Gazette* to modify the operation.

If there were such a disaster and we suddenly had to distribute a vaccine or medication to a mass number of people, it seems bizarre that we would have to put a notice in the *Government Gazette*. One assumes the place would be falling apart around us and that we would need to make this very much a priority, so it seems incongruous to have to arrange for something to be published in the *Gazette*.

Other than in bushfire situations, I have not been in an active war zone or a major health pandemic where there may be hundreds or thousands of people who are either contaminated or exposed to some kind of risk—radiation, for example. I have not been in that sort of emergency or disaster situation, but it seems to me that there is an opportunity for us not to rush into legislation such as this. Again, I make the point that there is plenty of time to do this because cabinet, as I understand it, has already endorsed regulations that have been issued by the minister to cover these powers in any event, and they are currently in operation.

I turn now to the amendments to the Public and Environmental Health Act, which essentially bring in a whole new regime of emergency/incident response by health officials when there is a public health emergency or incident. They are to receive a process of declarations made by the Chief Medical Officer and, essentially, the Chief Executive of the Department of Health will be the person who has control of this new regime.

We would be obliged to have a public health emergency management plan and that would form part of the State Emergency Plan, so somebody would have to prepare that. Emergency officers would be appointed by the chief executive, with or without conditions, and, in some ways, they would have similar obligations including now this specifically legislated confidentiality requirement. They would have to carry a badge to show that they are authorised and all the things that relate to officers under the state emergency legislation.

We have the definitions for 'public health incident' and 'public health emergency'. New section 37E will set out that, when a declaration has to be made, almost all the powers under section 25 of the Emergency Management Act, with the exception of section 25(1) and section 25(2)(n), will be the same. I have read through those at some length in this debate to make it absolutely clear how extensive they are.

I think the first question is: why do we need to have part 8 at all? Why do we need to repeat a whole structure, plan and process with the health department in order to deal with a public incident or emergency when we have the state emergency act powers that are statewide? Again, I refer to the minister's contribution and, whilst the scheme maintains the Emergency Management Act process as an overarching act, he explains that:

> It provides an additional mechanism to respond to public health incidents or emergencies under the P&EH act—

that is, the Public and Environmental Health Act—

> without needing to seek a declaration under the EM act until such time as that may be required. This better reflects the Department of Health's responsibility for identifying and managing the response to a human disease incident...In the initial stages, Health, with its expertise to manage a health issue, will manage the response. If the situation warranted it, the Chief Executive, Department of Health...could declare a public health incident or emergency after consultation with the Chief Medical Officer and the State Coordinator under the EM act. If that occurred, once a public health incident or emergency is declared, most of the EM act powers 'come across'—

and that is as I have explained—

> and the CE Health can exercise them under a public health incident or emergency declaration.
>
> If the situation escalated in magnitude, such that a whole-of-government state emergency response was necessary, the State Coordinator under the EM act would be approached, seeking a declaration under the EM act.

It also says the scheme allows for an easy transition between the P&EH act structure and the EM act. Reading that, I assume that the government has in mind that when there is the need for management of a normal disease incident (there is a notification, for example, of a disease that has the potential for problems, particularly with contamination), the Department of Health, under the Public and Environmental Health Act, would carry out its usual responsibility. It does that now and it is vested with that direct responsibility.

If it gets to a really serious stage, at the moment we can go straight across to the Emergency Management Act and call in the people involved in that structure—which includes the

Department of Health, because obviously it would be a health issue, and that is provided for in the Emergency Management Act. The department would, as I explained before, as a committee make decisions and declarations, if necessary, and then these extraordinary powers come into effect.

This bill gives a step in between, where the Department of Health and its emergency officers, who will be appointed—its own health police or health army will be identified—will have all those emergency powers to do what is necessary under their declaration periods which, as I have explained, are for slightly shorter but still extended periods. Then, if it gets really bad, we move into stage three, which is where we bring in the police and other emergency services and the EM act kicks in.

It raises the question, first, about whether or not there is an easy transition or power, once the state coordinator (the head of police) says to the Department of Health, 'Your efforts have not worked,' or, 'It is simply not contained and we now need to move to the next level so I am going to rescind your declaration and implement my own.'

What we say is that it is possible that this is a structure that could work. However, we want the government to have a very good look at why it would introduce a stage in the middle where all these powers are with the department. I think we need to have a clear indication from the government about whether it is planning to divest all these responsibilities, depending on the nature of the incident, disaster or emergency, to each of the relevant authorities. Is the Minister for Emergency Services going to take over all floods, earthquakes and disasters? Are all terrorist acts going to be taken over by the police department?

One of the reasons we have these draconian powers—at first blush—is that they are justified in a very, very serious situation and, in a very, very serious situation, the logical expectation is that all the services are likely to be involved and may be called upon.

If we have a bushfire, we call in the police for the management of public and traffic (this is just some of their duties), we call in the SES (which deals with, very often, chemical spills, motor vehicle accidents, clearances and access for the public to get in and out of hospitals and along roads, and all sorts of things like that), and we use the MFS and CFS (who are experienced in the management of fire and the containment thereof and, of course, the protection of life and property, and they obviously have special skills in dealing with that type of risk).

So, when we do have an emergency, whether it is a public health emergency or a flood, fire or terrorist attack, very often we are going to need all of those services together. Implicit in there being a state disaster or emergency, it is likely that the reserves and expertise of all these people need to be called on. One of the comforts I have as a member of parliament is in knowing that when these sorts of powers are out there (even for a matter of hours but, in this case, proposed for days or up to a month), there is a breadth of people who are actually going to have control of it and be able to make those decisions.

So, personally, I am far from convinced that establishing a new hierarchy, a new army of obligation, a new training requirement and a new plan, because we are dealing with very extensive powers, is the right way to go. I am not convinced of that from the material contributed to the parliament by the minister. Page 9 of the second reading explanation states:

> Turning to the amendments to the P&EH Act, it is clear that there is a need to have a modern public health law that can respond not only to 'traditional' public health issues, but also has the flexibility to deal with emerging public health concerns of the 21st century. New and emerging dangers—including emergent and resurgent infectious diseases and incidents resulting in mass casualties—have focused attention on the adequacy of legislative frameworks. As was observed in the *Exercise Cumpston 06 Report*, the community expects government to provide leadership in preventing disease outbreaks and, in the event of an outbreak, to respond and assist recovery quickly and effectively. Public health legislation therefore needs to be flexible enough to respond to a variety of emergency situations and integrate with our emergency responses.

I agree with all that. Arguably, it is a bit motherhood but it states the bleeding obvious; that is, the public expects, quite reasonably, that we have both the legislative framework and a process that can be flexible enough to be activated promptly to deal with mass breakouts—in this case, preventing disease outbreaks.

I hasten to add that even at a time when we have an international contamination—swine flu—on a number of continents, with all the existing legislation we still contained it. It again raises the question of the need for this interim layer of armed officials to have this responsibility and be given this power. The second reading explanation continues:

Some communicable diseases can be infectious before an individual produces symptoms that would lead to diagnosis. As a result it may be necessary to quarantine asymptomatic (well) people who have made contact with a case or a suspected case to prevent them unwittingly passing on infection before they themselves become symptomatic.

We agree with that—and we do not need the Emergency Management Act powers to be able to deal with that. We do not need that. We can make provision in the Public and Environmental Health Act to deal with the quarantine requirements, if necessary. They are quite significant. For the record I will refer to the Public and Environmental Health Act for the purposes of understanding the fullness of the existing powers. In division 3 of the Public and Environmental Health Act, section 36 provides:

(1) Where there is danger to public health from the possible spread of a notifiable disease, the Chief Executive or an authorised officer authorised by the Chief Executive for the purposes of this section may give directions and take such action as may be appropriate to avert that danger.

Again, similar to the Emergency Management Act, it provides:

(2) Without limiting the generality…the Chief Executive or authorised officer may—

(a) direct that any premises, vehicle or article be cleansed or disinfected;

b) direct the destruction of any article, substance or food;

(c) seize any vehicle, article, substance or food;

(d) impose areas of quarantine or close premises;

(e) restrict movement into or out of any place or premises;

(f) take such other action as may be prescribed.

Admittedly, it does not say that you can blow up a building, but it is far reaching. Those in the Department of Health, in dealing with the containment of a disease in the first instance, have significant powers. No-one is challenging that. What I am simply saying is that if that fails, those in the health department—in relation to swine influenza or, indeed, any other influenza virus that may be added to the list in the schedule or provided for in regulation—have significant capacity to be able to deal with it. If it fails and we are hit from all sides, or we have a mass invasion of the virus across the country and we need to declare a state of emergency or a disaster—which is even worse in those categories—then we have the power to do that.

I am still at a loss to understand why we need an interim regime in order for that to be effective. While the minister says that the existing powers under the P&EH act do not provide a clear power in relation to dealing with suspects, we have indicated already we are happy to support that aspect of it and expand it for that purpose. The second reading explanation continues:

While people tend to be cooperative if the reasons for doing so are explained to them and it is made as easy as possible to do so, there also needs to be powers available to deal with non-compliance. It could be expected that in a situation of rapidly escalating magnitude, such as an influenza pandemic, compliance could become an issue.

Again, the opposition agrees with that sentiment; and that is exactly why I raised the point that a mother might be required to be separated from a child who is a suspected contaminated case and a highly stressful situation might arise. I gave an example of a child having asthma and a mother wanting to remain with the child, even at risk to herself. People can make decisions, which may not necessarily be to the benefit of others, in order to protect those around them so an external decision needs to be made.

Surely, that is exactly the situation where you want to have the benefit and support of other services, including the police department, so those people can have support and intervention, if necessary, to manage it, and then let our public health officials get on with the job they are there to do; that is, identify, test, contain and heal.

I raise those matters. Again, we are a long way from moving from a few hours to cover a couple of days or three or four days to weeks or months. I would feel much more comfortable if that situation were to apply under ministerial declaration in the first instance. As it is not—it is only for the extension that the minister becomes involved—I have some concerns about that.

I have referred to the amendments to the Electricity Act, but there are also amendments to the Essential Services Act, the Fire and Emergency Services Act, the Gas Act and the Health Care Act (in relation to the ambulance service and how it might apply to it in the latter). A number of these others are consequential, as I understand it. I have had a look through them and they appear

to be so, although I have not checked them off against the principal acts. For the purposes of this debate, I am accepting that they are consequential and that again they simply flow through to cover powers that will apply under those acts and apply to their authorised officers.

Finally, I have indicated our support to swine influenza being added to the schedule of controlled notifiable diseases. We already have other influenza infection on that list. It is designed to cover the pretty serious ones, I think it is fair to say, and for the reasons which are clearly in the public domain—the seriousness and the rapidity of which influenza viruses are developing and spreading. Of course, some of that is due to mobility of population. On the other side, we have a very changed hygiene situation since the distressing events of 1918 or 1957, when we had extraordinary loss of life as a result of what today we call pandemics.

The circumstances are such that we need to be ready. I think the public has a very high expectation that we are prepared. Interestingly, the issue of bird flu was quite a popular topic at the time I visited the World Health Organisation in Switzerland a few years ago. They wanted to impress upon me some public health legislation which was being considered at the federal arena at that time and which had been introduced by former minister Abbott—and I note had been followed through and supported post the new election by minister Roxon. They were keen to know about that, but they were also keen to tell me, 'Look, Vickie, you can talk about cholera, malaria or other contagious diseases—AIDS—but the truth is the biggest problem we now have in the world is the diseases that are not in these lists at all. They are the epidemics we have in obesity, diabetes, etc.'

I know that the minister is well aware of these. I place them on the record, though, as a way of highlighting that we need to keep in perspective what we are dealing with. These types of conditions—that is, when we have a contagious disease—do require a rapid response. It needs to be effective and commensurate with what is necessary in powers that are implemented at the time. All we are saying as an opposition is: let us be clear about who should be responsible to implement that and let us not just add another layer of structure that, potentially, will slow down providing a rapid and effective response in these circumstances.

With those few comments, I indicate the opposition's support at the second reading stage. Again, because we are yet to receive a number of responses from other parties with whom we are busily trying to consult, I will not be asking for the bill to move to the committee stage because I think there is little point at this stage. We will have a very good look at this between the houses.

The Hon. R.B. SUCH (Fisher) (16:19): I would like to make a brief contribution. I support this bill. I think it is a necessary provision in order to deal with what could be at any time a serious issue confronting the people of this state in terms of their health. I want to focus just quickly on some of the underlying and related aspects. This particular bill is designed (I guess) to look at the macro type issues, but I would like to focus attention on the fundamentals, that is, basic hygiene.

This current outbreak of flu has the unfortunate title of swine flu, which is unfortunate because it suggests something untoward about cooked pig meat, which is unfortunate and inaccurate. I am not an expert, but as I understand it, pigs—and they cannot take legal action—in their natural situation, are very clean animals, but if they are artificially confined and restricted, then that can change. Likewise, with poultry and other birds. They are not in their own practices what we would call dirty. However, we know that, in countries like Indonesia, people often have their chooks sleeping near them, sometimes with them.

I understand that, in the case of this outbreak of so-called swine flu in Mexico, children in particular were in close proximity to effluent coming from piggeries. I think it does highlight the importance of practising basic hygiene. Obviously, we do not want people living with their poultry. I do not think we have quite reached that situation where people need to live and sleep next to their chooks or get involved in effluent from piggeries. However, what I do notice (and, once again, we use the term unfairly) is that we talk about people being 'dirty pigs', which is unfortunate. We have a high percentage of people who do not practise basic hygiene. I do not make a habit of standing in or near toilets to observe people, but we would all be aware that there are people—

Members interjecting:

The Hon. R.B. SUCH: I try not to practise that sort of behaviour. I think we have all observed people from time to time who go into a toilet area and do not wash their hands afterwards. We also see people who do not practise basic hygiene—and, at the gross level, one example is people spitting in the street. We also see people in the street coughing into their hand, and the next minute their hand is on the escalator rail or some other area where people will touch it.

If you watch a surgeon prepare for an operation (if you are still with it), you will notice that they wash their hands very thoroughly—in fact, one would hope that they all do so. They do not just quickly put their hands together with a bit of soap or cleaning agent and that is it; they scrub their hands and wash them thoroughly. We are not going to be doing that every time; that would be unrealistic.

However, what would help to reduce the spread of some of these infectious diseases would be the simple practice of daily hygiene. I have mentioned before that my young brother works at St Vincent's Hospital in Sydney (where he is, I think, well loved and respected), and he said the other day that the dirtiest part of your body is your hands, the second dirtiest part is your mouth and the third is the region around your anus. Contrary to what people might think, their hands are, in general, much dirtier and less hygienic than the area around their anus. This may not be popular talk at a dinner party, but the reality is that some simple, basic hygiene would go a long way towards reducing the risk of cross-infection. I have said this before (I sound like a record, I know), but if you watch people going into fast food outlets, you will see that in come the kids, and they have had their fingers up their nose, or maybe elsewhere—

Mrs Geraghty: Oh, please—

The Hon. R.B. SUCH: No, this is the reality.

Mrs Geraghty: We don't need to know—

The DEPUTY SPEAKER: Order! The member for Fisher, I remind you that the chair is meant to maintain decorum in this place!

The Hon. R.B. SUCH: Thank you for your protection, Madam Deputy Speaker. I am a small, timid person and I do tremble when the Government Whip lets fly. I challenge members, next time they go to a fast food outlet (and I know the Minister for Health probably does not want us to), to have a look. People come straight in from their cars, the playground or school and eat food with their hands. That is what you do in those places: you do not use utensils.

In my view, there should be places (and more progressive establishments are now doing it) where you can use waterless disinfecting agent on your hands. It might seem a bit over the top, but it is quite a simple thing to do. In fact, I know of people who go to gymnasiums, and so on, who are now disinfecting their hands. They carry a little bottle of disinfecting waterless fluid so that they can disinfect their hands before they get on some of the machines. Normally, in a restaurant people use cutlery (one would hope), but they will be touching their bread roll with their hands.

The point is (and it sounds unnecessary to even have to say it), for goodness sake, in our society in this day and age, let us have people practising basic hygiene and washing their hands after toileting and before they eat and generally avoiding the basic risk that comes from poor hygiene.

This bill is trying to deal with situations that arise because basic hygiene has not been practised. People should take the time and make the effort to think not only about themselves but also about others, as they do in countries such as Japan, where they wear a face mask (we are not quite to the point where we consider others enough to wear a face mask if we have some possibly infectious condition). Let us ensure that we practise basic hygiene. I commend the government and the minister for trying to get the message out. I am appalled that people I see in prominent positions still do not seem to understand that basic hygiene is the way to go.

Mr VENNING (Schubert) (16:27): This bill comes about as a result of the swine flu epidemic, as we know, which has claimed many lives around the world. Fortunately, both here in South Australia and across the whole country we have not been greatly impacted, and we certainly hope that that will not be the case. As of today, the state government's swine flu website states that there is still only one confirmed case of swine flu in Australia, and there are currently three suspected but no confirmed or probable cases here in South Australia. The three people are undergoing testing.

The government has announced that, as part of the state's preparation for a potential flu pandemic, it proposes to strengthen the existing laws to manage medical emergencies. The bill would: amend the Public and Environmental Health Act 1987 and have swine flu declared as a controlled notifiable disease (as it was declared last week under the commonwealth quarantine legislation); possibly amend the Emergency Management Act 2004 or introduce regulations to add powers to order medical assessments and mandatory isolation (home detention) in the event of an outbreak reaching the level of a state emergency; and amend the Emergency Management Act to

include new powers for senior health officials in a state emergency, including directing a person to remain in isolation or oblige them to undergo a medical observation, examination or treatment.

It seems that the measures contained in this bill are already covered, to a large extent, in existing legislation, particularly in the Emergency Management Act. However, I understand that there are provisions contained in this bill, such as declaring swine flu a notifiable disease, which will ensure that our legislation is consistent with commonwealth legislation, which makes sense. However, we on this side of the house do have a couple of concerns.

The first matter relates to clause 11, which concerns power to the minister to modify the operation of the Controlled Substances Act 1994. It seems a little extreme that, even in the event of a pandemic or notifiable disease outbreak, the Emergency Services and Management Act should override completely the Controlled Substances Act.

I also have concerns regarding the power that will be invested in the chief medical officer in the case of a public health emergency. They seem to be rather extraordinary. I think that perhaps it would be better to retain the current structure under the operation of the Commissioner of Police under the Emergency Management Act 2004.

The current act gives powers including the power to enter, break into, take possession of or assume control of any land, building or vehicle, take possession, direct or prohibit the movement of people or animals, direct a person to undergo decontamination procedures, direct a person to stop work or operation, the power to shut off a water supply, among many others. This list is quite extensive.

It would seem that the measures already included in the current act would be sufficient. So, I do have concerns about the chief medical officer having far-reaching powers in the case of a public health emergency. Whilst I do have a couple of concerns, I support the bill, but hope that we do not have reason to implement it.

I commend all those involved in preparing us all in the case of an outbreak and also those undertaking actions to minimise the risks, especially airlines, etc. Yes, we support the bill, but highlight concerns with two areas of it. First, under clause 11 there is power to the minister to 'modify the operation of the Controlled Substances Act 1984'. There are the usual roles for qualified people to prescribe medication, i.e., issue vaccines, which could be exempt with conditions. The whole operation of the act is far too broad.

Secondly, part 8 inserts an emergency management regime for a public health emergency providing extraordinary powers to the chief medical officer—Dr Tony Sherbon in this instance, I believe—rather than retaining the structure under the operation of the Commissioner of Police under the Emergency Management Act 2004.

People are very aware of the threat of the swine flu pandemic. Without spooking the population, we need to be ever vigilant. We have to be ready in case, if not this time, or even the next. The shadow minister mentioned foot and mouth disease. I am not sure that other animals can be infected, but I believe that swine can catch this disease from humans, so we need to be very vigilant about that. People going into pig sheds have to be careful that they are healthy.

Having owned pigs myself in the past—and I will not relate the story of Bertha because that is already in the *Hansard*—I know how vigilant we were about bringing people in in relation to Erysipelas and other diseases of pigs. I think they have to be more careful of humans going in who may be infected with this. So, certainly it is very important.

We are lucky in Australia that we have a natural border. In other words, we have sea all around us. It is easier not having a common border with other countries. If we watch our entry points we can, hopefully, keep these things in check. Certainly, we need to watch our airports.

I was very interested to hear the speech from the member for Fisher a moment ago. He highlights a favourite topic of mine, from when I served on the Public Works Committee, relating to public buildings and, more importantly, public toilets. We spent many hours looking at them. I believe that public hygiene and the risk of cross-infection is extremely high.

This is one place where Australia performs very poorly. I believe that our public bathrooms do not rate when you travel overseas. In many countries of the world now in public toilets you do not touch the taps. You put your hand under the spout and out comes the water. Why is it that we do not have these in Australia? They are no longer rocket science. They are common and they are not expensive. So, why do we not have them?

I believe it is a very common sense thing. When you go in a public toilet you should not have to, or want to, touch anything, because you do not know what the people who were there before you were doing with their hands. As the member for Fisher rightly said, the hands are probably the dirtiest part of your body, you put them on everything.

Mr Goldsworthy interjecting:

Mr VENNING: The member for Kavel asked me: what about the door handle? Exactly right. Why is it that in public toilets we have doors that open inwards? If they opened outwards you would not have to touch the knob, you could just push it out with your knee. You should not have to touch the knob. I am very conscious of grabbing hold of the doorknob after I have washed my hands. You have just wasted the exercise.

What I do is grab a paper towel, open the door and then throw it into the bin. Hopefully, you can reach it, but it often goes on the floor. It is a basic thing. Why do we not have toilet doors that open outwards, without having to undo the latch, just with a clip retainer on the door? Common sense, you would say, but we do not seem to do it, do we?

So, when you go into that public toilet next time, and we all have to at times, you do not know who was there before you and I think it is important that we give it a little bit more thought. I want to challenge those people in charge, particularly Adelaide City Council, and others, when you are designing and building public toilets have this in mind. Hygiene is a huge area that has been very much overlooked.

Disinfecting hands is a very important matter in public. Having returned from Canada last year, every time you got on a bus the bus conductor would be there with a bottle of detergent and you would put it on your hands. Every time you go into a restaurant, the lady would say, 'Would you like some detergent on your hands?' Even though you have just washed your hands here is some germicide for your hands. It is common practice everywhere. It is sold everywhere. Do we do that in Australia? No. Why not? Are we resting on our laurels? Do we need to have a pandemic to smarten us up? All I can say is, just look at what is happening around the world.

I think we should have a good look at these things. It is all very well at home, you know what your standards of hygiene are in your own home, but when you are out in a public place, when in some of these places the seats are hardly even cold, they are continually warm, these are places of high cross-infection risk. So, maybe this is the time to take a good look at that and at speeches such as this one and that of the member for Fisher and, as I said, look at this issue in the Public Works Committee.

Mr Goldsworthy interjecting:

Mr VENNING: That is exactly right. Men are lucky because we do not have to sit on the seat. When I visit a public toilet and observe the number of people who go out the door without washing their hands, I am quite shocked. Irrespective of a minor or major operation, you should always wash your hands. I think this is a good opportunity for us to brush up on our public hygiene. With those provisos, we support the bill.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:38): I thank the house for giving me authority to allow me to deal with this legislation today. I know that it is an unusual arrangement for a bill to be introduced without the appropriate notice and pass through all the stages on one sitting day. I appreciate the house's indulgence, and I particularly thank the opposition for agreeing to do that.

Before I get into the substance of the bill, the member for Schubert wondered what the collective noun was for swine. I can inform him that, in the *Macquarie Dictionary*, the collective noun for swine is a drift of swine; if one is talking about swine in the wild, it is a sounder of swine and, if one is talking about tame swine, it is a trip of swine. So, there is a bit of trivia for the house.

The Deputy Leader of the Opposition raised a number of matters of substance, which I will attempt to deal with. I think it is correct that she indicated her intention not to seek to go into committee but, rather, let the bill pass today and, if necessary, deal with matters of substance via her colleagues in the other place. I give an undertaking to both her and the house that I will look at those issues more substantially between now and when the other place considers the bill. It would be good to have consensus on this legislation because the matters that are being proposed are serious and I expect will last for a long time. They will probably not be used very frequently (hopefully, never), but it is important that we have the right balance.

Before I begin, I want to say a couple of things about this measure. We have been working on this issue as a health department for a number of years, as I understand it. The planning has been going on for several years, and it emerged after health officials right across Australia became concerned about our state of preparedness when concerns were raised about the potential threat of avian flu.

Avian flu has not disappeared as a threat. Potentially, at some stage it could become a flu that is passed from human to human; at the moment, it is only from birds to humans. If it were to pass from human to human, it would be a very dangerous flu indeed. The planning we have done is based on a pandemic of avian flu occurring and many thousands of deaths and probably millions of people ill across Australia, with a potential breakdown of civil society. So, we are planning on the basis of that event occurring, unlikely as it might be. A lot of work has been happening.

In the normal course of events, I would have brought this legislation before the house in the spring session but, because of the emergence of swine flu and the lack of knowledge, particularly when it first emerged, about where it was going and the risks of its becoming a pandemic (and those risks were being assessed on a regular basis by the World Health Organisation, amongst others), we felt it was important to bring the legislation forward.

Some of the consultation processes we otherwise would have carried out, particularly with external to government organisations, such as the AMA and the Nurses Federation and so on to which the member referred, have yet to occur on the basis we normally undertake them with those organisations. For the sake of the house, and anybody reading *Hansard*, I indicate that that is why this has occurred.

Another issue I point out to the house is that much was made of the fact that we have emergency powers and emergency legislation that can come into effect and that many of the powers that exist in the bill we propose for a health emergency exist in the current emergency powers. This is true, but the proclamation of emergency under the emergency legislation is a matter that is outside the health department's control and applies at a higher level of concern than perhaps a medical emergency might.

I understand that the police strongly support the establishment of this new regime because they do not believe that they have the skills to deal with medical emergencies and prefer the health system to deal with them. Based on the advice I have, I will go through some of the responses to some of the issues raised by the deputy leader.

She referred to amendments being sought to the bill, and she said that they had already been brought into effect through regulation; however, that is not quite the case. The regulations, which I took to the Executive Council last Thursday, make changes to powers only under the Emergency Management Act, whereas the bill proposes that these powers are also available to health, under the Public and Environmental Health Act, to address health emergencies that do not require a full emergency management declaration.

The regulation that makes swine flu a controlled, notifiable disease will allow the Department of Health to act only against persons who have that disease, not those who might be at risk of having it. This is the key issue which the regulations do not cover. As it would be obvious to anyone thinking about this for just a few minutes, if the health system can manage an individual who has a notifiable illness (that is, swine flu or some other flu) and they can deal with that person, it is not going to help the spread of that disease very much if their immediate family and people with whom they have been in close contact at work or in transport cannot also be dealt with. At the moment, we rely on goodwill to deal with those people.

However, if we are talking about something that is breaking out on lots of fronts at once, goodwill is not necessarily going to be sufficient to control the spread of that illness. So, the health system really does need to be able to control those who have been in close contact but have shown no symptoms, so that they can be tested and provided with treatment, if necessary, sometimes against their will.

The deputy leader has listed all the powers currently provided for in the Emergency Management Act. However, the bill provides greater clarity. For example, 'to remove or destroy any animal' is in the bill, not just 'injured animals'. So, in the case of an avian flu outbreak or some other outbreak where the animals potentially are passing on the disease to humans, it would be a necessary power to be able to destroy those animals, even if they do not show immediate symptoms themselves but they have been in proximity with animals which have shown those symptoms.

In relation to wider powers, for example, requiring persons to remain in isolation or quarantine, which are new powers, and requiring treatment and assessment, I have already addressed both those issues. The bill also provides for those to be applied by Health during a health emergency which does not justify using the whole of government emergency management arrangements. These two provisions—the amendments to the health legislation and the emergency powers legislation—will relate to each other in a sensible and integrated way. A health emergency might be called while we are in the process of stopping a disease spreading. However, if it got to the stage where civil society was starting to break down, you would bring in the Emergency Management Act, because you would be dealing not just with health matters but also a whole range of other issues that are really outside the purview of the health department.

The deputy leader talked about the expansion of authorised officers. In fact, the expression 'authorised officers' already exists in the Emergency Management Act. They will now be able to exercise powers, subject to conditions imposed by the State Controller. The ability to put conditions on the powers of individual authorised officers allows the State Coordinator to limit powers to those necessary for the function they need to perform during an emergency.

In relation to consultations, as I have indicated, because we brought this forward, some of the niceties of our consultation process have yet to occur. We have made contact with the AMA and, I understand, the Nursing Federation as well, and we have discussed the amendments with those organisations. We have certainly been dealing with government agencies in the preparation of this legislation. As I have said, the police, in particular, support the direction that is proposed in the legislation.

In relation to extension of initial maximum timing for major emergencies and disasters, these amendments are being sought as a result of the experience from the Eyre Peninsula bushfires and pandemic planning. Ninety-six hours is seen as insufficient to deal with emergencies that warrant the highest level of declaration. For example, if you were dealing with a fully blown pandemic situation, where hundreds of thousands of people were affected, you would want to have the powers to last longer than 96 hours. In fact, I think it would be questionable whether you would want to bring the parliament back to consider granting even greater powers if we were worrying about people transferring infectious diseases one to the other.

So, I think the extension to 30 days makes a lot of sense—it was recommended by the State Emergency Management Committee that a disaster declaration could be made for up to 30 days—and this would make our legislation consistent with both Victoria and New South Wales. I understand that these proposals have the support of SAPOL.

I return now to the issue of the demand for medical goods and services (clause 9(5)) and the Controlled Substances Act (clause 11). The deputy leader indicated her concern that these clauses could be used to authorise any actions at any time (or I took her words to indicate that). In relation to medical goods and services, this power could be used only in relation to medical goods and services, not, as she exampled, to authorise jaywalking and criminal breaking and entering. So, it is not a broad power where you can break any law. It is really in relation to medical goods and services.

The ability of the relevant minister to exempt persons from any provision of the Controlled Substances Act already exists in that such exemptions can be made by regulation under the Controlled Substances Act at any time. This amendment merely allows the exemptions to happen directly without consulting the Advisory Council during an emergency. These are powers that need to be exercised during an emergency and, in both cases, these authorisations apply only during a period when an emergency declaration is in place, not, of course, at any other time.

Examples of such actions could include the following. In the event of workforce shortages and if interstate health professionals were available and were brought urgently to assist, and if there was not time for them to go through the registration process with the relevant professional board, the provision could be used to authorise them to provide specified goods or services on specified conditions. Secondly, in the event that flu clinics were established (and this is certainly part of our planning for a pandemic), perhaps with only one senior doctor in charge of that flu clinic (this would be the case, of course, if the workforce were stretched or many members of the workforce were ill themselves) and it was necessary for paraprofessionals to assist, they may be authorised to do so under this provision.

A clinical governance framework is being developed for flu clinics, with various sets of clinical guidelines to which staff will have to adhere. The conditions attached to the authorisation

could explicitly require such compliance. I understand the deputy leader and other opposition members have some concerns about these provisions. I am happy to look at ways that we can strengthen the safeguards, but I do not want to see a weakening of the capacity of the health system to deal with such issues in an emergency. We do not want to put paperwork or red tape in the way. However, if there are ways—and it could be after-the-event reporting or something else—I am happy to have a look at it and, if the deputy leader or her colleagues have any suggestions, I am happy to consider them.

I turn now to final points. Regulation, which increases powers under the Emergency Management Act, does not include either the power to operate outside the provisions of the Controlled Substances Act or the ability to direct the provision of medical goods and services. A series of plans forming the Public Health Emergency Management Plan does already exist and is part of the broader State Emergency Management Plan. It is a living document and it is regularly updated. When the bill is passed by parliament, it will need to be further amended to take into account the provisions of this bill, including provision for emergency officers and their identity cards, conditions for emergency officers and governance arrangements when it is necessary for health services to operate outside existing laws during an emergency.

Section 36 of the Public and Environmental Health Act refers to what the department can do in relation to persons with a notifiable disease, not those who are at risk of getting the disease but who at the moment appear to be well persons. It also is restricted to—

The Hon. M.J. Atkinson: Well-personed?

The Hon. J.D. HILL: Well persons—people who are not ill.

The Hon. M.J. Atkinson: Well persons—I was about to say!

The Hon. J.D. HILL: Not somebody who is well-personed. It is also restricted to notifiable diseases, not other forms of public health incidents or emergencies. We are really talking about having legislative framework in place which we can rely on if we are in a set of circumstances where things happen quickly and our community is threatened. That could be by a pandemic or some other disease which is likely to spread and affect numbers of our citizens, if not all. It could also be brought into play if there were an accident and a spillage of something which might have a health impact.

The framework would be applied to medical circumstances which would be best dealt with by the health system if those circumstances were to change rapidly and a full-blown emergency situation where civil disobedience systems were breaking down, schools had to be closed and the like. Of course, then, you start using the emergency management powers. So, there is an overlap, if you like, between the sets of powers in the two provisions so that there is consistency in the field if and when we went through that transition from a health emergency to a broader emergency. That is why the powers have been transported into each other's legislation so that there would be a seamless transition from one level of emergency to another.

However, the understanding I have is that the emergency powers within government believe that this is the best way of setting up a set of protocols to deal with something like the potential threat of a pandemic associated with, say, swine flu. We are dealing with it very well, and I pay tribute to the work of the health officials in South Australia and Australia generally. We have powers that are exercised through the commonwealth government under the Quarantine Act, but they are really limited to border control; they do not really spill into the broader community. We have powers that can exist under the emergency legislation, and there are some powers within health. This legislation really provides the health system with the missing bits to allow it properly to manage a health outbreak which threatens our community and to do it quickly with the appropriate checks and balances put in place.

I commend the legislation to the house. I sincerely thank the Department of Health officers who have been working on this for a very long period of time—including David Filby and Maxine Menadue, who are here assisting me today, but there are many others as well—and I also thank parliamentary counsel. I am not sure which part of parliamentary counsel did this, so I cannot thank the officer by name, but I do thank them for their assistance.

As I said, I hope we can get consensus across the parliament about these provisions. I am happy to consider any reasonable request from the opposition or from any of the other parties and, if they have some suggestions, I recommend they bring them forward as soon as possible so that we can consider how to incorporate them if they have merit.

Bill read a second time and taken through its remaining stages.

Mrs REDMOND: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 30 April 2009. Page 2596.)

Clause 11.

Mrs REDMOND: Could I perhaps ask a question? The member for Mitchell has already moved his amendment and we are in discussion regarding the clause. In order to decide whether to support the member for Mitchell, I had been asking a couple of questions of the Attorney-General in relation to the bill.

The question I want to ask him is this. At the moment, we are considering section 42 of the act which deals with the registration of political parties. Subsection (1) provides that after considering objections the Electoral Commissioner must determine the application. Subsection (2) provides that, in certain circumstances, the Electoral Commissioner must refuse the application.

Currently, subsection (3) provides that an application for the registration of a political party may be refused if, in the opinion of the Electoral Commissioner, the name of the party, or the abbreviation of it, might be basically confused with a prominent public body, or so nearly resembles the name of a prominent public body that it should not be allowed to go ahead.

The bill replaces that subsection (3) with a new subsection that provides—in addition to what is already provided in subsection (3)—that the Electoral Commissioner may refuse an application for registration of a political party if the name or the abbreviation or acronym of the name comprises or contains a word or set of words that constitute a distinctive aspect or part of the name of another political party, not being a related political party that is a parliamentary party or a registered political party, or so nearly resembles one of those.

My question to the Attorney-General is this. In subsection (2), which is not amended by this bill, there is already provision to say that the Electoral Commissioner must refuse the registration of a political party where the name or the abbreviation or acronym of the name is such that it would be confused with a parliamentary party or a registered political party or so nearly resembles the name or abbreviation or acronym of a political party.

So, in subsection (2) we already have a provision that the Electoral Commissioner, it seems to me, must refuse the registration in those circumstances. My question is: why, then, without touching that new subsection, is there being put into the new subsection (3) (as proposed by the government and opposed by the member for Mitchell) a provision to say that the Electoral Commissioner may refuse registration of a political party in those circumstances?

The ACTING CHAIR (Hon. P.L. White): Are you asking the minister or the member for Mitchell?

Mrs REDMOND: As I explained, I am asking the question of the minister because, in order to decide whether to support the member for Mitchell's amendment (and I understand the member for Mitchell's amendment, which is simply to delete that provision), I wanted to clarify with the minister why the provision that the government proposes is worded in the way it is. So, it is a question to the Attorney, notwithstanding that it is the amendment of the member for Mitchell that we are dealing with.

The Hon. M.J. ATKINSON: My advice is that our provision in this bill gives the Electoral Commissioner a discretion whereas the current provision does not, so we are leaving it to the Electoral Commissioner's discretion as to whether this prohibition is invoked.

Mr HANNA: I will summarise the arguments that were put last time we were debating my amendment. Essentially, I am negativing the government's amendment because I am happy with the current state of the law. We already have a protection against names being confusing or liable to be mistaken with a party. I think section 42 is adequate in relation to that. The government wants to stop the use of substantial parts or the most significant parts of the names of political parties altogether.

As I have said before, I believe that, if you have something called the liberals for forests party or the 19th century labor party, people will realise it is not the same as the major party to which part of the name relates. As long as there is no confusion I think that should be allowed. Hence the amendment. It is as simple as that. We are probably ready to vote on it.

Amendment negatived.

The Hon. M.J. ATKINSON: I move:

Page 10, lines 22 to 25 [clause 11(2)]—Delete subclause (2)

My amendment is to run with the member for Mitchell's system for filing a registration time limitation. We agree with the principle: we just disagree with the number of months. The member for Mitchell was proposing that the application had to be in two months before the election.

Mr Hanna: Up to two months.

The Hon. M.J. ATKINSON: Up to two months. Given that the issuing of the writ can be 55 days out from an election, we do not think that is fair to the Electoral Commissioner to go through the checking process as to the bona fides of the party. We say about six months is fair.

Mr HANNA: The difficulty I have with this amendment is that, notwithstanding the advice of the Electoral Commissioner, I still find it hard to believe—and I say this with respect to the Electoral Commissioner—it could take four months, for example, to check the veracity of a proposal for registration. I understand that electoral commission staff have to check through every name on the list, perhaps 200 names on the list.

The Hon. M.J. Atkinson: And there is the objection process.

Mr HANNA: There is the objection process. I am saying it is so important to allow registration of parties up to close to the election—whatever we judge that to be—that we should then adapt other parts of the law, such as the objection process or even the time for issuing of the writs, so as to allow the registration of parties up to as close as possible to the election. I do not think six months is as close as possible.

I understand the objection to two months, given that the writs can be issued that far out from an election. Frankly, now that we have fixed elections it is probably time to review the provision for the issuing of the writs. It might as well be, say, four Sundays before the election date, or something like that. That could easily be a change without impairing our electoral system whatsoever.

It seems to me that the important thing is to give people a chance to get organised into a party and compete at an election up until a close time, may be two months or three months, before a general election. I understand what the Attorney-General is saying. I still cannot quite grasp how it would take six months for the checking, plus the objection process to carry through. Maybe we need to speed up the objection process so that we can come up with a better compromise, say, four months before an election.

The Hon. M.J. ATKINSON: I understand the honourable member's point of view. I go back to what I said last time this bill was before the house. The member for Mitchell had a road to Damascus conversion on the eve of the last state election. He resigned from the Greens party and became an independent supported by Nick Xenophon—and that was his political salvation. He is trying to fashion the Electoral Act so that it allows those road to Damascus conversions on the eve of an election; and, gee, if I were in his situation I would do the same.

I have advice from the Electoral Commissioner that this process will take roughly five months. Let us allow a month for something to go wrong, the real problem, as I see it, with the timing of the application for registration is the one I illustrated in response to the member for Chaffey on the situation that occurred in Victoria in 1955; namely, a parliamentary party split in two on a no confidence motion in the house. The government fell. One element of that party, one half of it, had a very good case that, legally, it was the Australian Labor Party. That was vindicated in the Supreme Court something like six years later, but no good for the election because it did not have the label and therefore—

The Hon. G.M. Gunn interjecting:

The Hon. M.J. ATKINSON: Exactly; the member for Stuart would remember.

Mrs Redmond: Bob Santamaria of blessed memory.

The Hon. M.J. ATKINSON: Bartholomew Augustine Michael Santamaria was never a member of any political party. I had the pleasure to meet him in his North Melbourne premises some years ago.

Mrs Redmond: He certainly had a point of view, Attorney.

The Hon. M.J. ATKINSON: He did have a point of view. I will not do my Bob Santamaria impersonation here. Nothing we can do in the Electoral Act will address the circumstances that existed in Victoria in 1955, because, obviously, the writ will be issued within hours of the government's falling. Let us not get too hung up on registration. The biggest advantage that registration gives a political party is that its name goes on the ballot paper, but if a political party is not lucky enough to receive that advantage because it forms too soon before an election, nevertheless it can go back in time and do what every political party did in South Australia until (I think) the 1985 general election; that is, it can publicise the name of its candidates and hand out how-to-vote cards saying, 'If you want to vote for the new party, here is the how-to-vote card for the new party.'

That is all you have to do to overcome it and I do not think that this is a terribly great barrier to entry for a new political party, and barring the dissolution of a governing party and its split into two or three parts on a no-confidence motion, I really do not see the circumstances in which a genuine political party would come into being to contest an election fewer than six months before a general election. After all, thanks to the member for Mitchell's private member's bill amending the constitution, we all know four years in advance when the general election day will be.

The other thing to say is that, even the FREE Party—the Gypsy Jokers' party—is now registered. It is registered. It has all the privileges of registration. I notice that it is putting up a candidate for the House of Assembly called Bear. Now we are not allowed to know apparently—

Mrs Redmond: I know a dog called Bear.

The Hon. M.J. ATKINSON: The member for Heysen knows a dog called Bear. No, this is a man called Bear. He is a biker. We are not allowed to know his full name or even what seat he is running for because perhaps there might be some disadvantage for the FREE Party if that became generally known.

Mrs Redmond: It might be Croydon.

The Hon. M.J. ATKINSON: It might be Croydon. I am happy to be bear hugged in Croydon by the FREE Party, and I would be somewhat disappointed if they did not have a candidate against me in Croydon at the next general election. I do not think these provisions constitute an unconscionable barrier to entry for new parties and therefore, while accepting the system proposed by the member for Mitchell, I cannot agree to a two month lead time.

Mr HANNA: I just wanted to make two quick points. First, the extraordinary circumstances of an election before the usual four years, as the Attorney-General points out, are not really relevant to the debate because, whether it is two months or four months, it will have no bearing—no new party will be able to arise within the period proposed by me or the Attorney.

In relation to the Attorney-General's comments about the last election in the electorate of Mitchell, it is an unfortunate tactic often used by the Attorney to bring in provocative personal barbs to a general debate. The fact that we are debating registration of political parties reveals in itself that the circumstances of my election last time are not relevant because there was no political party which I joined, registered or created in order to be re-elected. We are talking about registration of political parties.

I think that more than two months would be appropriate. I think that six months is too long. It is not that extraordinary for a group of people to arise and want to form a political party six months out from an election. For example, if the government proceeds to build the weir at Pomona (the so-called Wellington weir), that may be six months before the next general election. It may be so upsetting to so many people that they want to form a political party to oppose that. I think that there will be political circumstances where we need to be as generous as possible in allowing people to form political parties. That is the principle. I think we are agreed on the principle. It is just a matter of refining the timing, depending on the practicalities.

Mrs REDMOND: I want some clarity about what the Attorney has been saying, because, as I read it, we have now dealt with the member for Mitchell's amendment to delete subsection (1) from clause 11 of the bill. He failed in that attempt and so we still have subsection (1). The Attorney

has informed us that that will give discretion (which does not exist currently) to the Electoral Commissioner in deciding whether or not to register a political party if it has a name which could be confused with an existing political party.

The government now proposes to delete subsection (2) of clause 11, and it appears to me that that was the very clause that the member for Mitchell was complaining about, in the sense that it appears to have the effect that, basically, you are not going to get effective registration within six months of registering and, therefore, within six months of an election you will not be able to form a political party for use in an upcoming election. Is that the effect of that clause?

The Hon. M.J. ATKINSON: The answer is yes.

Mrs REDMOND: Now the government is proposing to delete that clause. The amendment that the Attorney has now moved is to delete the clause that puts in the six months. I just want clarification of the government's position, because I thought I understood its position until I saw that the Attorney has now filed an amendment to delete subclause (2) and leave subclause (1).

The Hon. M.J. ATKINSON: This amendment is consequential upon my first amendment, which was adopted by the committee.

Mrs REDMOND: Will the Attorney explain on what basis it is consequential upon the first amendment—or is the Attorney referring to amendment No. 3 of his amendments 74(2)?

The Hon. M.J. ATKINSON: That amendment has been agreed to by the committee.

Amendment carried; clause as amended passed.

Clause 12.

Mrs REDMOND: I just want to clarify the nature of the annual return and the inquiries that are going to be made, in a generic sense. As I read the clause (and I am simply seeking from the Attorney confirmation of whether my understanding is correct), once a party gets to whatever figure we finally settle on (and I think we have put aside that clause for the moment, but it is 200), and the commissioner goes through the process of deciding that they are all genuine people who are all registered to vote, and so on, and registers them, that registration really has to be renewed every year by the party. They no longer maintain their entitlement to registration if, having achieved their 200 and got registration—if for instance a couple of them die or move interstate, or whatever—

The Hon. M.J. Atkinson: Or resign.

Mrs REDMOND: —or resign, once they drop below 200, they no longer have the entitlement to registration. So, effectively, although there might not be any fee attaching to it, it is a new registration process each year, which may be made somewhat simpler because there will be a capacity, I would assume, to tick off (and I mean put a tick beside, not tick off in the more colloquial sense) those people who are clearly still alive, still residing at the same address and still members of the party, according to the party's return. I just want to get some clarity about how the Attorney envisages it will work. It looks to me as though each year every party will have to satisfy the Electoral Commissioner again of that threshold of 200 members.

The Hon. M.J. ATKINSON: It is a good question, member for Heysen. Generally, political parties that have members of parliament can obtain registration on that basis. So, they do not need to keep sending in 150 names and addresses.

Mrs Redmond: Let's imagine the Democrats.

The Hon. M.J. ATKINSON: I was going to say, let us imagine the Democrats. Let us imagine a political party which, through Sandra Kanck and David Winderlich, is jumping up and down demanding an independent commission against corruption. And let us imagine that perhaps the greatest act of corruption one can commit in any society is to abuse the constitution and the Electoral Act and get a member of parliament in on a casual vacancy where there is no legal entitlement to do it. Let us imagine that. Just fancy that, Madam Chair.

The Hon. G.M. Gunn: A most serious matter!

The Hon. M.J. ATKINSON: A most serious matter, as the member for Stuart said, which is why I braved the censure of so many of my colleagues on both sides to raise the possibility at the joint sitting. Let us just imagine that.

Mr Goldsworthy: He hates it!

The Hon. M.J. ATKINSON: Yes, I do love it. This provision is designed to say that, if you are a registered party and you do not have a member of parliament, then to maintain the advantages—the status—of continuing registration, you should annually show that you have 150 members.

Mrs Redmond: Now it will be 200.

The Hon. M.J. ATKINSON: And now 200, if my provision clears the other house. But if you are the Democrats and you are used to having up to three members of parliament and suddenly you lose the lot and you are back on relying for your registration on 150 names and addresses, you get a bit of a shock—have you still got 150?

Apparently, Aussie Kanck in his statutory declaration to the Electoral Commissioner could only say that to the best of his knowledge he had 150 members. There is a let-out, isn't it? Maybe he did not have 150 members but to the best of his knowledge he had 150.

It seems to me you either have 150 or you do not, and you go to the records of the political party of which you are the registered officer and have a good look and match them to the electoral roll. As far as I know, the Croydon sub-branch of the Australian Labor Party has more than 150 members and I know it because I can match them to the electoral roll.

Mr Goldsworthy: Is that all you have in your electorate?

The Hon. M.J. ATKINSON: 150 members, yes. A bit over 150.

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: The member for Mitchell interjects mischievously, 'Enough for only three delegates.' We are entitled to four, and if there was not a cap on delegations we would have more than four because we are historically the biggest sub-branch in the great Australian Labor Party, South Australian branch.

I think it is appropriate that, where a political party does not have a parliamentary representative, it be required annually to certify that it has 150 or 200 members. It is a reasonable requirement. That deals with these bogus political parties that in fact do not have anywhere near 150 or 200 members—that did on one occasion in their history but now do not. It is not a tremendously burdensome requirement for them to annually stump up evidence of 150 or 200 members. I do not think I am being unreasonable.

Mr PISONI: I seek some further clarification. Perhaps the Attorney could explain the difference between what happened in filling the Democrats' casual vacancy and filling the Xenophon casual vacancy. If it is important that there be proof of party membership for determining eligibility of a casual vacancy, my understanding is that Nick Xenophon was an Independent and was not a party member, and if the Hon. Sandra Kanck had actually resigned from the party before she had resigned from parliament would she have then been able to appoint somebody of her choice, as Mr Xenophon did? Perhaps the minister could explain how that might work.

The Hon. M.J. ATKINSON: That is a good question from the member for Unley. I congratulate him on Sturt's prevailing by more than 10 goals over Woodville West Torrens at Woodville on Saturday. The Labor candidate for Unley, Vanessa Vartto, had a tremendous time at Woodville Oval meeting so many Sturt supporters, who travelled (hundreds of them) to Woodville Oval to see their team triumph and Sturt full forward Brant Chambers kick 11 goals, a career high for him in a single match.

The question is a good one. If Sandra Kanck left the parliament, leaving the Democrats without a parliamentary representative or 150 members—and I have to say I think that is the truth of the situation—then her vacancy would have been treated like an Independent's vacancy and the parliament, in a joint sitting, would have determined who was the appropriate person to replace Sandra Kanck in those circumstances, as it did with Nick Xenophon's vacancy, because Nick Xenophon's having resigned as an Independent, there is no system that guides the joint sitting of parliament on how to replace Nick Xenophon. There is no system, is there? So, the parliament has discretion on whom to appoint to replace an Independent, as occurred with Nick Xenophon and as I say was the true legal situation upon Sandra Kanck's resignation.

It is not as if we did not know the difficulty of the circumstances that could face this system. I recall when Australians who were interested in politics were very angry when the Liberal-dominated Senate in 1975 replaced Labor's Lionel Murphy with alderman—

Mr Pisoni interjecting:

The Hon. M.J. ATKINSON: No, the member for Unley is not recalling correctly because I am talking about a New South Wales casual vacancy in the Senate.

The Hon. G.M. Gunn interjecting:

The Hon. M.J. ATKINSON: That is right. Exactly. The member for Stuart remembers correctly what the member for Unley is not remembering correctly. The Liberal-dominated Senate replaced Senator Lionel Murphy, upon his resignation to take a vacancy on the High Court, with the mayor, I think he was called alderman, Cleaver Bunton, of Albury, who was not a member of the Australian Labor Party.

Secondly, upon the death—and it is not that Bert Milliner had much choice in living or dying, but upon his death—I am sorry, not the Liberal-dominated Senate, the New South Wales parliament. Tom Lewis was the Premier, the member for Wollondilly. It was not the Liberal-dominated Senate, but the Liberal government of New South Wales that replaced Labor's Lionel Murphy with alderman Cleaver Bunton of Albury, who was not a member of the Australian Labor Party. Upon the death of Bert Milliner, a Labor senator from Queensland, the Queensland National Party government (I think it was then the Country Party government) replaced Bert Milliner with Albert Patrick Field—

The Hon. P.F. Conlon: A French polisher.

The Hon. M.J. ATKINSON: —a French polisher and, I think, a member of the Federated Furnishing Trade Society and, until that point, a member of the Australian Labor Party but not the nominee of the Australian Labor Party.

So, when we were discussing, in the aftermath of Malcolm Fraser's smashing electoral victory of 1975, whether to put a clause in the Australian constitution to stop this abuse of the casual vacancy clause, I remember John Gorton speaking at the Australian National University on the need for such a clause, which was subsequently put into the constitution at the instigation of the Fraser Liberal government at a referendum held in 1977.

As a smart aleck 17 year old undergraduate, I asked John Gorton, 'You advocate this provision, but what is going to happen when the senator departed is not a member of a political party or, in the case of Senator Steele Hall from South Australia, is a member of a political party that no longer exists?'

There is a difficulty, and the member for Unley identifies it. We have been aware of the problem for 34 years, and there is no simple way of overcoming it. Where the political party still exists, obviously the person should be the nominee of that political party. The member for Mitchell is proposing bequeathing seats in parliament to his heirs and successors according to law. I believe the member for Mitchell has children, so perhaps he will be able to leave the state district of Mitchell to one of them—although, which one would we choose?

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: Go with the eldest—eldest male or just eldest? The member for Unley is right. Yes, there is a problem. My contention is that, upon the departure of Sandra Kanck, the Democrats abused both the constitution and the Electoral Act to get David Winderlich up as the replacement. That is my opinion. I wonder whether that is something that an independent commission against corruption would look at if we had one, because I can think of no greater corrupt activity than perverting the constitution. Be that as it may, Mr Winderlich is there now, and whether he got there as a registered political parliamentary replacement or whether in fact he should have been chosen as an Independent, we will never know. He is there now; we have to cop it.

Mr PISONI: The section which refers to the Electoral Commissioner states:

> ...at any time by notice in writing require a registered officer of a registered political party to provide such information as specified in the notice for the purpose of determining whether the party is still eligible to be registered under this part.

Can the Attorney give me an example of the intention of that, that is, when the Electoral Commissioner may in fact use that particular part of the bill and whether there have been situations in the past when having that requirement was necessary but it was unable to be used because it was not available?

The Hon. M.J. ATKINSON: My view is that political parties are given the privilege of registration under the Electoral Act, and it is entirely in order for the Electoral Commissioner, on a proper substratum of fact, such as a credible allegation, to find that a political party is not complying with the act—

Mrs Redmond: To test the veracity.

The Hon. M.J. ATKINSON: —to test the veracity—as the member for Heysen quite correctly says; she gives the member for Unley his answer—of elements of the party's registration. It seems to me a reasonable provision.

The Hon. G.M. GUNN: My concern in relation to these particular matters is that it is well and good to create a situation where political parties must be registered, but one of the hallmarks of a democracy is that people ought to be able to organise themselves into committees or groups to support a person to run for parliament. That system has operated around Australia. You can get a group of concerned citizens—

The Hon. M.J. Atkinson: Without registration.

The Hon. G.M. GUNN: That is correct, but my real concern is that you must be very careful about putting too many restrictions on the ability of people to organise themselves into political parties, because in a democracy people should be able to have freedom of assembly. It is terribly important. Let us be honest. When I first came into this place the then deputy premier said to me, 'If in doubt, back the party. You won't be by yourself.' That was very good advice, and the same goes—

The Hon. M.J. Atkinson: And the acting deputy premier was Des Corcoran?

The Hon. G.M. GUNN: That is correct. If you are standing for parliament as an individual, it could be a fairly lonely sort of exercise, but if you can organise a group of people around you, you ought to be able to do it freely, without threats or intimidation and without any sort of restriction, in my view, as long as you are not acting illegally. These sorts of provisions that we have here are well and good today but my concern is that they can never be used to stop a group of law-abiding citizens forming themselves into an association to sponsor someone for parliament. That is my concern.

The Hon. M.J. ATKINSON: The member for Stuart is right, and I support his point of view. That is why, under the current Electoral Act, people who are not law-abiding citizens, namely, a group of people associated with the Gypsy Jokers outlaw motorcycle gang, have been able to form a political party in South Australia—called the FREE Party—to announce a candidate for parliament who will not even give his real name because we might find out about his record.

So, not only do we protect the rights in South Australia of law-abiding citizens but we are protecting the rights of some citizens who are not law abiding, according to the South Australia Police. So, I think we are going a long way in this bill to safeguard the rights of South Australians, and the FREE Party has just exercised that right to the nth degree. Not only that, I say to the member for Stuart, the FREE Party's registered officer will now be able to access the up-to-date Electoral Roll for all of South Australia. How is that for democracy and freedom? I think we are bending over backwards in South Australia to provide freedom and democracy.

All this provision says is that, if you are going to take the advantages of registration, which is to have the name of your party on the ballot paper and your registered officer to get updates of the Electoral Roll for the whole state, you should maintain 150 or 200 bona fide members when called upon by the Electoral Commissioner, and there is no sign in the past that the Electoral Commissioner has exercised this requirement in an onerous way.

What I would say to the committee and to the member for Stuart is that, if you do not maintain registration, the principal penalty on you is that you will not be able to avail yourself of the name of your political party on the ballot paper—and for 15 years, the member for Stuart stood for parliament without the Liberal Party name on the ballot paper next to his name. The people of the state district of Eyre found their way on the ballot paper to the name 'Gunn, Graham McDonald' and placed the number 1 next to his name in sufficient numbers for him to be re-elected to this place over and over again.

So, it is hardly an impediment to running for parliament and to organising a political party not to be registered. There is nothing in the bill currently before the parliament that in any way impinges on the freedom or democracy of South Australians and their right to form associations for

the purposes of sending people to parliament. Indeed, we are making it easier for them. In the case of the FREE Party, a party of very dubious provenance—

The Hon. G.M. Gunn: Scoundrels.

The Hon. M.J. ATKINSON: Scoundrels, as the member for Stuart says—we are allowing them to put their party name on the ballot paper, and we are giving them the up-to-date electoral roll for the entire state of South Australia. I reckon some of those other outlaw motorcycle gangs are going to be pretty envious of the Gypsy Jokers.

The Hon. G.M. Gunn interjecting:

The Hon. M.J. ATKINSON: Indeed; or take over the existing one.

Clause passed.

Clause 13 passed.

Clause 14.

Mrs REDMOND: I have two distinct questions on clause 14, and I will ask them separately. The first concerns new section 46A—False statements. I note that the maximum penalty for a person who, in furnishing information, makes a statement that is false or misleading in a material particular is guilty of an offence, and there is quite a heavy maximum penalty of $5,000. I would think that is a relatively—

The Hon. M.J. Atkinson: It is not exactly at the higher end of the range.

Mrs REDMOND: The Attorney says that it is not exactly the higher end of the range. However, for what is a relatively simple matter, I think it is at the higher end of the range for this type of offence in the sense of registration of a political party and so on. However, we can perhaps agree to disagree about that, Attorney. My question is: would the Attorney consider, between the houses, a proposal to insert into that section the word 'knowingly' at the end of the first line so that it would read, 'A person who, in furnishing information for the purposes of this part, knowingly makes a statement that is false or misleading in a material particular is guilty of an offence'? It seems that that would more thoroughly capture the intention of what I am sure the Attorney is trying to achieve.

The Hon. M.J. ATKINSON: Verily, verily it would. Not between the houses: I am willing to accept it here and now and I invite the member for Heysen to move it.

Mrs REDMOND: I move:

Page 11, line 13—After the words 'of this Part' insert 'knowingly'

It would then read, 'A person who, in furnishing information for the purposes of this part, knowingly makes a statement that it is false or misleading in a particular, is guilty of an offence'.

Amendment carried.

Mrs REDMOND: My other question on this clause relates to the other proposal, namely section 46B—Membership information to be confidential. I think I understand the intention of the clause, and I am confident that my understanding would be at one with the intention of the Attorney on this clause. My understanding is that the idea is that, when the proposed political party seeks registration, it nominates the various 200 people and they are tested and found to be correct.

The Hon. M.J. Atkinson: And checked against the electoral roll.

Mrs REDMOND: Exactly. So, everything is terrific, the Electoral Commissioner registers that party. The information as to who those party members are is intended to be kept confidential—no problem with that—and subsection (2) states:

Subsection (1) does not prevent the Electoral Commissioner providing information to a prescribed person or body or a person or body of a prescribed class (if any) for purposes connected with the operation or administration of this Act.

My question relates to that subsection of the clause. My assumption is that you intend that, if the Liberal Party (or any other party) needed to provide its membership numbers for registration, an officer or the director of that party would be able to get the details from the Electoral Commissioner. I want to know whether it is intended that the Electoral Commissioner could supply to your good self the details of, for instance, the Democrats. If you had a suspicion—

The Hon. M.J. Atkinson: No, someone has already done that.

Mrs REDMOND: But if you had a suspicion that in the future some fictional group known as the Australian Democrats would seek registration because they no longer had an elected representative—and, therefore, they were not a recognised party by virtue of an elected representative—and would nominate the required 200 people, the Electoral Commissioner would check their bona fides, find them to be not wanting and register the party. My interpretation of subsection (2) is that, within the party, those people could get information but you would not be able to get it. I want to clarify whether that is the intention of it, because it does not actually say that. It just says a prescribed class. Perhaps you could expand on what is intended by 'to be prescribed'.

The Hon. M.J. ATKINSON: The member for Heysen's question is a fair one. No, the minister responsible for the Electoral Act would not be a prescribed person. What we are thinking of there is supplying the names and addresses back to the registered party itself, because the situation might be that a minor party gets registered many years previously—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Yes. The registered officer absconds with the money—and it has been known to happen—and the membership list, and the party wants to know who its members are, or the party is challenged as to whether it has 200 bona fide members. To help track them down, its previous list is supplied to it. Also, they might be supplied to the Government Investigations Unit or the Crown Solicitor's Office, if it is believed the party is trying to pull the wool over the eyes of the Electoral Commissioner and the public, so that this matter can be properly investigated.

Progress reported; committee to sit again.

At 17:59 the house adjourned until Wednesday 13 May 2009 at 11:00.