LEGISLATIVE COUNCIL

Thursday 16 October 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 and read prayers.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions on notice be distributed and printed in *Hansard*:

BATHROOM FACILITIES

335 The Hon. SANDRA KANCK (21 June 2006) (First Session).

1. (a) Does the Minister for Police's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

   (ii) what was the cost of installation; and

   (iii) how many staff have access to it?

2. (a) Does the Police Commissioner's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

   (ii) what was the cost of installation; and

   (iii) how many staff have access to it?

3. (a) Does the Premier's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

   (ii) what was the cost of installation; and

   (iii) how many staff have access to it?

4. (a) Does the Treasurer's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

   (ii) what was the cost of installation; and

   (iii) how many staff have access to it?

5. (a) Does the Attorney-General's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

   (ii) what was the cost of installation; and

   (iii) how many staff have access to it?

6. (a) Does the Commissioner for Social Inclusion's office have an en-suite toilet and/or other bathroom facilities; and

   (b) If so:

   (i) when was it installed;

(ii) what was the cost of installation; and

(iii) how many staff have access to it?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business):

1. (a) Yes.

(b) (i) The en-suite toilet and bathroom facility was installed prior to the Minister for Police occupying the office.

(ii) The cost of the installation of the en-suite is unable to be provided. The honourable member will need to seek this information from the former Liberal premier, John Olsen, who previously occupied the office.

(iii) As the en-suite is attached to the minister's office, it is only used by the minister.

2. South Australia Police (SAPOL) has provided the following information:

(a) There is an en-suite attached to the office space used by the Commissioner of Police on Level 9 of Police Headquarters located at 30 Flinders Street, Adelaide.

(b) (i) The en-suite was part of the building fit out completed in 1993 when the South Australia Police (SAPOL) commenced occupation of the site.

(ii) The cost of the installation of the en-suite is not recorded as an individual item as it was a component of the whole building preparation.

(iii) As the building design is such that the facility can only be accessed through the commissioner's office, it is only used by the commissioner or anyone who may be using that office space in the commissioner's absence.

3. The Premier has provided the following information:

(a) The Premier's office includes an en-suite toilet and bathroom facility located on Level 15, State Administration Centre.

(b) (i) The en-suite and bathroom facility was installed some years before I was sworn in as Premier as part of the whole of building refurbishment of the State Administration Centre (SAC) completed in 1994. It was part of the office used by former premier Dean Brown. An en-suite and bathroom facility was also part of the second premier's office established at great expense by Mr Brown's successor John Olsen in Terrace Towers.

(ii) The Department of Administrative and Information Services (DAIS) managed the SAC whole of building refurbishment project. DAIS has advised that the cost of installation is unable to be provided, as it was not separately itemised from the whole of project costs.

(iii) Access is available on a needs basis, subject to availability.

4. The Treasurer has provided the following information:

(a) Yes. The Treasurer's office includes an en-suite toilet and bathroom facility located on level 8, State Administration Centre (SAC).

(b) (i) The en-suite toilet and bathroom facility was installed as part of the whole of building refurbishment of the SAC in 1993.

(ii) The Department of Administrative and Information Services (DAIS) managed the whole of building refurbishment project. DAIS has advised that the cost of installation is unable to be provided, as it was not separately itemised from the whole of project costs.

(iii) The Treasurer is the only person with access to these facilities.

5. The Attorney-General has provided the following information:

(a) The Attorney-General's office has an adjoining toilet and shower.

(b) (i) These were installed as part of the original fit out on this floor in 1991, unlike the one recently installed by the DPP.

(ii) The cost of these were not separately calculated and recorded as it formed part of a large package of fit out works spanning six floors of the building at 45 Pirie Street when the Hon. Chris Sumner was Attorney-General.

(iii) It is not for the exclusive use of the Attorney-General.

6. The Premier has provided the following information:

(a) The Commissioner for Social Inclusion's office does not have an en-suite toilet and/or bathroom facilities.

COUNSELLING SERVICES FUNDING

109 The Hon. J.M.A. LENSINK (26 September 2008) (Second Session).

1. Can the Minister for Families and Communities advise whether Children, Youth and Family Services (CYFS) have brokerage funds for counselling services?

2. What level of funding is available?

3. (a) Which providers have received funding; and

(b) How much has each received?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Families and Communities has provided the following information:

Children, Youth and Family Services changed its name to Families SA on 1 June 2006.

The government has a strong commitment to ensuring that the mental health needs of young people are met. Families SA, Department for Families and Communities (DFC) has psychological services to ensure appropriate responses are facilitated for young people who are entering care or who are in care.

For the most part, Families SA's Psychological Services Branch provides assessment, consultation and advice regarding young people and families involved with the department via court-related children's protection or youth justice matters. It also provides therapeutic interventions for some children in community residential care and transitional accommodation, with other children being referred to appropriate external service providers.

Child Adolescent Mental Health Services, a division of Children, Youth and Women's Health Service Inc (CYWHS), receives referrals from Families SA for therapy and provides priority access as per the government's agreement for 'rapid response: whole of government services for children and young people under the guardianship of the minister'.

Second Story Mental Health Services, the youth section of CYWHS, provides a health service to young people who are detained in youth training centres, which includes ensuring the availability of appropriate mental health responses for young people in secure care.

Some specialist therapeutic counselling is also provided through the Child Protection Services located at the Women's and Children's Hospital and Flinders Medical Centre.

As per the Keeping Them Safe funding agreements, Children's Protection Services at Flinders Medical Centre and the Children, Youth and Women's Health Service provide therapeutic interventions upon referral by Families SA case managers to children and young people under care and protection and guardianship orders, with particular priority given to Aboriginal children.

The Families SA budget of $3.647 million for psychological services includes staff salaries (33 full-time equivalent staff) and $610,000 for private, external service providers for both psychological assessments and the provision of therapeutic services. This is an allocation from the Families SA Children's Payments Budget.

All private psychologists are members of a private provider panel. The private provider panel is made up of psychologists who have applied, been assessed and approved via a procurement process to provide psychological services to clients of Families SA.

In 2006-07, $359,161.86 was expended on psychological assessments and $139,327.60 on therapy by private psychology providers.

Families SA Psychological Services funding is for psychological services only. Families SA District Centres (DC) occasionally engage private therapists, such as social workers and psychotherapists, to provide specific services to children and young people. This funding is managed by individual DC managers.

There are also funds available for counselling via funded brokerage of the commonwealth funded Supported Accommodation Assistance Program (SAAP), which is available only for young people aged 16 to 18 years. It is for support in and around independent living and to address issues around homelessness.

MINISTERIAL STAFF

127 The Hon. R.I. LUCAS (12 February 2008) (Second Session).

1. Can the Minister for Education and Children's Services advise the names of all officers working in the minister's office as at 1 December 2006?

2. What positions were vacant as at 1 December 2006?

3. For each position, was the person employed under ministerial contract, or appointed under the Public Sector Management Act?

4. What was the salary for each position and any other financial benefit included in the remuneration package?

5. (a) What was the total approved budget for the minister's office in 2006-07; and

(b) Can the minister detail any of the salaries paid by a department or agency rather than the minister's office budget?

6. Can the minister detail any expenditure incurred since 2 December 2005 and up to 1 December 2006 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Education and Children's Services has provided the following information:

Part 1, 3 and 4.

Details of ministerial contract staff were printed in the *Government Gazette* dated 5 July 2007.

Details of public servant staff located in the minister's office as at 1 December 2006 were as follows:

Position Title	Ministerial Contract/PSM Act	Salary & Other Benefits	Funding Source
PA to Minister	ASO 5	$57,200	Minister's Office
PA to Chief of Staff and Advisers	ASO 3	$46,453	Minister's Office
Office Manager	ASO 7	$72,775	Minister's Office
MLO Non Govt Schooling Sector	ASO 6 (0.9)	$61,190	DECS
Liaison Officer	ASO 3	$46,453	DECS
Receptionist—Shared with CE Office	ASO 2	$40,321	DECS
Ministerial Liaison Officer Education	ASO 6	$67,989	DECS
Liaison Officer	ASO 4	$51,874	DECS

Position Title	Ministerial Contract/PSM Act	Salary & Other Benefits	Funding Source
Senior Admin Officer	ASO 4	$51,874	Minister's Office
Parliamentary Officer	ASO 5	$61,944	DECS
Communication Adviser	ASO 6	$67,989	Minister's Office
Administrative Officer	ASO 2	$40,321	DECS
MLO Tourism	Contract SATC		SATC
Administration Officer Corro	ASO 2	$40,321	Minister's Office
Administration Officer Corro	ASO 2	$40,321	Minister's Office

Part 2.

Refer to table provided

Part 5.

(a) Total approved budget for the Minister's office in 2006-07: $1,315,000

(b) Refer to table provided

Part 6.

No expenditure was incurred since 2 December 2005 and up to 1 December 2006 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500.

MINISTERIAL STAFF

133 The Hon. R.I. LUCAS (12 February 2008) (Second Session).

1. Can the Minister for the River Murray advise the names of all officers working in the minister's office as at 1 December 2006?

2. What positions were vacant as at 1 December 2006?

3. For each position, was the person employed under ministerial contract, or appointed under the Public Sector Management Act?

4. What was the salary for each position and any other financial benefit included in the remuneration package?

5. (a) What was the total approved budget for the minister's office in 2006-07; and

(b) Can the minister detail any of the salaries paid by a department or agency rather than the minister's office budget?

6. Can the minister detail any expenditure incurred since 2 December 2005 and up to 1 December 2006 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for the River Murray has advised:

1, 3 and 4 Details of the ministerial contract staff were printed in the government *Gazette* dated 5 July 2007.

Details of public servant staff located in the minister's office as at 1 December 2006 were as follows:

1. Position Title	3. Ministerial Contract/PSM Act	4. Salary & other Benefits
Chief of Staff	Ministerial Contract	As listed in *Government Gazette* dated 5/7/07
Ministerial Adviser x 3	Ministerial Contract	As listed in *Government Gazette* dated 5/7/07

1. Position Title	3. Ministerial Contract/PSM Act	4. Salary & other Benefits
Ministerial Liaison Officer x 3	PSM Act	
Office Manager	PSM Act	$70,369
Parliamentary Officer	PSM Act	$53,690
PA to Minister	PSM Act	$51,319
Correspondence Officer	PSM Act	$44,903
Administrative Services Officer		$32,042

2. Receptionist—PSM Act

5. (a) $1.374 million; and

(b) 3 ministerial liaison officers

6. 1 x Printer—$1,043.00

1 x Laptop computer—$1,533.00

MINISTERIAL STAFF

142 The Hon. R.I. LUCAS (12 February 2008) (Second Session).

1. Can the Minister for Education and Children's Services advise the names of all officers working in the minister's office as at 1 December 2007?

2. What positions were vacant as at 1 December 2007?

3. For each position, was the person employed under ministerial contract, or appointed under the Public Sector Management Act?

4. What was the salary for each position and any other financial benefit included in the remuneration package?

5. (a) What was the total approved budget for the minister's office in 2007-08; and

(b) Can the minister detail any of the salaries paid by a department or agency rather than the minister's office budget?

6. Can the minister detail any expenditure incurred since 2 December 2006 and up to 1 December 2007 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Education and Children's Services has provided the following information:

Part 1, 3, 4.

Details of ministerial contract staff were printed in the *Government Gazette* dated 5 July 2007.

Details of public servant staff located in the minister's office as at 1 December 2007 were as follows:

Position Title	Ministerial Contract/PSM Act	Salary & Other Benefits	Funding Source
PA to Minister	ASO 5	$60,747	Minister's Office
PA to Chief of Staff and Advisers	ASO 4	$51,319	Minister's Office
Office Manager	ASO 7	$79,071	Minister's Office
MLO Non Govt Schooling Sector	ASO 6 (0.9)	$64,112	DECS
Liaison Officer	ASO 4	$54,887	DECS
Receptionist—Shared with CE Office	ASO 2	$39,416	DECS
Ministerial Liaison Officer Education	ASO 6	$67,781	DECS
Liaison Officer	ASO 4	$52,463	DECS

Position Title	Ministerial Contract/PSM Act	Salary & Other Benefits	Funding Source
Senior Admin Officer	ASO 4	$54,887	Minister's Office
Parliamentary Officer	ASO 5	$65,542	DECS
Communication Adviser	ASO 6	$69,059	Minister's Office
Administrative Officer	ASO 2	$42,663	DECS
Administration Officer Correspondence	ASO 2	$41,040	Minister's Office
Administration Officer Correspondence	ASO 2	$41,040	Minister's Office
Trainee	Trainee		Minister's Office
MLO Tourism	Contract SATC		SATC

Part 2.

Refer to table provided.

Part 5.

(a) Total approved budget for the minister's office in 2007-08: $1,385,200.

(b) Refer to table provided.

Part 6.

Expenditure incurred since 2 December 2006 and up to 1 December 2007 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500 is outlined as follows:

June 2007—Mobile phone $643.18.

July 2007—Scanner $1,631.38.

MINISTERIAL STAFF

148 The Hon. R.I. LUCAS (12 February 2008) (Second Session).

1. Can the minister for the River Murray advise the names of all officers working in the minister's office as at 1 December 2007?

2. What positions were vacant as at 1 December 2007?

3. For each position, was the person employed under ministerial contract, or appointed under the Public Sector Management Act?

4. What was the salary for each position and any other financial benefit included in the remuneration package?

5. (a) What was the total approved budget for the minister's office in 2007-08; and

(b) Can the minister detail any of the salaries paid by a department or agency rather than the minister's office budget?

6. Can the minister detail any expenditure incurred since 2 December 2006 and up to 1 December 2007 on renovations to the minister's office and the purchase of any new items of furniture with a value greater than $500?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for the River Murray has advised:

1, 3 and 4. Details of the ministerial contract staff are due to be printed in the *Government Gazette* in July 2008. These details were also provided to you in response to a FOI on 27 February 2007.

Details of public servant staff located in the minister's office as at 1 December 2007 were as follows:

1. Position Title	3. Ministerial Contract/PSM Act	4. Salary & other Benefits
Office Manager	PSM	$70,369
PA To Minister	PSM	$51,319
Parliamentary/Cabinet Officer	PSM	$53,690
PA to Chief of Staff	PSM	$44,903
Correspondence/Records Officer	PSM	$44,903
Administrative Services Officer	PSM	$32,042
Receptionist	PSM	$38,787

2. Nil

5. (a) $1,461,000; and

(b) 3 x ministerial liaison officers (DWLBC $66,356; SAW $78,991, DTED $82,227)

6. No office renovations occurred between December 2006 and December 2007.

Purchase of new items of furniture with a value greater than $500

Filing cabinets—$1591.00

Office chairs—$2170.00

MINISTERIAL TRAVEL

187 The Hon. R.I. LUCAS (12 February 2008) (Second Session).

1. What was the total cost of any overseas trip undertaken by the then minister and staff since 2 December 2006 up to 1 December 2007?

2. What are the names of the officers who accompanied the then minister on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the then minister's office budget, or by the then minister's department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Education and Children's Services has provided the following information:

1. $18,860.47

2. Personal Assistant to the minister

2. No

4. Minister's office budget

5. (a) London

(b) Travel to United Kingdom for the promotion of the Tour Down Under and South Australian Tourism during the Tour de France and meetings with key executives of the South Australian Tourism Commission's airline partners.

NURSE STAFFING LEVELS

259 The Hon. SANDRA KANCK (9 April 2008). Can the Minister for Health advise what were the theatre nursing staffing levels at the Queen Elizabeth Hospital for the years:

1. 2005-06;

2. 2006-07; and

3. 2007-08?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Health has advised:

The Queen Elizabeth Hospital Nursing Staff Levels	
	Operating Theatre Budgeted FTE
25 June 2005—23 June 2006	38.12
24 June 2006—22 June 2007	38.24
23 June 2007—9 April 2008	
(Nights included)	39.89

PLANNING SA

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:19): I seek leave to make a ministerial statement about administrative arrangements

Leave granted.

The Hon. P. HOLLOWAY: In June this year, the government embarked on the broadest range of planning reforms seen in South Australia in decades. These reforms are building on the current strengths of the South Australian planning system to deliver the most efficient and effective assessment and approval process in the nation. The government aims to create a planning system that will help improve home affordability, improve the amenity of our suburbs, help guarantee future economic prosperity, and ensure that all South Australians have the opportunity to benefit from future economic growth.

As part of these substantial reforms, I joined with the Minister for State/Local Government Relations (my colleague, the Hon. Gail Gago) today to announce the integration of several agencies working with local government and urban development planning into a single department. These agencies, currently operating within Primary Industries and Resources SA, as well as Planning SA, will be combined from next month to create a department of planning and local government.

The move to combine the agencies under one roof follows the establishment of Planning SA as a stand-alone department carved out of PIRSA in June this year in direct response to a key recommendation of the wide-ranging Planning and Development Review. The new department will support the Rann Labor government's implementation of a new and progressive planning system arising from the recommendations of that planning review.

The combination of planning and local government under one department will encourage a collaborative and successful working relationship between state and local governments within South Australia as we aim to implement these important reforms. The agencies to be merged in the new department comprise Planning SA, the Office for State/Local Government Relations, the Office for the Southern Suburbs, the Local Government Grants Commission, and the Outback Areas Community Development Trust.

As part of today's announcement, the Governor has approved the appointment of Ian Nightingale as Chief Executive to head the new department. Mr Nightingale, who takes up the appointment from 3 November, is currently the Executive Director of the Aquaculture Division within PIRSA, and he has worked within that department for the past eight years. He has extensive experience in strategic management and leading organisational change within the South Australian Public Service. He has also worked as chief executive of the Eyre Regional Development Board and as general manager of the Lincoln Cove Development Company.

I take this opportunity to acknowledge the substantial contribution made this year by Mr John Hanlon as acting chief executive of Planning SA in assisting the government in the task of implementing the extensive reforms identified by the planning review.

MEDVET

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises,

Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:21): I table a copy of a ministerial statement relating to IMVS and Medvet made earlier today in another place by my colleague the Hon. John Hill.

QUESTION TIME

PLANNING SA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the so-called new-look Planning SA.

Leave granted.

The Hon. D.W. RIDGWAY: When the current Rann Labor government assumed office in 2002, the department of transport and urban planning (as it was) comprised a number of agencies, including Planning SA and the Office of Local Government. This remained as such until 1 July 2005, when significant changes were made to the department's portfolio structure and the aforementioned agencies were transferred to PIRSA.

A joint press release issued today (and, of course, we have just heard the ministerial statement from the minister) by the Minister for Urban Development and Planning and the Minister for State/Local Government Relations announced a new-look Planning SA which, as it states, integrates several agencies working with local government in a single department to create a department of planning and local government. The Minister for State/Local Government Relations boasted in her media release that the combination of planning and local government under one department will encourage a collaborative and successful working relationship between state and local government.

I remind this council that, throughout the time of the former state Liberal government, those agencies were housed jointly, with a recognition that such relations are fundamental to an efficient planning system. My question to the minister is: as part of this government's $11.9 million commitment to planning reforms, how much of that money is being spent on re-establishing an arrangement that existed under the former Liberal government and was disbanded by his government?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:25): There is no cost involved with transferring an agency from one department to another.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: No, nothing could be further from the truth. Under the Liberal Party the department dealing with both planning and local government was buried within the Department of Transport and inevitably it was very much overlooked. That is why the planning review in its most recent report highlighted the fact that one of the changes that should be made was to make Planning SA and those related parts a stand-alone department, and that is what has happened. Local government is a very important part of the planning system. Over 95 per cent of all development application decisions are made by local government, so it is a very important part.

The important thing this government has done is to have a department with Planning SA, with its associated agencies of local government—so important to the planning system—together in one department and not buried within a much larger agency as they were previously, in particular, under the previous government. It is quite different.

PLANNING SA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): Will the new arrangements allow the new department to finalise its accounts and have them audited in time to be presented with the Auditor-General's Report next year?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:27): I am sure that will be the case.

LIQUOR LICENSING OFFICERS

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about liquor licensing officers.

Leave granted.

The Hon. J.M.A. LENSINK: Under freedom of information, the Liberal Party received some information in relation to disciplinary actions in the Licensing Court for the period 2007-08. The document states that two compliance investigators and 10 inspectors are employed by the Office of the Liquor and Gambling Commission. These documents reveal that some 30 licensees were prosecuted, but only one as a result of the action of the Liquor Commissioner's Office, 27 of its actions were initiated by the police, and two were not listed.

The one complaint prosecuted by the Liquor Commissioner's Office was for a door left open while entertainment was in progress. I note that none of the prosecutions was for serving alcohol to either inebriated or under-age patrons. My question to the minister is: what on earth are her officers doing to curb, as the Premier put it, the binge drinking problem we have in South Australia?

The Hon. B.V. Finnigan: Why don't you talk to your colleague on the back bench? He is out there defending the pubs. Talk to Rob. You don't talk to each other over there.

The PRESIDENT: Order!

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:29): I welcome the opportunity to speak on this most important topic in response to a question from the opposition. Risky or high-risk alcohol consumption for short-term harm is defined as 'alcohol consumption greater than that recommended by the current Australian guidelines'. Currently, a review of those guidelines is under way and will be finalised shortly.

Responsible consumption of alcohol initiatives developed and promoted by the Office of the Liquor and Gambling Commissioner include:

- the safe partying initiative;
- information provided to assist parents, families and communities to develop harm minimisation strategies that address alcohol consumption at parties or special events, developed collaboratively with agencies such as SAPOL, DECS and DASA;
- manufacturers such as Coopers and retailers such as Woolworths have been encouraged to include responsible consumption messages in their advertising and packaging;
- a wallet card providing information about alcohol and the law and promoting responsible service of alcohol for young people has been published and handed out;
- the promotion of responsible consumption of alcohol messages at events such as Crockfest and Schoolies, which we do a lot of work on, and the Big Day Out;
- a parents' guide entitled 'Teenage Parties & Alcohol' has been developed, featuring things such as party tips and outlining legal responsibilities.

That has been produced by the office and widely circulated to schools, council offices and police stations. The office is also involved in the development of the South Australian Alcohol Action Plan, which I have previously spoken at length about in this place under my former portfolio responsibilities. That is in conjunction with SAPOL and DASSA and representatives from a number of government agencies. Of course, the priorities of that plan reflect the National Alcohol Strategy and include things such as reducing the incidence of intoxication among drinkers; enhancing public safety and amenity at times and at places where alcohol is consumed; improving health outcomes among individuals and communities affected by alcohol consumption; and facilitating safer and healthier drinking cultures by developing community understanding about the properties of alcohol through its regulation.

They are a number of the initiatives, including the announcement, on 10 March, of the $53 million national binge drinking strategy, and there are a number of very important strategies in that initiative that we will be rolling out as well. So, you can see that there is a great deal that we do and have planned to do over the next few months.

LIQUOR LICENSING OFFICERS

The Hon. J.M.A. LENSINK (14:32): I have a supplementary question. Of all the activities that the minister has just referred to, which ones involve officers from the Liquor and Gambling Commission?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:32): The honourable member obviously did not listen, but I will go through it all again. I talked about the Safe Partying Initiative, which includes input; I talked about the negotiations with Coopers and places such as Woolworths, which the office was involved in; I talked about the promotion of the responsible consumption of alcohol messages, which the office has input into; the parents' guide, again, which the office has input into; and I talked about the office being involved in and having input into the development of the alcohol action plan. So, virtually all of the initiatives that I have listed—I did qualify the federal initiatives—the office has in some way had input into. So, the honourable member needs to clean out her ears.

INDIGENOUS OFFENDERS

The Hon. S.G. WADE (14:33): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question relating to indigenous offenders.

Leave granted.

The Hon. S.G. WADE: Yesterday the minister asserted that indigenous prisoners are placed in doubled-up, or dormitory-style accommodation because 'they prefer it that way'. I refer to an article in volume 10 of the Flinders Journal of Law Reform, dated April 2008, entitled 'The Case for Single Cells and Alternative Ways of Viewing', by Elizabeth Grant and Paul Memmott. The paper outlines doctoral research by Dr Grant which involved a survey of South Australian Aboriginal prisoners and which found:

> 77 per cent of the subject group recorded a preference for single occupancy accommodation, along with environmental design initiatives that integrate the needs of the social group into the prison environment.

In the article Grant and Memmott suggest:

> A best practice option may be to establish Aboriginal living units within the prison which contain a number of individual cells and communal living areas.

My question is: considering that the research was undertaken in her own prison system, was the minister aware of the research when she made her statement yesterday and, if so, on what basis does the minister assert that indigenous prisoners prefer doubling up and dormitory-style accommodation, and that doubling up is safer for indigenous offenders?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:35): I have spoken on a number of occasions now this week about prison numbers, and one of the comments I made is that the department will install an Aboriginal unit with 12 beds at Port Augusta, still within the secure perimeter. The other comment I have made—and, indeed, it was made by the Hon. Robert Lawson, I believe—is that in some cases Aboriginal prisoners actually prefer the 'buddy up' system.

What I mentioned also was the Port Lincoln dormitory and, certainly, when I visited there the advice to me was that one prisoner that day who had been in prison for some time had had a loss in his family and he was being supported by his peers. I am fairly certain they are the words I used.

The Hon. S.G. Wade: You've got no idea. You just make it up as you go along.

The Hon. CARMEL ZOLLO: I am not making anything up. That happens to be a fact.

The Hon. S.G. Wade: Well, tell us why you think Aboriginal people prefer—

The Hon. CARMEL ZOLLO: The advice to me was that Aboriginal prisoners, whilst they are under some duress or stress, prefer a buddy system, and they also prefer, during a time of crisis in their family, to be supported by other prisoners. As I said, I have visited that particular dormitory and, certainly, it is very humane.

MINING SECTOR

The Hon. B.V. FINNIGAN (14:36): I seek leave to make a brief explanation before asking the Leader of the Government and Minister for Mineral Resources Development a question regarding the outlook for mineral investment in South Australia.

Leave granted.

The Hon. B.V. FINNIGAN: The global economy is currently undergoing a period of uncertainty. Indeed, I understand that the ASX was down 6.5 per cent before noon today.

Members interjecting:

The Hon. B.V. FINNIGAN: Apparently the economic security of our state is of no interest to members of the opposition. Banks are refusing to lend to each other, and the ability of companies, regardless of their worthiness to obtain credit, to raise finance through international credit and stock markets is becoming increasingly difficult. Given the current turmoil on world markets in recent weeks, will the minister provide any details of the state of investment in South Australia's mineral sector?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:37): I thank the Hon. Mr Finnigan for his question and his interest in matters of significant importance to this state—

Members interjecting:

The Hon. P. HOLLOWAY: —matters that, obviously, members opposite are not interested in. They are only interested in playing games. As the Hon. Mr Finnigan pointed out, there is a great deal of uncertainty in world markets. That is why I was delighted by the statements this week by key players in the South Australian resources sector which provide this government with increased hope that our local economy will withstand much of the buffeting from the global credit crunch.

Only this morning, Uranium One Incorporated of Canada and Mitsui & Co. of Japan announced they have reached a joint venture agreement to develop Uranium One's Australian assets, which include the Honeymoon uranium mine in South Australia. The commitment from Mitsui of about $104 million to the joint venture will help to advance the development of the Honeymoon project into commercial production by 2010.

PIRSA granted final approval for the Honeymoon mining and rehabilitation program back in January this year after an extensive scientific and environmental assessment. In May, Uranium One announced it was seeking a strategic partner for the development of its Australian assets, including the Honeymoon uranium project. Mitsui has agreed to be that strategic partner, and this government now looks forward to work beginning on construction of the Honeymoon mine.

The decision by an overseas investor to commit millions of dollars to develop this mine amid the current global economic uncertainty highlights the confidence resource companies have in South Australia. Such confidence was recently reinforced by the results of the ResourceStocks World Risk Survey, which ranked South Australia No. 1 nationally and No. 2 internationally as a low-risk destination for investing in the minerals sector.

It is pleasing that Mitsui, a major Japanese company, has decided to become a key investor in this state through its association with Uranium One, itself a Canadian company with interests here in Australia, including the Goulds Dam and Billeroo projects and prospective tenements on the Stuart Shelf and Eyre Peninsula. The jobs and investment flowing from this joint venture agreement will support the long-term economic development of this state, and provide important export earnings for Australia. The joint-venture agreement is conditional on approval by the Foreign Investment Review Board, so final approval rests with our federal counterparts in Canberra.

I was heartened to note that Mr Greg Cochran, the executive vice-president for Australia at Uranium One, acknowledged the continued support that the company has received from the South Australian government in developing the Honeymoon project. A news release issued today by Mr Cochran states:

> This agreement is a huge vote of confidence in the Australian mining industry and the South Australian uranium industry and brings a highly respected Japanese trading house with a long history in the nuclear business to the state.

We should soon be able to proceed with full confidence and build Honeymoon, as well as develop our other South Austrian prospects that complement our project pipeline.

Uranium One has enjoyed continued support from the South Australian government throughout this process, and we acknowledge and thank them in this regard.

I also acknowledge that uranium mining remains a contentious issue with some members of the community. So, I wish to assure the public that this project has been approved on the basis of using world's best practice. The use of in situ recovery to extract the uranium confirms Uranium One's commitment to using the most responsible form of mineral production possible.

Both PIRSA and Uranium One have put enormous work into ensuring that the Mining and Rehabilitation Program, approved in January this year, emphasises the high standards for rehabilitation of the site. Honeymoon will be capable of producing some 400 tonnes of uranium oxide a year, resulting in an expected mine life of six to seven years. Based on this production rate, the annual export contribution for the state is estimated to be about $40 million.

As the project steps up to full production, Uranium One expects to create about 60 new jobs at the mine, generating added value for this state. South Australia has a range of new uranium mines being developed and proposed, plus 81 uranium exploration licences now issued throughout the state.

Uranium mines currently being developed include the expansion of BHP Billiton's Olympic Dam project and Heathgate Resources' Beverley uranium mine, west of Broken Hill. Applications have also been received this year for mining leases for new uranium mines at Four Mile and Crocker Well. The Crocker Well uranium project, located 400 kilometres north of Adelaide, is 60 per cent owned by China's Sinosteel and 40 per cent by PepinNini Minerals.

The Sino-Australian partnership plans to export between $100 million and $200 million of uranium a year from its South Australian operations. Joint Venture Partners, Alliance Resources and Quasar Resources, have recently announced that they intend to mine the Four Mile uranium deposit from 2010, subject to necessary regulatory approvals. Four Mile, a rich high-grade 3.9 million tonne uranium deposit, is located near the existing Beverley mine.

These new mining projects would not have been possible under the ALP's former 'no new mines' policy. I am also pleased to inform members that just this week a mineral lease was granted to Hillgrove Resources Limited for the development of the 2 million tonnes a year Kanmantoo copper gold mine in the Adelaide Hills. Kanmantoo is the second metal mine to be approved in the Mount Lofty Ranges since the Rann Labor government came to office, following closely on the heels of last month's opening of Terramin's Angas zinc project near Strathalbyn.

Hillgrove, an Adelaide-based resource company listed on the Australian Stock Exchange, intends to resume mining at the Kanmantoo site, which had previously operated until the mid-1970s. The granting of a lease to Hillgrove for the Kanmantoo copper gold mine is great news for the South Australian economy. The project, located between Kanmantoo and Callington, will provide a significant boost to the local community, with the potential to generate more than 150 new jobs and the injection of $55 million a year into the South Australian economy.

I would also like to acknowledge the efforts made by Hillgrove to work closely with local community members and interest groups to develop its project. Formal community meetings have been held since mid-2005, and the Kanmantoo Callington Community Consultative Committee has identified a range of issues such as native vegetation, transport routes and water usage and their effects on local communities that are being addressed by Hillgrove Resources as it develops this mine.

PIRSA is currently working with Hillgrove to develop a mining and rehabilitation program (MARP), which will set out the operational standards for the project. Many of the recommendations put forward by the community, as well as the company's response, will be used as the basis for this MARP.

The continued confidence resource companies have to invest in South Australia, particularly in the current economic climate, is testament to the policies of this government. The millions of dollars of investment in the minerals sector and the jobs and exports they create here in this state are unarguably great news for the local economy and great news for all South Australians.

WATER SUPPLY

The Hon. A. BRESSINGTON (14:45): I seek leave to make a brief explanation before asking the minister representing the Premier a question about water.

Leave granted.

The Hon. A. BRESSINGTON: When the Rudd government was elected in November last year, all Australians were promised a higher level of cooperation between state and federal governments. This morning the Hon. Greg Hunt, federal shadow minister for climate change, environment and water, informed South Australians via the Leon Byner show on FIVEaa that the federal government had voted down a $50 million rescue package for the Lower Lakes and the Coorong. Shame!

The health of the Coorong is a barometer for the sustainability of the entire surrounding areas and the water systems that sustain the local community as well as wildlife and local businesses. Last week I spoke with Gary Hera-Singh about the challenges that face these areas, where dairy farmers have literally walked off their land, and now the cockle industry is in dire straits as well.

One has to wonder just how important it is to the government to take proactive measures to ensure the well-being of the people who elected it to do their bidding. Instead, we are seeing a government that has adopted a crisis management approach rather than a government with a long-term vision and solutions for the future challenges that face the state.

These communities are facing annihilation if something is not done, and done quickly. We have tourism destinations at risk, and we have the fact that the Coorong is an environmental World Heritage-listed sanctuary that is also protected by the UN Ramsar Convention. This convention was signed in Ramsar in 1971 and is an intergovernmental convention that provides a framework for international and national cooperation for the conservation and wise use of wetlands and their resources.

If the international community can recognise the importance of the Coorong and the ramifications of its demise, surely our Premier must ensure that this valuable and well-recognised icon is protected no matter what. My questions are:

1. What steps is the Premier taking to ensure that the federal government is morally and politically bound to provide money to rescue the Coorong and Lower Lakes areas?

2. When will the Premier meet with the Prime Minister, Kevin Rudd, to pursue this matter on behalf of all South Australians and inform us all of the outcome?

3. What will the Premier do if the federal government continues to ignore the plight of the South Australian Lower Lakes and Coorong?

4. Does the Premier support the federal government's decision not to support the Liberal opposition's amendment to increase funding for the Lower Lakes and Coorong, given the $10 million rescue package that has been announced in an effort to stimulate the economy?

5. Can the Premier estimate what the demise of the Lower Lakes and Coorong communities will cost the South Australian community?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:47): Of course, this so-called $50 million rescue package was something concocted by the former leader of the Liberal Party, Dr Nelson, during the Mayo election campaign. It was a stunt.

What this government and this Premier have done is negotiate a $600 million package—not a $50 million package—for this state that will provide new infrastructure, a significant proportion of which will be spent specifically to assist people in the Lower Lakes region. This Labor government, both state and federal, is about substance; it is not about stunts.

Members interjecting:

The PRESIDENT: Order!

PRISONS, OVERCROWDING

The Hon. R.D. LAWSON (14:48): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about prison overcrowding.

Leave granted.

The Hon. R.D. LAWSON: In answers to questions this week the minister has sought to stress that she makes no apology—I repeat: makes no apology—and is tough (following the media unit's advice) in respect of the fact that a large number of remandees are held in custody in South Australian prisons. She has said that she would rather see these people behind bars than on the streets.

On Monday this week Justice Bleby in the Supreme Court of South Australia heard an application for bail by a remandee being held in the cells at the Adelaide Watch House who had been held there for a number of days. The judge was informed of the inappropriate accommodation for holding persons for any length of time in those cells, which are designed for temporary holding only. Although the judge refused the application for bail, he said that if the situation continued there might be grounds for reconsidering the application for bail. In other words, there is a real possibility that the government's failure to provide appropriate accommodation for remandees will lead to certain persons charged with offences being released into the community. My questions are:

1. Is the minister aware of the judge's remarks, and what action does she propose to take in relation to them?

2. Is she aware that the government's failure to provide appropriate accommodation is placing the community at risk by forcing the release of persons who would ordinarily be refused bail?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:51): I thank the honourable member for his question. Again, it was a question full of comment, views and conjecture, even presuming to put words into a judge's mouth. Did the honourable member say the City Watch House?

The Hon. R.D. Lawson interjecting:

The Hon. CARMEL ZOLLO: Until we had the major incident at Port Augusta last week, the City Watch House was not in use for quite some time. The Hon. Stephen Wade wanted to visit the City Watch House and we had to tell him that we had nobody in there and had not for some time. If the honourable member is saying that he was there in the past few days, yes, we have had to use the City Watch House, and we have been quite open and transparent about that. We have had to use it on and off, but it had not been used for quite some time. In this time of emergency when we have had a loss of 92 beds, yes, we have used the City Watch House.

The advice I have received today is that we also have been able to vacate some of those beds in the City Watch House so, as time goes on, we will have beds coming online in Port Augusta. We hope that in two to three weeks we will have 20 beds there. My advice today is also that the PSA and the Department for Correctional Services have reached agreement in using two units—from memory, units 13 and 14 (or it could be units 12 and 13)—at the Adelaide Women's Prison that were used previously for low security women prisoners and are not in use at the moment. I understand that, as of today, we have 33 spare beds for women in this state, which is a good thing. Probably from tomorrow we will also have access to another 20 beds at the Northfield site.

We have had an emergency, and I thank all those who have helped the Department for Correctional Services, whether they be our correctional services officers, SAPOL or GSL. Certainly, the opposition, with all its nonsense and tosh, has been of no help. The opposition needs to say where it stands.

ADELAIDE HELLENIC CULTURAL FESTIVAL

The Hon. R.P. WORTLEY (14:53): I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Multicultural Affairs a question about the Adelaide Hellenic Cultural Festival.

Leave granted.

The Hon. R.P. WORTLEY: Will the minister inform the council about what the government has done as part of the recent Adelaide Hellenic Cultural Festival?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:53): Mr President, I—

Members interjecting:

The PRESIDENT: Order! Yesterday, in the absence of the Hon. Mr Ridgway, we managed 15 questions. Today we look like we might get half that many in his presence.

The Hon. CARMEL ZOLLO: I thank the honourable member for his very important question. For the third year in a row, the Greek Orthodox community of Adelaide hosted the Adelaide Hellenic Cultural Festival, Odyssey. As part of these celebrations, along with the Leader of the Opposition in another place, I was fortunate enough to attend the 58th Annual Grecian Gala Ball on Saturday 4 October. The month-long festival is aptly named 'Odyssey' and it is a journey through Greek culture.

As I said, this is the third year that Odyssey has been held and each year it continues to grow in popularity among lovers of Hellenic culture. The Rann government is a keen supporter of the festival. I am pleased to advise the chamber that this year Odyssey received a grant of $10,500 from the Multicultural Grants Scheme. This scheme, administered by the Minister for Multicultural Affairs in another place, distributes $300,000 a year, a contribution that has been increased by more than 300 per cent since the Rann government came to office in 2002.

This government values our multicultural society. All immigrants who come to South Australia have so much to offer our state through their culture, language, food, history and arts, not to mention the contribution they make to the workforce of the state.

The Gala Ball is one of the highlights of Odyssey Festival. It is a fitting opportunity to celebrate the work and achievements of the Greek Orthodox community in South Australia. There are many activities that make up the month long festival and, in particular, the Odyssey Youth Day, which celebrates Greek cuisine, games and music.

Other events that are celebrated as part of Odyssey include a comedy night, an art and photography exhibition, Greek dance performances and even a night of short films by Greek film makers. The seventh annual four-day Greek Festival will be held in conjunction with the festival's finale, the Orchestral Odyssey Concert, and this event will be held on 2 November at Elder Hall.

The Greek Orthodox community in South Australia is well established and well respected. This community continues to be at the forefront promoting multiculturalism, and it also maintains and shares Hellenic traditions and customs. I am particularly pleased to see the way in which young people are really encouraged to actively participate in the community.

The Greek Orthodox community has also been a leader in providing services for the elderly, through its legion of volunteers, who serve South Australia with great dedication and distinction. This often unrecognised hard work provides invaluable moral and practical support to the government's multicultural policies.

I know I am joined by all members in thanking the many volunteers from the Greek Orthodox community, and I am sure the chamber will join with me in congratulating the organisers of this year's Odyssey. I encourage all members with an interest in Hellenic culture to attend and enjoy the many festival events.

URBAN EXPANSION

The Hon. SANDRA KANCK (14:58): I seek leave to make a brief explanation before asking the Minister for Urban Planning and Development a question about the impact of the proposed Greater Adelaide Region on threatened flora and fauna.

Leave granted.

The Hon. SANDRA KANCK: As part of its reforms to urban planning and development, the government proposes to declare a Greater Adelaide Region that would stretch from metropolitan Adelaide down to Victor Harbor in the south, up to the Barossa in the north and across to Murray Bridge in the east. Within that area, urban zoning provisions will override the Native Vegetation Act.

Members may also recall the *Stateline* program two weeks ago on the rare scarlet robin. This program was filmed in the hills above Willunga, an area that would fall under the proposed Greater Adelaide Region. On that program, University of Adelaide ecologist Dr David Paton

highlighted that retention of native habitat was absolutely critical for the survival of this species, which would also be true of other threatened species. My questions are:

1. Has the government taken into account the impact of urban encroachment in the Mount Lofty Ranges on the rare scarlet robin and other species that are particularly dependent on woodland habitat?

2. Does the minister accept that the expansion of suburbs across the Mount Lofty Ranges will inevitably accelerate the decline of threatened plant and animal species?

3. Given the government's No Species Loss strategy, how will urban expansion in the Greater Adelaide region be sensitively handled to ensure that this strategy is more than just a slogan?

4. What advice has the Department for Environment and Heritage provided to the minister on this issue, and will the minister table a copy of that advice?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:59): We know the Hon. Sandra Kanck is opposed to growth in any form. She believes the population of the state should not increase, therefore she is opposed to any urban sprawl as well as any high density development within the metropolitan area. That is, of course, a totally untenable position. It is only consistent if you have basically a static or declining population—although even then it ignores the fact that, with the ageing of the population and the number of people over 75 likely to treble over a relatively short period in the near future, the demand for housing is changing, anyway, and being driven.

The outcomes of the planning review, in fact, seek to restrict urban sprawl in two ways. First, there is the aspirational target (which I have mentioned before), which refers to the ratio of future housing which we would see coming from infill or high-rise compared to greenfield development. The aspirational target there is a 30:70 ratio; that is, 70 per cent from infill or brownfield development, and so on, and 30 per cent only from greenfield development, compared with a little under 50 per cent that we have at the moment. That is one way in which the planning strategy seeks to contain that sprawl.

The other way is to promote, through transit-oriented development that is linked to the government's plans for electrification of our rail system, higher density along transport nodes. The government is seeking to ensure that the future growth of our city is accommodated in ways that will have minimal impact upon those areas that are as yet untouched.

Although the recommendations in the planning review about the quantum of land that was suggested should be within the urban growth boundary remain, while that growth boundary is being reviewed in light of the recommendations of the planning review—that there should be up to 25 years of land, 15 years of which is zone ready within the Adelaide area—it does not mean that every area outside the current boundary is earmarked for development.

URBAN EXPANSION

The Hon. SANDRA KANCK (15:02): Sir, I have a supplementary question. Has the Department for Environment and Heritage provided any input to the minister in regard to the greater Adelaide region concept?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:02): The planning review was out for circulation to government departments as part of the cabinet process. Those recommendations, as a rule, have been in the form of cabinet considerations being considered by all relevant departments, including the Department for Environment and Heritage, and they have contributed at some length, I would suggest, to the development of these policies. I again make the point that, in fact, one of the principal thrusts of the development policy is that, while it seeks to expand the area in an urban growth boundary, it does so in the context of the overall thrust of the policy seeking to contain urban sprawl more effectively than we have done in the past.

URBAN EXPANSION

The Hon. SANDRA KANCK (15:03): Sir, I have a further supplementary question. If, as the minister has said, the Department for Environment and Heritage has had input, will the minister provide a copy of that to this chamber?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:03): No, because that is part of cabinet processes.

OUTBACK AREAS COMMUNITY DEVELOPMENT TRUST

The Hon. J.S.L. DAWKINS (15:03): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Outback Areas Community Development Trust.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that in April 2007 the government initiated a review of the Outback Areas Community Development Trust and the manner in which the trust serves the many communities in this state that are outside local government boundaries. When will the government announce the outcome of this review, and why has it taken so long to determine the future governance and operations of the trust?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:05): I thank the honourable member for his interest in the trust, a very important structure which plays a vital role in our outback areas. The draft legislation is being prepared to revise the existing Outback Areas Community Development Act 1978. The drafting will recognise the Outback Areas Community Development Trust's role in providing local government-type services to outback communities and will bring the trust's strategic planning in areas such as financial planning, etc. and its reporting requirements in line with South Australian councils. That is one of the objectives of the review.

There is to be consultation on the draft bill prior to its introduction in parliament, and I have given a commitment to the trust in relation to that. A review of governance arrangements in the Outback was undertaken by the Office of State/Local Government Relations in conjunction with the trust some time ago. The review was prompted by the significant changes facing Outback communities and the pressures on them—changes such as the rapid population growth due to a tourism boom in some areas and dwindling populations, unfortunately, in others. The review identified concerns about the capacity of local volunteer community bodies to be able to adapt and manage some of these really important challenges and pressures.

The information package and a feedback questionnaire were released and community workshops held in a number of Outback areas. A report entitled 'Responding to changes in the Outback' summarised the review results and is available on our website. A great deal of work has been done. The communities are broad and each community has a range of different pressures and challenges. There are those faced with challenges in relation to mining booms and population shifting in relation to job opportunities. Different communities have different challenges. It is important we had a process that enabled us to go out and engage with those communities, which is not an easy task.

I met with the trust a couple of weeks ago and was pleased to hear an update from them. We continue to progress this important work. I cannot give a final date now in terms of the draft bill's release, but a great deal of work has been and continues to be done. We need to ensure we get this right, and that is what I intend to do.

OUTBACK AREAS COMMUNITY DEVELOPMENT TRUST

The Hon. J.S.L. DAWKINS (15:08): When is it envisaged that the draft bill will go out for consultation, and how long will the consultation period be?

Members interjecting:

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:09): That is absolutely ridiculous—as short as possible! We have already taken a considerable amount of time consulting with these communities and we are being criticised for being too slow. Then the member opposite has the audacity to suggest that we are not being comprehensive enough. They want a bet each way. They think we are taking too long to consult, but that it is not fast enough. I gave the answer to the question: I cannot give a definitive date. Consultation is still taking place and

discussions are still occurring. We need to get this right and the draft will be released in due course when those processes have been completed to my satisfaction.

CATHERINE HOUSE

The Hon. I.K. HUNTER (15:10): Will the Minister for the Status of Women update us on Catherine House and the work of its Women's Information Service?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:10): I thank the member for his interest in these matters. On Wednesday 8 October Catherine House hosted a breakfast at the Adelaide Convention Centre to celebrate its 20th birthday. The event MC was Amanda Blair, who kept us all entertained (even though it was very early in the morning). The keynote speaker was Therese Rein (Australian Patron of Common Ground, trained psychologist, businesswoman and, of course, partner of our Prime Minister, the Hon. Kevin Rudd), who gave, I have to say, an inspirational address; it was quite moving. The event launched the first Catherine House book of poetry, creative writing and art produced by its creative writing and art group, as well as the Catherine House rose.

The event was inspirational and it was a great honour to be there, and I particularly express my admiration for the creative writing and art group, whose membership comprises former users of the Catherine House services, and whose work is really quite beautiful. It was also wonderful to see and hear the poetry and singing performances of this group. As I said, they are all former users of the services of Catherine House. When you consider the incredible trials that these women have been through, it is truly amazing how far they have come and the courage that it has taken for them to reach a point where they are publishing their own work, their own thoughts and creativity, or performing, as they did, live on stage. I place on record my sincere congratulations and admiration for these women who did an outstanding job; their performance was, indeed, most impressive.

Catherine House was established in 1988 by the Sisters of Mercy, who apparently were told at around that time that, in fact, there were no women who were homeless. In response to that report, they simply went out, found a place, and provided a service for homeless women.

An honourable member interjecting:

The Hon. G.E. GAGO: You have to be careful which government you are talking about. It is the only provider of its kind in South Australia offering supported accommodation for women over 21 years of age, and who are homeless. Catherine House has 16 houses (one emergency house and 15 transitional houses) in the inner city of Adelaide, accommodating up to 48 clients a night. The emergency supported accommodation program can house and work with up to 16 clients, who can stay up to one month in the program. Clients usually stay in the transitional supported accommodation for around six to 12 months.

Women are referred to the emergency accommodation program from places such as welfare agencies, hospitals, prisons, Crisis Care and police. Clients who use the program present with a range of often very complex and overlapping issues, including mental health, drug and alcohol problems, gambling, domestic violence, and relationship and family breakdown. Perhaps, unfortunately, the saddest fact of all, which is common to many (or all) of these women and which unites them, is that the women who tend to come to these organisations are, in fact, victims of childhood sexual abuse themselves.

I am pleased to share with members that the Women's Information Service has regular contact with the women at Catherine House. The focus of their involvement is to support women to become more familiar with things such as information technology. Weekly computer classes are held at the centre where WIS staff provide personalised training.

Since these sessions commenced, women have been assisted to create email accounts, use online services and generally build their confidence using computers. These are very important activities that, in effect, help to empower women who often face considerable disadvantage. Many of us take these things for granted, but for someone who has never used a computer before, the benefits of this newly acquired knowledge are often quite substantial.

I take this opportunity to commend Catherine House for the excellent and very important work that it has done over the past 20 years and that it continues to do. I look forward to the continuing relationship between the Women's Information Service and Catherine House.

FIRST HOME OWNER GRANT

The Hon. D.G.E. HOOD (15:15): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning, representing the Treasurer, a question regarding the South Australian home buyers grant.

Leave granted.

The Hon. D.G.E. HOOD: As members would be aware, on 5 June the Treasurer announced a $4,000 grant for South Australian first home buyers, in addition to the then $7,000 federal grant. Again, as members would be aware, on Tuesday of this week, 14 October, the Prime Minister announced that the federal grant will be lifted from $7,000 to $14,000 and to $21,000 in cases where the applicant is building a new home. When Family First tried yesterday to gather more information about the impact of the increase, we were advised by RevenueSA:

> At this point in time RevenueSA does not have any further details than those reported in the media regarding the changes to the first home owner grant announced earlier today.

My question is simply: does the state government intend to continue honouring its commitment to pay the $4,000 grant in addition to the newly announced federal grant?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:16): I will refer that question to the Treasurer in another place and bring back a reply.

PORT AUGUSTA PRISON

The Hon. C.V. SCHAEFER (15:16): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the Port Augusta Prison indigenous unit.

Leave granted.

The Hon. C.V. SCHAEFER: Yesterday the minister told us that indigenous prisoners prefer doubling up, despite doctoral research which found that 77 per cent of Aboriginal offenders prefer single occupancy accommodation. On 23 September—before the riot—the minister advised the council that the government would be providing 12 beds for Aboriginal men at Port Augusta and that they will be available before the end of this year. As I understand it, the new facility has only five bedrooms, yet the minister has told us that it will house 12 prisoners. So there must be at least one room with a need to house three prisoners, and one room is described on the plan as a 'dormitory'.

I have been advised that neither the Aboriginal Legal Rights Movement nor the Aboriginal Prisoners and Offenders Support Services have been consulted about the design of this new facility. Can the minister tell us what will be the maximum number of prisoners per room in this new facility, and can she tell us what consultation has occurred with the Aboriginal community as to its view about the appropriateness of this facility? Does she consider that it is an acceptable practice to design facilities for Aboriginal people without consulting them?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:18): I thank the honourable member for her question. I have not seen the plans of the new beds that will be created at the Port Augusta unit. Clearly, the honourable member has just been provided with some plans. I will have to go back to the department and check the level of consultation that has occurred.

Mr President, some of the questions in this place in the past few days really have been quite disgraceful—quite pathetic. At one level they are complaining about—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: The department has a very strong Aboriginal unit within the department. Clearly, consultations occur at that level and, of course, arising out of the Aboriginal deaths in custody inquiry there is also a commitment to consult at that level when new initiatives are brought on line.

Clearly, those opposite are grasping at straws. We have had a major incident, and I advised this chamber of all the planned initiatives that we have in place in relation to the strategy—

the 209 beds and the $35 million that was committed by this government in the last budget. The 12 Aboriginal beds are part of that commitment, as are beds at Mobilong and Cadell and, on my understanding, also at Mount Gambier. However, I do not have those numbers with me. Again, this government does have a strategy; those opposite clearly have none. I ask them to get over it and move on.

Members interjecting:

The PRESIDENT: Order!

PORT AUGUSTA PRISON

The Hon. T.J. STEPHENS (15:20): I have a supplementary question. Can the minister explain why we have a copy of the plans and she does not and has not seen them?

MARLA INFRASTRUCTURE

The Hon. J.M. GAZZOLA (15:20): I seek leave to ask the Minister for State/Local Government Relations a question about regional infrastructure.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. J.M. GAZZOLA: It is a question about regional infrastructure, and I thought they might be interested. South Australia's Strategic Plan has a key objective of building communities, including regional areas. Ensuring regional infrastructure is adequate now and in the future is important for linking rural communities. Infrastructure in more remote communities is important in ensuring that health and other services are available for community members. Will the minister advise the council of what the government is doing to support the Marla community?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:21): I thank the honourable member for his question. I am pleased to advise that I recently had the pleasure of meeting members of the Marla community, a community in the state's Far North, as well as members of the Outback Areas Community Development Trust (to which I have previously referred), when I officially opened the newly refurbished Marla airstrip.

The formal completion of the upgrade of the Marla aerodrome brings to a close a process that began in the 2004-05 financial year, when the Outback Areas Community Development Trust successfully applied for funding under the Australian government's Natural Disaster Mitigation Program. Funding secured from the Australian government was more than matched by this state government. A local contribution (required under the scheme) was provided by the Outback Areas Community Development Trust on behalf of the Far North communities. All up, over $228,000 has been spent on this project.

Before the upgrade, the Marla airstrip was a dirt strip which was often susceptible to flooding. The Marla Progress Association volunteers have worked very hard in the past to maintain the airstrip to ensure it was always prepared for use by northern communities, and the people concerned should, of course, be commended for the many years they have provided this very valuable work. I am pleased to advise that the refurbishment of the airstrip included the installation of solar-powered runway lights.

Apparently, before those lights were installed, local residents were required to go out and light little fires along the edge of the airstrip. It was some way out of town, so people had to hot-foot it out of town to make sure that the lights were lit. Great stories were told about some of those occasions when some of those fires got away from them. These people were indeed very pleased to have solar-powered runway lights installed. There was also the installation of a solar-powered lit air stocking pole, the improvement of the access road that links the strip with the Stuart Highway, and the sealing of both the taxi-way and apron, together with 400 metres of the main strip. So, quite a lot of work has been done.

I am happy to inform the council that this important work means that this strip is now available 24 hours a day and in almost all weather conditions. The strip is regularly used by the Royal Flying Doctor Service for clinics and emergency clearances from those local communities. I was very pleased that the Royal Flying Doctor Service was conducting a clinic that day and was

there at the airstrip for the opening, and I was delighted to be able to inspect its vehicle. The level of technology that is now incorporated is really incredible.

I place on record my congratulations to the Outback Areas Community Development Trust and the Marla Progress Association for the work they have done in ensuring that our communities can be protected.

ANSWERS TO QUESTIONS

PORT HUGHES DEVELOPMENT

In reply to the **Hon. SANDRA KANCK** (3 July 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Water Security has provided the following information:

1. SA Water provides civil construction contractors with metered hydrants so that they can gain temporary access to a mains water supply for construction work. The contractors are required to use the water in an efficient and effective manner. The water must be applied using either a hand held hose with a trigger nozzle or directly from a motor vehicle designed and approved to carry and deposit water.

2. The contractor is required to pay the normal state wide second tier price for water usage ($1.38 per kilolitre), a security deposit ($500) and quarterly service rent ($57.50 per quarter).

3. SA Water has suggested to the developer that they look at using stormwater from the residential development, water from a desalination plant or treated water from the community wastewater management scheme that is being proposed by the Copper Coast District Council as an alternative to mains water. It is a matter for the developer to consider the feasibility of these options.

4. The wastewater scheme will be owned and operated by the Copper Coast District Council and it will be up to the council to decide how the wastewater will be used.

5. The Port Hughes developers have been advised that while there are water restrictions in place no mains water can be made available for the golf course part of the development. SA Water had indicated to the developer that if it ever becomes possible to supply the golf course with mains water the peak demand will have to be limited to 20 l/sec.

OLYMPIC DAM

In reply to the **Hon. M. PARNELL** (18 June 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

1. BHP Billiton conducts monitoring in accordance with an approved Radiation Management Plan, as required by the *Radiation Protection and Control Act 1982* and the commonwealth *Code of Practice on Radiation Protection and Radioactive Waste Management in Mining and Mineral Processing 2005*, which specifies location, frequency and type of measurement. The monitoring results are provided to the EPA on a quarterly and annual basis for review. The EPA can access the monitoring database at Olympic Dam at any time to verify the reported details.

2&3. Reports of elevated radon decay measurements at Olympic Dam have reduced because of measures introduced by BHP Billiton to improve its ventilation and access procedures.

There were three elevated radon decay measurement reported by BHP Billiton from August 2007 to February 2008, and there have been two since then. In response to each event BHP Billiton took appropriate action such as ensuring access to the area was closed, logging the event on the mine notification system, investigating the cause of the reported level and returning the areas to service once measurements dropped by to acceptable levels.

The EPA misplaced three faxed events from this period hence these were not provided in the honourable member's FOI request. These events were reported in the relevant quarterly

reports provided by BHP Billiton. The EPA is looking into why it did not have the facsimiles on file and will take appropriate action to improve the system to ensure there is no re-occurrence of misplaced reports.

4. There has been no downgrading of reporting requirements. The monthly reports from BHP Billiton were not a regulatory requirement. As the same information was provided in quarterly reports and by facsimile, it was agreed that the monthly reports served no useful purpose and could cease.

5. The dose limit for workers in Australia is the same as for workers in the UK and is 20 milliseverts per year. Both are based on the same international standards. In the UK, workers exposed to greater than 6 milliseverts are required to be 'designated radiation workers' and must be subject to personal monitoring regimes. At South Australian uranium mines, workers are 'designated' and must receive personal monitoring at 5 milliseverts, less than the UK value. In practice, workers receive personal monitoring at much lower levels.

All radiation doses are reported to the EPA radiation protection division on a quarterly and annual basis.

6. Radiation dose limits in Australia are based on international standards and are set at conservative levels to ensure that there is no unacceptable risk to workers. The doses received by all workers at Olympic Dam have been well below the appropriate limits since the start of the operation.

HALLETT COVE CONSERVATION PARK

In reply to the **Hon. J.M.A. LENSINK** (17 June 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

Preparation of a revised management plan for Hallett Cove and Marino Conservation Parks commenced in mid 2007. Due to the local community interest in the management of the reserve, a community reference group has been established to provide input into the identification of management issues and future management objectives and strategies.

A draft plan is anticipated to be released for public consultation towards the end of 2008 following input from the community reference group. Following consideration of all submissions received, a final management plan will be submitted to me for consideration and adoption, which is anticipated to be by mid 2009.

WHYALLA HEALTH STUDY

In reply to the **Hon. M. PARNELL** (8 April 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

The former minister for environment and conservation became aware of information in relation to aspects of the higher than expected rates of various diseases including lung cancer, only after she became a minister.

BUSHFIRES

In reply to the **Hon. R.D. LAWSON** (2 April 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

1. The Department for Environment and Heritage (DEH) policy on grass slashing, prior to the Brownhill Creek fire event, is contained in its Safe Work Practice SWP-012, (operational date 1 June 2003). This document states that if there is any fire danger then workers are to ensure that they have appropriate fire fighting equipment, and if the fire risk is high then a second person

should be present. This policy is applied by DEH staff in addition to the relevant requirements of the *Fire and Emergency Services Act 2005*.

2. A revised interim state-wide policy was implemented post the Brownhill Creek incident (which occurred on 17 January 2008) to mitigate against further possible ignitions associated with grass slashing operations until the end of the fire danger period. The state-wide departmental policy and procedure for slashing will be in place prior to the 2008-09 fire danger season. This revised policy will include actions needed to be taken by DEH staff to further minimise the risk of slashing activities igniting fires over and above any requirements mandated by the *Fire and Emergency Services Act 2005*. This policy will be regularly reviewed and updated as required.

SWIMMING POOLS

In reply to the **Hon. SANDRA KANCK** (26 September 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Water Security has provided the following information:

1. All new swimming pools installed after 1 January 2007 require written authorisation from SA Water to fill the pool with mains water, via a water restriction exemption permit.

New swimming pool permit applicants must supply SA Water with proof of purchase of a cover before a permit will be granted. This initiative was introduced to reduce the water loss from swimming pools through evaporation, whilst also saving on energy costs.

Applicants must also be prepared to make a commitment to other water conservation practices, that is, explain how they will reduce water usage inside and outside their home.

The level of water in a swimming pool or spa that has been previously filled with water may only be topped up or maintained with water from a hand-held hose fitted with a trigger nozzle or bucket.

2. The government and SA Water strongly promote the purchase and use of swimming pool covers although; there is no rebate available, SA Water is continuously reviewing rebate schemes.

3. The government's relaxation of the temporary tougher water restrictions from 1 October 2007 has assisted householders by allowing the use of drippers and hand-held hoses fitted with trigger nozzles for three hours on weekends for garden watering on an even and odd basis.

WATER (COMMONWEALTH POWERS) BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): 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.

It is vital for all South Australians that we secure the long-term future of our communities, our water supplies and our river environment. It is clear that the current governance and planning structures for the Murray-Darling Basin are outdated and will not enable us to deal with the pressures of over-allocation, climate change, environmental degradation and future economic development.

South Australia has been instrumental in the development of a governing framework whereby the Commonwealth and other Basin States will implement new arrangements for managing the Basin's water resources. As such it is appropriate that we have been the first State to introduce legislation to reform the governance arrangements of the Murray Darling Basin.

Initial steps were made to reform management of the Basin in 2007, when the Commonwealth enacted its *Water Act 2007* and established the independent, expert-based Murray-Darling Basin Authority to prepare a strategic Basin-wide plan.

This approach, undertaken without the cooperation of all of the Basin States, relied exclusively on the Commonwealth's own constitutional powers and had significant limitations. In particular, the Authority and Murray-

Darling Basin Commission continued to operate side-by-side, under complex and inefficient arrangements and the strategic Basin Plan could not address the management of water to meet critical human needs.

On 3 July 2008 the Commonwealth and the Basin States—New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory—signed the historic Agreement on Murray-Darling Basin Reform, committing to a package of reforms to meet the future needs of the Basin and to protect and enhance its social, environmental and economic value.

Central to the reform package is the referral of powers by the Basin States to the Commonwealth to allow it to amend the *Water Act 2007* to:

- abolish the Murray-Darling Basin Commission and transfer its functions to the Murray-Darling Basin Authority;
- provide for a comprehensive Basin Plan which will now also have a priority focus on management of water for critical human needs, as well as integrated management of the Basin water resources including addressing water quality, salinity management and environmental watering. The reforms mean the Authority will be able to plan strategically for periods of low water availability to ensure there is enough water put aside to support the delivery of water for critical human water needs through out the system; and
- extend the application of water market rules and water charge rules and the associated regulatory role of the Australian Competition and Consumer Competition (ACCC) to all entities and transactions within the Basin to facilitate more efficient water trading across the Basin, and providing for any State to 'opt-in' to apply the rules outside the Basin.
- Other aspects of the reform package include:
- an amended *Murray-Darling Basin Agreement* that includes the new governance arrangements to give effect to the *Agreement on Murray-Darling Basin Reform*; and
- the amendment or repeal of existing Commonwealth and State Murray-Darling Basin Acts and the making of consequential amendments to other Basin State legislation; and
- the *Agreement on Murray-Darling Basin Reform—Referral* which will complement any State referral legislation and specifies the nature of the legislative scheme.

These reforms will, for the first time, ensure South Australia has access to the upstream storages of its choice, including Hume and Dartmouth dams, to store water to meet its critical human water needs and for private carryover.

This would allow the State to carry over and store around 300 gigalitres of water for critical human needs (18 months supply) and to deliver this water in times of low flows, reducing the risk of a major failure in the supply of potable water to South Australia. Without these reforms, South Australia has no ongoing access to storage.

These reforms will also establish a three-tier system for sharing water in the River Murray system and key tributaries under normal, low water availability and extreme drought conditions.

These reforms will enable the Authority to plan strategically to ensure there is enough water put aside to support the delivery of water for critical human water needs throughout the system during periods of low water availability. The Basin States will be able to plan and establish arrangements to determine, store and deliver State water shares under dry conditions.

The *Agreement on Murray-Darling Basin Reform—Referral* commits the South Australian Government, along with the other Basin States, to use its best endeavours to pass referral legislation and amend existing State Acts, in time for the reforms to commence on 1 November 2008.

In order to achieve these reforms, two Bills have been introduced into this Parliament. This Bill is to refer certain matters relating to the South Australian Murray-Darling Basin to the Commonwealth Parliament for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth.

Water (Commonwealth Powers) Bill 2008

The Bill defines the provisions to be referred which are the text of Parts 1A, 2A, 4, 4A, 10A and 11A as set out in the tabled text and which are the provisions in Schedule 1 of the proposed Commonwealth's *Water Amendment Bill 2008*.

The Bill also refers certain subject matters whereby the Commonwealth can make future amendments to any referred provisions of the *Water Act 2007*. The Commonwealth will be bound by conditions to seek approval of States prior to making such amendments as set out in Part 1A of the referred text, and the *Agreement on Murray-Darling Basin Reform—Referral*.

The amendment subject matters referred include: the powers and functions of Commonwealth agencies that relate to Basin water resources and are conferred by or under the *Murray-Darling Basin Agreement*; the management of Basin water resources to meet critical human needs; water charging and water market rules in relation to Basin water resources; and the transfer of assets, rights and liabilities of the Murray-Darling Basin Commission to the Murray-Darling Basin Authority.

As is standard with referrals of power, the Bill, together with complementary provisions in the referred text and the *Agreement on Murray-Darling Basin Reform—Referral*, allows States to withdraw their initial reference of powers and their subject matter amendment reference.

The Bill provides for the State to terminate its initial reference of power at any time through the Governor fixing a date by proclamation. This ensures all parties have notice of the intention of any State to withdraw their reference.

It also allows for the State to terminate its amendment reference, and still remain a referring State. This can occur where all States terminate the amendment reference at the same time, where the Commonwealth proceeds with an amendment to a referred part of the Act with which the State does not agree, or where the Commonwealth proceeds with an amendment to specified sections of the *Water Act 2007*.

I will now give an outline of the proposed referred text.

Referral Text

Part 1A—Murray-Darling Basin Agreement

The text provides for the *Murray-Darling Basin Agreement* to be attached as a schedule to the Commonwealth *Water Act 2007*. It will no longer be a schedule of the State Murray-Darling Basin Acts.

Amendments to the *Murray-Darling Basin Agreement* will be developed and agreed by the Ministerial Council and the Schedule will then be updated by regulation.

Key changes to the *Murray-Darling Basin Agreement* give South Australia, for the first time, access to upstream storages of our choice to store water to meet our critical human water needs and for private carryover, and establish a three-tier system for sharing water in the River Murray system and key tributaries under normal, dry inflow and extreme drought conditions.

The text defines what is means to be a referring State and the process for States to terminate their initial reference of powers and their amendment references.

The text gives the Authority functions, powers and duties previously undertaken by the Murray-Darling Basin Commission under the Agreement. It also extends the Authority's powers under Part 10 of the Act to enter land for inspection and monitoring purposes and to gather information where reasonably necessary for the performance of its functions under the Agreement. The Murray Darling Basin Commission currently exercises similar powers.

It also requires the Authority, if so provided for under the *Living Murray Initiative*, to manage the water rights and interests held under the *Living Murray Initiative*.

Part 2A—Critical Human Water Needs

The new arrangements under the Agreement and the referral text set up a three-tier system for sharing water in the River Murray System. Tier 1 occurs in periods of normal water availability and the usual water sharing arrangements will apply. Tier 2 occurs in periods of low water availability and the Basin Plan will provide for arrangements to ensure sufficient conveyance water to deliver critical human water needs. The Ministerial Council (under the Agreement) will also develop a schedule setting out how State water shares will be determined, delivered and accounted for under Tier 2 arrangements. Under extreme and unprecedented circumstances of water availability, which will be Tier 3, the Ministerial Council will determine the sharing of the available water and contingency measures.

The Basin Plan will specify the conditions under which Tier 2 and Tier 3 water sharing arrangements will apply and to specify water quality and salinity trigger points that when reached require the Authority to formulate and implement an emergency response.

The text requires the Basin Plan to take into account critical human water needs as the first priority water use in developing the Plan.

It also expands the mandatory content of the Basin Plan to sharing arrangements to ensure that there is sufficient 'conveyance' water available in the River Murray System to distribute critical human needs water to South Australia, New South Wales and Victoria.

The Plan also will include monitoring, risk management planning, arrangements for storing water from one year to the next, and the development of a policy to enable water to be reserved to meet any shortfall in conveyance water. For the first time, this will take into account inputs from the key tributaries of the Murrumbidgee, Darling and Goulburn Rivers as well as the River Murray System, which were previously excluded from water sharing arrangements.

This means the Authority will be able to plan strategically for periods of low water availability to ensure there is enough water for the delivery of critical human water needs throughout the system.

Responsibility for securing and providing the volume of water required for critical human needs remains with the respective Basin States.

Coupled with South Australia's right to store water, this will allow the State to prudently manage its River Murray supply during dry conditions.

South Australia's minimum entitlement flow of 1,850 gigalitres will be preserved under the new arrangements, as existing State water shares can be altered only with the consent of all Basin jurisdictions.

The text enables the Authority to enter land for compliance purposes where necessary to enable it to monitor compliance with Tier 2 water sharing arrangements under this part of the Basin Plan, just as it currently can do for other parts of the Basin Plan under the Commonwealth *Water Act 2007*.

Part 4—Australian Competition and Consumer Commission (ACCC) and water charge and water market rules

The text provides for a uniform approach to regulation of water charging and water market rules by extending the role of the ACCC within the Murray-Darling Basin. These changes will support more effective water trading across the Basin, which will benefit South Australian irrigators.

Water market rules relate to the actions of irrigation infrastructure operators and seek to free up trade by ensuring that policies or administrative requirements of infrastructure operators are not a barrier.

The water market rules and the water charge rules provisions under the Commonwealth *Water Act 2007* will now apply to all water service providers that charge regulated water charges not just those entities and transactions within the scope of the Commonwealth's constitutional powers.

The ACCC will have the capacity to determine or approve all regulated water charges in the Basin, excluding charges relating to urban water supply activities beyond the point at which the water has been removed from a Basin water resource.

Part 4A—Extended operation of Basin Water Charge and Water Market Rules

Basin States can opt to extend the geographical application of the ACCC's regulatory role for water markets and water charges to areas outside of the Basin to achieve a uniform approach to regulation in their State.

Part 10A—Transitional Provisions

The text includes transitional provisions to provide for the transfer of River Murray operations assets and liabilities from the Murray-Darling Basin Commission to the Authority; transfer of staff leave arrangements; staff appointments and other matters necessary to enable the Authority to adopt the functions of the Murray-Darling Basin Commission.

Part 11A—Interactions with State Laws

The text enables Commonwealth and State water laws to operate concurrently. It also enables a State to displace the operation of the Commonwealth *Water Act 2007* to exclude certain matters or to avoid direct inconsistency arising with a provision of a State law. The intent of these provisions is to allow displacement where there are unintended consequences of the Commonwealth *Water Act 2007*. States have committed in the *Agreement on Murray-Darling Basin Reform—Referral* to only use the provisions where this is the case.

It is critical to the future water security of South Australia that the Parliament support this proposed Bill.

The referral of powers is an essential element of an overall legislative reform package which will bring about changes in governance and Basin wide strategic planning that will not only address over-allocation issues and improve the provision of environmental water but will also focus on planning and management of water for delivery of critical human needs.

These changes will provide significant benefits to South Australia and the management of the Murray-Darling Basin.

The reforms will give South Australia access to the headwater storages of Hume and Dartmouth dams, to store water to meet its critical human water needs and for private carryover. This would allow the state to carry over and store around 300 gigalitres of water for critical human water needs (18 months supply) and to deliver this water in times of low flows, reducing the risk of a major failure in the supply of potable water to South Australia. Access to storage for carryover of water for private purposes will benefit South Australian irrigators.

Passing this Bill will underpin a single Murray-Darling Basin Authority, which will have two important roles:

- the development, implementation, monitoring and enforcement of the Basin Plan under the *Water Act 2007* for which it is responsible to the Commonwealth Minister; and
- implementing the current functions of the Commission to manage the shared surface water resources of the Basin on behalf of the Basin States.

A strategic Basin Plan will be developed that will not only set long-term sustainable 'caps' on how much surface and ground water can be extracted in order to address over-allocation issues but will now also have a priority focus on management of water for critical human needs.

The Basin Plan will develop an environmental watering plan to improve the environmental health of all Ramsar and other key environmental sites in the Basin. This will be integrated with the Living Murray Initiative. Additionally, the Basin Plan will identify risks to Basin water resources, such as climate change and develop strategies to manage those risks. The Basin Plan will develop a water quality and salinity management plan, which will ensure the health of the river system is maintained.

These are complex matters, which require rigorous scientific investigation and innovative planning to develop the necessary solutions, and as such it will take two years to prepare the Basin Plan. In the interim, the Authority is to work with the Basin States as a priority to establish any triggers and management requirements necessary under the three-tier water sharing arrangements.

These are medium to long-term reforms and will not address the immediate responses needed to deal with the current drought, which are being addressed through other mechanisms. However they will ensure that we are better prepared to manage the Basin water resources under dry inflow conditions and the impacts of climate change in the future.

Any delay in passing this legislation could prevent the commencement of the Authority's functions over River Murray operations on 1 November 2008. Without all States adhering to this timeline, the new governance scheme will not apply at the time of commencement.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

Clause 2 provides that the measure will be brought into operation by proclamation.

3—Definitions

Clause 3 defines certain words and expressions used in the proposed Act.

4—Reference of matters

Clause 4 deals with the references to the Commonwealth Parliament.

Clause 4(1) makes the reference.

Clause 4(1)(a) ('the initial reference') refers the matters set out in Schedule 1 of the text that is tabled in the Parliament in conjunction with the introduction of this measure. This scheme will enable the Commonwealth Parliament to enact amendments to the *Water Act 2007* in the terms, or substantially in the terms, of Schedule 1 of the tabled text. The expression 'substantially in the terms' of the tabled text will enable minor adjustments to be made to the tabled text.

Clause 4(1)(b) ('the amendment reference') refers various matters to the Commonwealth Parliament in connection with the future amendment of the provisions enacted in reliance on the initial reference. The referred subject-matters are limited to the following:

(a) the powers, functions and duties of Commonwealth agencies that—

(i) relate to Basin water resources; and

(ii) are conferred by or under the Murray-Darling Basin Agreement;

(b) the management of Basin water resources to meet critical human water needs;

(c) water charging in relation to Basin water resources (other than for urban water supply after the removal of the water from a Basin water resource);

(d) the transformation of entitlements to water from a Basin water resource to enable trading in those water entitlements;

(e) the application, in relation to water resources that are not Basin water resources, of provisions of the *Water Act 2007* dealing with the subject-matters specified in paragraphs (c) and (d) (being an application of a kind that is authorised by the law of this State);

(f) the transfer of assets, rights and liabilities of the Murray-Darling Basin Commission to the Murray-Darling Basin Authority established by the *Water Act 2007*, and other transitional matters relating to the replacement of that Commission.

Clause 4(2) makes it clear that the reference of a matter has effect only to the extent that the matter is not otherwise within the legislative power of the Commonwealth Parliament and to the extent that the matter is within the legislative power of the State Parliament.

Clause 4(3) removes a possible argument that 1 of the references might be limited by the other.

Clause 4(4) makes it clear that the State Parliament envisages that the Commonwealth Act can be amended or affected by Commonwealth legislation enacted in reliance of other powers and that instruments under the Commonwealth Act may affect the operation of the legislation otherwise than by express amendment.

Clause 4(5) specifies the period during which a reference has effect.

5—Termination of references

This clause deals with the termination of the period of the references specified under clause 4 (namely, the period ending on a day fixed by the Governor by proclamation). The clause enables the period of both references to be terminated or only the period of the amendment reference.

6—Effect of termination of amendment reference before initial reference

Clause 6 makes it clear that the separate termination of the amendment reference does not affect laws already in place. Accordingly, the amendment reference continues to have effect to support these laws unless the

initial reference is also terminated. However, the continuation of the reference in relation to such a law will not apply to an amendment of the *Water Act 2007* that is excluded from the operation of this provision by the proclamation that terminates the amendment reference.

7—Evidence

Clause 7 provides for the accuracy of a copy of the tabled text to be certified by the Clerk of the House of Assembly of South Australia. Such a certificate is evidence of the accuracy of the tabled text and that the text was in fact tabled as contemplated by the Bill.

Debate adjourned on motion of the Hon. J.M.A. Lensink.

MURRAY-DARLING BASIN BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:28): 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.

This Bill complements the *Water (Commonwealth Powers) Bill 2008*.

South Australia has committed under the *Agreement on Murray-Darling Basin Reform—Referral* to use our best endeavours to pass referral legislation and amend existing State Acts, in time for the reforms to commence on 1 November 2008.

This Bill is for a new Act to replace the State *Murray Darling Basin Act 1993*. It removes provisions that will now be obsolete under the new arrangements. The Murray-Darling Basin Commission is to be abolished with:

- river operation functions formerly undertaken by the Commission being transferred to the Murray-Darling Basin Authority;
- matters affecting State water sharing arrangements, outcomes and objectives on major policy issues or high level financial decisions being transferred to the Ministerial Council; and
- those matters relating to high level decision making for river operations now being the responsibility of the Basin Officials Committee.

New provisions relate to the appointment of members to the Basin Officials Committee.

The new framework does not affect the current ownership or control of River Murray operation assets, with ownership remaining with the Basin states.

Assets currently managed by the Murray-Darling Basin Commission will be managed by the Authority in accordance with management agreements between the Authority and each Basin State. The Bill therefore continues the operation of certain existing provisions (with minor amendment) that have been transitioned across from the current Murray-Darling Basin Act, particularly those relating to the construction and management of works and authorisations to enter and occupy land. These provisions are necessary to ensure the continuation of their proper management.

The *Murray-Darling Basin Agreement* will now sit as a schedule to the Commonwealth Water Act rather than in each State's Murray-Darling Basin Act. Amendments to the *Murray-Darling Basin Agreement* must first be approved by the Ministerial Council and the schedule then updated by regulation.

Consequential amendments to relevant State legislation as set out in the Bill provide for replacement of references to the *Murray Darling Basin Act 1993* with appropriate references to an amended *Murray-Darling Basin Agreement* and for references to the Murray-Darling Basin Commission and Ministerial Council to be replaced with the Authority, Basin Officials Committee and the new Ministerial Council, as appropriate.

This Bill makes essential amendments to South Australian legislation to ensure that the proposed new governance arrangements for the Murray-Darling Basin can take effect on 1 November 2008.

These new governance arrangements will provide significant benefits to South Australia and the management of the Murray-Darling Basin.

Delays in passing this legislation could prevent the commencement of the Authority's functions over River Murray operations on 1 November 2008.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for the commencement of the measure.

3—Interpretation

This clause defines the terms used in the Bill. Words used in the Bill have the same meaning as in the new Agreement that is to now apply in relation to the Murray-Darling Basin.

Part 2—Provisions relating to Basin Officials Committee

4—Appointment of member of Basin Officials Committee

The Agreement will provide for the establishment of the *Basin Officials Committee*. Supporting legislation is required—

(a) to authorise the Minister to appoint a person as a member of the committee and a person to act as a member of the committee in the absence of the principal member; and

(b) to support various validating and machinery provisions relating to the members of the committee set out in the Agreement.

A person appointed to the committee under this provision will be a member of the Public Service.

5—Conditions and period of appointment

This clause provides for the conditions of appointment of a person under these provisions.

Part 3—Construction and management of works

6—Construction of works

This clause authorises the construction, maintenance, operation and control of works and other operations and activities associated with the Agreement.

7—Acquisition of land

This clause authorises the Minister to acquire land. The compulsory acquisition of land, if required, will be in accordance with the *Land Acquisition Act 1969*.

8—Construction and other powers of Minister

This clause vests specific powers in the Minister for the purposes of the Act and the Agreement.

9—Status of Minister

This clause authorises the Minister to act on behalf of the State as a Contracting Government under the Agreement. The Minister will also be appointed as a Constructing Authority under the Agreement.

10—Authorisation to pay compensation

This clause authorises the Minister to pay compensation.

11—Powers to dispose of certain lands

This clause authorises the Minister to sell or lease any land acquired under clause 7.

12—Land dedicated under the *Crown Lands Act 1929*

This clause provides that land dedicated under the *Crown Lands Act 1929* for the purposes of the Agreement may be used and occupied for those purposes by or on behalf of a Contracting Government under the Agreement.

Part 4—Authorisations to enter and occupy land

13—Authorisation of persons to enter and occupy land

The Minister will be able to authorise a person to enter and occupy land for the purposes of this measure or the Agreement. An authorised person will be issued with a certificate of authority.

14—Entry and occupation of land

This clause provides for entry on to land as required under this scheme. However, a person will not be able to enter residential premises except with the consent of the occupier of those premises. It will be necessary to give notice before entering land. Subclause (4) places some restrictions on the exercise of these powers.

Part 5—Miscellaneous

15—Exemption from taxes and charges

No tax or fee will be imposed in respect of any works or property used or held by a Contracting Government or a Constructing Authority for the purposes of any works.

16—Appropriation

This clause provides that money to be provided by the State under the Agreement is to be provided out of money appropriated by the Parliament for the purpose.

17—Certain documents to be laid before Parliament

This clause will require the Minister to cause a copy of the annual report of the Authority, and any amendment of the Agreement, to be laid before each House of Parliament.

18—Power of delegation

The Minister will be able to delegate a function or power to a body or another person. A delegation will be able to be absolute or conditional, will not derogate from the ability of the Minister to act in any matter, and will be revocable at will.

19—Offence to damage works

It will be an offence to destroy or damage any works constructed or operated under the Act or the Agreement.

20—Regulations

The Governor will be able to make regulations for the purposes of the Act.

Schedule 1—Consequential amendments and transitional provisions

This clause sets out various consequential amendments to other Acts, provides for the repeal of the *Murray-Darling Basin Act 1993*, and enacts transitional provisions associated with references to the Murray-Darling Basin or to the Murray-Darling Basin Commission.

Debate adjourned on motion of Hon. J.M.A. Lensink.

NURSING AND MIDWIFERY PRACTICE BILL

Received from the House of Assembly and read a first time.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:29): 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 Nursing and Midwifery Practice Bill 2008 will replace the *Nurses Act 1999*. Although it has only been nine years since the Act came into force there have been significant changes in both nursing and midwifery practice and within the broader professions during this time. This Bill, which has a primary aim to protect the health and safety of the public, will modernise the regulation of the nursing and midwifery professions in South Australia.

In introducing this Bill I acknowledge the role played by the Hon Lea Stevens MP and her staff in commencing the development of this legislation. This Bill is based on the other health professional registration legislation that has been considered by Parliament.

The Nurses Board of South Australia has identified areas in which the current legislation can be improved and is very supportive of the proposed Act.

Key nursing and midwifery organisations, such as the Australian Nursing Federation, the Royal College of Nurses, the Australian College of Midwives, the Australian College of Mental Health Nurses Inc, have also identified areas for improvement and have been consulted during the development of the new proposed legislation. These groups recognise that the professions have advanced and that these advancements need to be reflected in the way in which we regulate professional practice.

We live in a world which is more demanding of its health professionals than in the past. In the 21st century, information is immediately available on the internet and the community is demanding a different relationship with their health professionals. I raise this matter as it demonstrates that the health consumer of today is vastly different in their expectations of health professionals than the consumer of 20 years ago.

Our standards in regard to transparency and accountability have also changed and are now much more demanding than in the past. While consumers have higher expectations of their health practitioners and governments have higher expectations of all professionals, we as a society have increasing expectations of the health system as a whole. The Bill will meet these expectations by ensuring that only properly qualified people are registered as nurses and/or midwives and enrolled as nurses, that the public is protected by the timely and effective investigation of complaints, that corporate providers of nursing and midwifery care can be held accountable for their services and that the decisions of the Board are transparent.

Nurses and midwives are the backbone of our health system. There are approximately 28,000 nurses and midwives in South Australia and more will be required in the future as our population ages. Nurses and midwives are better trained than they have ever been and they are increasingly taking on greater responsibilities within the health system.

Nurse practitioners, for example, can provide high level care to patients within their area of expertise. A nurse practitioner is a registered nurse who has been educated to function in an advanced clinical role and who has

been authorised to practice in a specific area. The advanced practice role played by the nurse practitioner is accepted and has been welcomed, nationally and internationally.

The role of the nurse practitioner was introduced into South Australia in April 2002 and there are currently 28 authorised by the Nurses Board of South Australia and practising. Of these 28, five have gained authority to prescribe medicines, with four of the nurse practitioners working within acute care and one in mental health.

Nurse practitioners are currently practising in a number of clinical areas including palliative care, diabetes education, continence management, gastroenterology, neonatology and aged care, as well as acute care and mental health.

The State Government is investing $1.6 million over the next four years to establish eight mental health nurse practitioners in country South Australia as part of the response to the Social Inclusion Board's report *Stepping Up: A Social Inclusion Action Plan for Mental Health Reform 2007-2012*. These Nurse Practitioners will provide additional mental health treatment and therapy to complement existing services. With changes in clinical practise the role of a nurse practitioner is becoming more important for the provision of health care to the community.

The Nursing and Midwifery Practice Bill 2008, with its focus on protecting the health and safety of the public, makes an important contribution to the overall safe functioning of the health system. The philosophy underpinning the Bill emphasises the need for transparency and accountability in all matters concerning the registration of nurses and midwives and the handling of disciplinary matters.

While legislation provides the framework, it is the actual administration of the legislation which is critical to achieving greater transparency and accountability. We cannot legislate for every conceivable situation which may arise. What we can expect however is that the spirit of the legislation will permeate and guide all the activities of the Nurses Board of South Australia.

The Bill is consistent with the *Medical Practice Act 2004*, which is the template for all health professional legislation. The changes from the current Act include, but are not limited to:

- provisions to ensure the accountability of corporate providers
- enhanced provisions in relation to medical fitness to practise
- provisions in relation to obligations to report unprofessional conduct
- anti-victimisation provisions
- provisions requiring independent nursing and midwifery service providers to be indemnified (unless exempted by the Board)
- fairer and more transparent disciplinary and accountability mechanisms.

Some of the key professional groups have requested that the internationally accepted definitions of nursing and midwifery be included in the Bill.

The definitions of nursing and midwifery in the Bill have been constructed recognising that as the professions of nursing and midwifery develop, a professional definition is liable to change. The Bill recognises this by requiring the Board, when it is preparing or endorsing codes of conduct, professional standards or guidelines to have regard to the definitions of nursing and midwifery prepared respectively by the International Council of Nurses and the International Confederation of Midwives.

These definitions are frequently updated, endorsed and adopted by the Board as it is required to determine scope of practice and will alter over time to reflect contemporary changes in public health needs and health care provision, professional education and research.

The Bill continues the Nurses Board of South Australia in existence as the Nursing and Midwifery Board of South Australia which reflects the current international and national trend recognising midwifery as a separate profession from nursing.

The first intake of direct entry midwives (that is those midwives who have not first undertaken registered nursing training) completed their studies in 2004 and have entered the workforce. Midwifery is recognised as a separate profession in a number of countries such as New Zealand and the United Kingdom, and regulated accordingly. In Australia, the majority of states and territories have passed amendments recognising midwifery separately through their equivalent legislation for the registration of nurses and midwives.

The *Nurses Act 1999* does not provide for the registration of midwives separately from nurses. The midwives who have undertaken direct entry training have had to be registered as *nurses* with their practice restricted to midwifery as they do not meet the criteria to be registered as nurses without such restriction. The changes included in the Bill ensure that the needs of the midwifery profession are met in a consistent, cost efficient and effective manner while ensuring the protection of the health and safety of the public.

The Bill requires that a person or a body must, in making a determination of a person's medical fitness to provide nursing or midwifery care, have regard to the question of whether the person is able to provide such care personally to another without endangering the other's health or safety.

The intent is that any decision about a nurse or midwife's medical fitness is to be determined giving consideration to the context in which they work. For example, a nurse or midwife with a communicable disease may be perfectly safe working in a policy area but not safe to work in an operating theatre. This approach is adopted in all

the health professional registration Acts. It is designed to protect the public while recognising that a nurse or midwife with a particular medical condition may work safely with appropriate restrictions on the practise areas.

The membership of the new Nursing and Midwifery Board has been retained at eleven due to the large numbers of nurses and midwives eligible for registration in South Australia. There are over 28,000 nurses and midwives currently registered or enrolled with the Nurses Board of South Australia. The Board membership has been adjusted to reflect this large professional group with seven of the 11 members required to be nurses and/or midwives.

The professional qualifications of elected Board members will be proportional to the numbers of the particular group on the register, however all those registered or enrolled are able to vote in the election for each position. The Board will consist of five elected persons of whom three (60 per cent) must be registered nurses (registered nurses comprise approximately 60 per cent of all registered and enrolled nurses and midwives), one (20 per cent) an enrolled nurse (enrolled nurses comprise 20 per cent of all registered and enrolled nurses and midwives), and one (20 per cent) a registered midwife (registered midwives comprise 20 per cent of all registered and enrolled nurses and midwives).

The Board membership of 11 persons is required to ensure that a member of each of the registered and enrolled groups (registered nurses, enrolled nurses and midwives) is on the Board and to accommodate the significant workload associated with disciplinary proceedings that require the participation of a presiding member and two Board members, of whom one must be a nurse or midwife.

In keeping with the other health professional registration Acts, the Bill contains a provision that will restrict the length of time which any one member of the Board can serve, to three consecutive terms. This is to ensure that the Board has the benefit of fresh thinking. This provision will not restrict a person's capacity to serve on the Board at a later time however it will mean that after three terms (or nine years) these long term serving Board members will need to be replaced.

The Bill allows the Minister to approve codes of conduct, professional standards or guidelines for nurses, midwives and students and codes of conduct for services providers. The codes, guidelines and standards are to be published in the Gazette, with a date on which a code, standard or guideline comes into effect, stated.

This will allow nurses and midwives to have a reasonable opportunity to be informed of the adoption of such provisions. Ultimately it is a professional requirement/responsibility of the nurse or midwife to make themselves aware of any codes, standards or guidelines that are approved by the Board.

This information will also be included by the Board when these documents are provided to nurses and midwives and when published on the Board’s website.

The Bill enables the registered or enrolled person to be properly informed about the nature of any complaint which allows misunderstandings or misapprehensions to be clarified. Natural justice requires that the person about whom the complaint is made, is given information about the complaint and as a matter of good practice they should also be provided with the allegation made against them.

The Bill makes changes to the process used by the Board in hearing complaints to ensure that the person with the complaint will always be involved in the proceedings and has a right to this. This ensures that the proceedings are transparent from the perspective of the person with the complaint.

The process for the disclosure of the allegation(s) is to be determined by the Board.

The Bill requires the following registers and nurses roll to be kept by the Registrar:

- nurses register
- nurses roll
- midwives register
- students register
- register of nurses, midwives and students who have been removed from any of the registers or nurses roll.

Nurses, midwives and students are required to have a nominated contact address but this need not be made available to the public. Unlike other health professionals, nurses, midwives and students are predominantly employees of a specified health service and, in the majority of cases, their nominated contact address will be their private home address and not a business or private practice address.

Nurse practitioners will be part of the nurses register. Nurse Practitioners will already be registered as a nurse, and their registration will be endorsed to identify the individual as a nurse practitioner in a particular area of practice.

Enabling the Board to endorse a nurse or midwife’s registration with recognition in a particular area of nursing or midwifery prescribed by the regulations, replaces the provisions in the current Act for separate registers to be established for special practice areas. Currently mental health nurses are registered on the mental health nurses register. The Bill will enable them to be registered on the nurses register and endorsed with recognition in the area of mental health. The title, mental health nurse, will be protected by inclusion in the regulations.

The Bill also provides the capacity for the Board to endorse either a registered nurse or midwife’s registration with the authorisation to prescribe prescription drugs in the ordinary course of their profession. This provision brings the Bill into line with the *Controlled Substances Act 1984* which enables a nurse (which includes a

midwife under the provisions of the *Controlled Substances Act 2004*) acting in the ordinary course of their profession to prescribe schedule 4 drugs. It does not represent a change of policy.

The nurse or midwife must satisfy the Board at the time of application that they have met the requirements for endorsement. The Bill also enables the endorsement to be removed should this be necessary.

All the registration Acts include provisions to register students. Since students at various stages of their training work directly with patients or clients in clinical practice settings, registration of nursing and midwifery students will ensure that they are subject to standards, codes of conduct and medical fitness. This Bill provides for the registration of nursing and midwifery students.

The provision that allows the Board to impose conditions if a nurse or midwife has not worked for five years or more has been retained from the current *Nurses Act 1999*. Nationally, there are differing requirements with some states and territories allowing conditions to be imposed if the nurse or midwife has not worked within a specified period of time, which is similar to that proposed in the Bill. Some states and territories also have the legal authority to 'evaluate or examine' a nurse or midwife's competence. As COAG has agreed to establish a national registration and accreditation scheme by July 2010 the Government supports retaining the current system rather than moving to a different one at this stage.

The Bill requires nursing and midwifery services providers to adhere to any code of conduct developed by the Board and approved by the Minister. Professional standards do not apply to services providers as they are not nurses or midwives. There is cause for disciplinary action to be taken against a nursing or midwifery services provider if they, or any person employed or engaged by them, has, in connection with the provision of nursing or midwifery care by the provider, engaged in conduct that would, if the person were registered or enrolled, constitute unprofessional conduct. This means that staff of service providers are required to behave in ways which do not compromise the care being provided by the professional staff.

In order to streamline the administrative arrangements that apply to services providers the Bill modifies the requirement in other health practitioner registration Acts to advise the Board of any changes in the people employed by the provider. Because of the large number of services providers who employ nurses or midwives, and the large numbers of nurses and midwives employed, records of registered or enrolled staff will need to be maintained by the provider and made available to the Board if required.

The Bill, in line with the other health practitioner registration Acts, requires a person to answer questions even if that would tend to incriminate them. The information obtained can be used for disciplinary purposes but cannot be used as evidence for criminal proceedings. This clause places emphasis on protecting public health.

The Bill makes it an offence to hinder or obstruct an inspector, use insulting or abusive language to an inspector, fail to comply with a requirement of an inspector or refuse to answer a question.

These provisions do not permit a person to refuse to answer questions until they have appropriate advice or representation available to them. However, in ordinary circumstances, the person under investigation would be given some notice and consequently time to take advice.

Some additional provisions regarding inspectors have been added in response to concerns that have been expressed about the powers of the inspectors. Provisions are included which require the Board to develop guidelines to be followed by inspectors when investigating a matter under the Act. The guidelines must be approved by the Minister for Health who must consult with a range of bodies prescribed in the regulations. The guidelines must be reviewed as soon as possible after they have been in operation for two years and a report laid before Parliament. The expectation is that the Board will authorise inspectors to exercise powers commensurate with their competence, seniority and experience. This Bill makes it clearer that the authorisation of an inspector may be subject to conditions or limitations as the Board sees fit.

The Bill also modifies the current provisions that apply in regard to representative bodies or aggrieved persons directly taking a complaint to the Board. A single Board member may be nominated by the presiding member to determine if a complaint laid in this manner has merit, rather than the Board as constituted for disciplinary proceedings which requires three members. Complaints are rarely laid in this manner however this provision will ensure that they can be managed efficiently and effectively if they are.

The power of the Board to suspend or impose conditions prior to a hearing is a significant power. This power can only be exercised if the Board is of the opinion that it is desirable to do so in the public interest. This power has been included in all the Acts as there are situations where protection of the public requires the immediate suspension of the registered person. The Board can, subject to the legislation, determine its own procedures in relation to closing proceedings if it thinks fit.

The Bill requires the Board to conduct proceedings as expeditiously as possible. This is to ensure that the registered or enrolled person is not unduly penalised by not being able to work, while still ensuring that the public is protected.

This provision provides for a change to the appeal process from the Supreme Court to the Administrative and Disciplinary Division of the District Court.

Transitional provisions have been included in the legislation in relation to the elected Board members. This will avoid the Board having the expense of conducting a further election for Board members in 2009 when one will be held in October 2008 under the provisions of the current Act.

This Bill will provide an improved system for ensuring that South Australians receive high standards of nursing and midwifery care and I commend it to all members.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Medical fitness to provide nursing or midwifery care

This clause provides that in making a determination as to a person's medical fitness to provide nursing or midwifery care, regard must be given to the question of whether the person is able to provide the services personally to a patient without endangering the patient's health or safety.

Part 2—Nursing and Midwifery Board of South Australia

Division 1—Continuation of Board

5—Continuation of Board

This clause continues the Nurses Board of South Australia in existence as the Nursing and Midwifery Board of South Australia.

Division 2—Board's membership

6—Composition of Board

This clause provides for the Board to consist of 11 members appointed by the Governor, including 7 nurses or midwives (with 5 being chosen by election, 1 nominated by the Minister and 1 person who teaches nursing or midwifery). The remaining members are to be nominated by the Minister—1 medical practitioner, 1 legal practitioner and 2 other persons. The clause also provides for the appointment of deputy members and makes procedural provisions.

7—Elections and casual vacancies

This clause sets out that, of the 5 members of the Board who are nurses or midwives elected at an election, 3 must be registered nurses, 1 must be an enrolled nurse and 1 a midwife, unless the regulations specify otherwise. The clause also requires an election to be conducted under the regulations in accordance with the principles of proportional representation. It provides for the filling of casual vacancies without the need to hold another election.

8—Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total. The clause sets out the circumstances in which a member's office becomes vacant and the grounds on which the Governor may remove a member from office. It also allows members whose terms have expired, or who have resigned, to continue to act as members to hear part-heard proceedings under Part 4.

9—Presiding member and deputy

This clause requires the Minister, after consultation with the Board, to appoint a nurse or midwife member of the Board to be the presiding member of the Board, and another nurse or midwife member to be the deputy presiding member.

10—Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

11—Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

12—Registrar of Board

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

13—Other staff of Board

This clause provides for the Board to have such other staff as it thinks necessary for the proper performance of its functions.

Division 4—General functions and powers

14—Functions of Board

This clause sets out the functions of the Board and requires it to perform its functions with the object of protecting the health and safety of the public by achieving and maintaining high professional standards both of competence and conduct by nurses, midwives, students and services providers.

15—Committees

This clause empowers the Board to establish committees to advise the Board or the Registrar, or to assist the Board to carry out its functions.

16—Delegations

This clause empowers the Board to delegate its functions or powers to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

Division 5—Board's procedures

17—Board's procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

18—Conflict of interest etc under Public Sector Management Act

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons registered or enrolled under this measure, or a substantial section of such persons.

19—Powers of Board in relation to witnesses etc

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

20—Principles governing proceedings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms. It requires the Board to keep all parties to proceedings before the Board properly informed about the progress and outcome of the proceedings.

21—Representation at proceedings before Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

22—Costs

This clause empowers the Board to award costs against a party to proceedings before the Board and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs awarded by the Board.

Division 6—Accounts, audit and annual report

23—Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

24—Annual report

This clause requires the Board to prepare an annual report for the Minister, sets out what the report must contain and requires the Minister to table the report in Parliament.

Part 3—Registration, enrolment and practice

Division 1—Registers and nurses roll

25—Registers and nurses roll

This clause requires the Registrar to keep a nurses register, midwives register, students register, the nurses roll and a register of persons who have been removed from such registers or the nurses roll. The clause specifies the information required to be included in each register and the nurses roll. It also requires the registers and nurses roll to be kept available for inspection by the public and permits access to be made available by

electronic means. The clause requires registered or enrolled persons to notify a change of name or nominated contact address within 1 month of the change.

The nurses register and the midwives register are to include relevant qualifications and endorsements.

The clause also sets out procedural and evidentiary matters related to the registers and nurses roll.

Division 2—Registration and enrolment

Subdivision 1—Registration and enrolment

26—Registration on nurses register

This clause provides for full and limited registration of natural persons on the nurses register.

27—Enrolment on nurses roll

This clause provides for full and limited enrolment of natural persons on the nurses roll.

28—Registration on midwives register

This clause provides for full and limited registration of natural persons on the midwives register

29—Registration on students register

This clause requires persons to be registered on the students register before undertaking a course of study that provides qualifications for registration on the nurses or midwives register or the nurses roll, or before providing nursing or midwifery care as part of a course of study related to nursing or midwifery being undertaken outside the State, and provides for full or limited registration of students.

30—Concurrent registration and enrolment

A person may be concurrently registered on more than 1 register under this Act, but must not be concurrently registered on the nurses register and enrolled on the nurses roll.

31—Application for registration or enrolment and provisional registration or enrolment

This clause deals with applications for registration or enrolment. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide nursing or midwifery care or to obtain additional qualifications or experience before determining an application. It also empowers the Registrar to grant provisional registration or enrolment if it appears likely that the Board will grant an application for registration or enrolment.

32—Removal from register or nurses roll

This clause requires the Registrar to remove a person from a register or the nurses roll on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration or enrolment under this measure).

33—Reinstatement on register or nurses roll

This clause makes provision for reinstatement of a person on a register or the nurses roll. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide nursing or midwifery care or to obtain additional qualifications or experience before determining an application.

34—Fees and returns

This clause deals with the payment of registration, enrolment, reinstatement and annual practice fees, and requires registered or enrolled persons to furnish the Board with an annual return in relation to the provision of nursing or midwifery care, the undertaking of any course of nursing or midwifery education or training and other matters relevant to their registration or enrolment under the measure. It empowers the Board to remove from a register or nurses roll a person who fails to pay the annual practice fee or furnish the required return.

35—Imposition of conditions if nurse or midwife has not practised for 5 years

Under this clause the Board may impose conditions on a nurse or midwife's registration or enrolment if satisfied that the nurse or midwife has not practised for a period of 5 years or more, including—

- a condition restricting the places or times at which the person may provide nursing or midwifery care;
- a condition limiting the nursing or midwifery care that the person may provide;
- a condition requiring the person to undertake a specified course of education or training, or to obtain specified experience;
- a condition requiring that the person be supervised in the provision of nursing or midwifery care by a particular person or by a person of a particular class;
- such other conditions as the Board thinks fit.

Subdivision 2—Endorsements of registration

36—Endorsement

This clause provides that a registered nurse may have his or her registration endorsed with recognition as a nurse practitioner in a particular area of practice.

The clause also provides that the registration of a registered nurse or midwife may be endorsed with recognition in a particular area of nursing or midwifery (such areas to be prescribed by regulation) if the nurse or midwife satisfies the Board that he or she has qualifications approved or recognised by the Board for the purposes of the endorsement and has met any requirements determined by the Board to be necessary for the purposes of the endorsement.

The clause also provides that, if the registration of a nurse or midwife is endorsed with an authorisation to prescribe prescription drugs, the nurse or midwife may prescribe prescription drugs while acting in the ordinary course of his or her profession.

37—Application for endorsement

This clause sets out requirements relating to the application for endorsement under this proposed Subdivision.

38—Removal of endorsement

This clause requires the Registrar to remove from a person's registration an endorsement, either on application by the person or in certain specified circumstances (for example, cancellation of the person's endorsement under this measure).

Division 3—Special provisions relating to services providers

39—Information to be given to Board by services providers

This clause requires a services provider to notify the Board of the provider's name and address and the names and addresses of all persons who occupy a position of authority. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. The Board is required to keep a record of information provided to the Board under this clause available for inspection at the office of the Board and may make it available to the public electronically.

40—Records to be kept by services providers

A service provider is required to keep the specified records in relation to the nurses and midwives through whom the provider provides services and to make certain information available to the public.

41—Services providers to be indemnified against loss

A service provider is required to have certain insurance as approved by the Board.

Division 4—Offences

42—Illegal holding out as being registered

It is an offence for a person to hold himself or herself out as a registered nurse, midwife or student or permit another person to do so unless registered on the appropriate register. It is also an offence for a person to hold out another as a registered nurse, midwife or student unless the other person is registered on the appropriate register

43—Illegal holding out as being enrolled

It is an offence for a person to hold himself or herself out as an enrolled nurse, or permit another person to do so, unless enrolled on the nurses roll. It is also an offence for a person to hold out another as an enrolled nurse unless the other person is enrolled on the nurses roll.

44—Illegal holding out concerning limited registration or enrolment, conditions or authorisation

It is an offence for a person whose registration or enrolment is limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration or enrolment that is not subject to a limitation or condition. It is also an offence for a person to hold out another whose registration or enrolment is limited or conditional as having registration or enrolment that is not subject to a limitation or condition.

Similar offences are provided in relation to being authorised under proposed section 27(3) (which allows an enrolled nurse to provide nursing care without the supervision of a registered nurse or midwife).

45—Illegal holding out as having endorsed registration

It is an offence for a person to hold himself or herself out, or permit another person to hold him or her out, as having registration that is subject to an endorsement if the registration is not, in fact, subject to the endorsement. It is also an offence for a person to hold out another as having registration that is subject to an endorsement if the registration is not, in fact, subject to the endorsement.

46—Use of certain terms or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered or enrolled from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide.

47—Improper directions to registered or enrolled persons

It is an offence for a person who provides nursing or midwifery care through the instrumentality of another person to direct or pressure the person to engage in unprofessional conduct. It is also an offence for a person occupying a position of authority in a corporate or trustee services provider to direct or pressure a nurse or midwife through whom the provider provides nursing or midwifery care to engage in unprofessional conduct.

48—Offence to contravene conditions of registration or enrolment

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration or enrolment, and provides a defence in the case of where the contravention etc occurred in relation to an emergency.

49—Procurement of registration or enrolment by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or enrolment, or reinstatement of registration or enrolment, or endorsement of registration (whether for himself or herself or another person).

50—Nurse or midwife to produce certificate of registration or enrolment

A nurse or midwife is required to produce his or her certificate of registration or enrolment to—

- an inspector; or
- a person to whom the nurse or midwife has provided, or is providing, nursing or midwifery care; or
- a services provider who has provided, or who is proposing to provide, nursing or midwifery care through the nurse or midwife; or
- any other person prescribed by the regulations.

51—Report to Board of cessation of status as student

The person in charge of an educational institution is required to inform the Board when a student completes or ceases to be enrolled in, a course of study at that institution providing qualifications for registration or enrolment (as is the student).

Part 4—Investigations and proceedings

Division 1—Preliminary

52—Interpretation

This clause provides that in this Part the terms *occupier of a position of authority*, *services provider* and *person registered or enrolled under this Act* includes a person who is not but who was, at the relevant time, an occupier of a position of authority, a services provider, or a registered or enrolled person.

53—Cause for disciplinary action

This clause specifies what constitutes proper cause for disciplinary action against a person registered or enrolled under the measure, a services provider or a person occupying a position of authority in a corporate or trustee services provider.

Division 2—Inspectors

54—Authorisation of inspectors

This clause enables the Board to authorise persons to be inspectors for the purposes of this measure, and further provides that such an authorisation may be made subject to specified conditions or limitations.

55—Guidelines

This clause requires the Board to prepare guidelines to be followed by inspectors when investigating a matter under this Act. The Minister must approve the guidelines. The clause also makes provision about public access to the guidelines.

56—Review of guidelines

The Minister must, as soon as practicable after the second anniversary of the commencement of this section, conduct a review in relation to the operation and effectiveness of the guidelines prepared and approved under proposed section 55, must prepare a report based on the review and must then, within 12 sitting days after the report is prepared, cause copies of the report to be laid before each House of Parliament.

57—Powers of inspectors

This clause sets out the powers of inspectors to investigate suspected breaches of the Act and certain other matters.

Proposed subsection (6) also requires inspectors exercising the relevant powers to do so in accordance with the guidelines prepared by the Board and approved by the Minister under proposed section 55.

58—Offence to hinder etc inspector

It is an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector.

Division 3—Proceedings before Board

59—Obligation to report medical unfitness or unprofessional conduct of registered or enrolled persons

This clause requires certain classes of persons to report to the Board if of the opinion that a person registered or enrolled under the measure is or may be medically unfit to provide nursing or midwifery care. It also requires services providers and exempt providers to report to the Board if of the opinion that a person registered or enrolled under the measure through whom the provider provides nursing or midwifery care has engaged in unprofessional conduct. The Board must cause reports to be investigated.

60—Medical fitness of registered or enrolled persons

This clause empowers the Board to make an order suspending the registration or enrolment of a person or imposing conditions of registration or enrolment restricting practice rights or requiring the person to undergo counselling or treatment or enter into any other undertaking. The Board may make an order if, on application by certain persons or after an investigation under the measure, and after due inquiry, the Board is satisfied that the person is medically unfit to provide nursing or midwifery care and that it is desirable in the public interest.

61—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person (unless, in the case of a complaint laid by or on behalf of an aggrieved person the Board considers the complaint to be frivolous or vexatious).

If after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can censure the person, order the person to pay a fine of up to $5 000 or prohibit the person from carrying on business as a services provider or from occupying a position of authority in a corporate or trustee services provider. If the person is registered or enrolled, the Board may impose conditions on the person's right to provide nursing or midwifery care, cancel an endorsement of the person's registration, suspend the person's registration or enrolment for up to 1 year, cancel the person's registration or enrolment, or disqualify the person from being registered or enrolled. In the case of services providers, the Board can prohibit the person from carrying on business as a services provider, or from occupying a position of authority in corporate or trustee services providers.

If a person fails to pay a fine imposed by the Board, the Board may remove them from the appropriate register or the nurses roll.

62—Contravention of prohibition order

It is an offence to contravene a prohibition order made by the Board or to contravene or fail to comply with a condition imposed by the Board.

63—Register of prohibition orders

This clause requires the Registrar to keep a register of prohibition orders made by the Board. The register must be kept available for inspection at the office of the Registrar and may be made available to the public electronically.

64—Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered or enrolled person, to vary or revoke a condition imposed by the Board on his or her registration or enrolment.

65—Constitution of Board for purpose of proceedings

This clause sets out how the Board is to be constituted for the purpose of hearing and determining disciplinary proceedings under proposed Part 4 of the measure. Additional members may be appointed for the purpose. The Board is to be constituted of 3 members selected by the presiding member. In proceedings directly related to the practice of midwifery, 1 must be a midwife and, in other proceedings, 1 must be a nurse.

66—Provisions as to proceedings before Board

This clause deals with the conduct of disciplinary proceedings by the Board. The Board may make an interim order suspending registration or enrolment or imposing conditions restricting practice rights pending hearing and determination of the proceedings if the Board is of the opinion that it is desirable to do so in the public interest.

Proceedings under the proposed Part must be conducted as expeditiously as possible (and must, if the Board has taken action under proposed subsection (5), be heard and determined as a matter of urgency).

Part 5—Appeals

67—Right of appeal to District Court

This clause provides a right of appeal to the District Court against certain acts and decisions of the Board.

68—Operation of order may be suspended

This clause empowers the Board or the Court to suspend the operation of an order made by the Board where an appeal is instituted or intended to be instituted.

69—Variation or revocation of conditions imposed by Court

This clause empowers the District Court, on application by a registered or enrolled person, to vary or revoke a condition imposed by the Court on his or her registration or enrolment.

Part 6—Miscellaneous

70—Exemptions

The Minister may, after consulting the Board, grant exemptions from specified provisions of the measure by notice in the Gazette.

71—Statutory declarations

This clause empowers the Board to require information provided to the Board to be verified by statutory declaration.

72—False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure.

73—Registered or enrolled person must report medical unfitness to Board

This clause requires a registered or enrolled person who becomes aware that he or she is or may be medically unfit to provide nursing or midwifery care to immediately give written notice of that fact to the Board.

74—Information relating to claim against registered or enrolled person or services provider to be provided

This clause requires a person against whom a claim is made for alleged negligence committed by a registered or enrolled person in the course of providing nursing or midwifery care to provide the Board with prescribed information relating to the claim. It also requires a services provider to provide the Board with prescribed information relating to a claim made against the provider for alleged negligence by the provider in connection with the provision of nursing or midwifery care.

75—Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

76—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this measure or any other Act relating to the provision of false or misleading information.

77—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

78—Vicarious liability for offences

This clause provides that if a corporate or trustee services provider or other body corporate is guilty of an offence against this measure, each person occupying a position of authority in the provider or body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

79—Application of fines

This clause provides that fines imposed for offences against the measure must be paid to the Board.

80—Board may require medical examination or report

This clause empowers the Board to require a registered or enrolled person or a person applying for registration or enrolment or reinstatement of registration or enrolment to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure. If the person fails to comply the Board can suspend the person's registration or enrolment until further order.

81—Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

82—Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

- as required or authorised by or under this measure or any other Act or law; or
- with the consent of the person to whom the information relates; or
- in connection with the administration of this measure or the repealed Act; or
- to an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide psychological services, where the information is required for the proper administration of that law; or
- to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure.

83—Service

This clause sets out the methods by which notices and other documents may be served.

84—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences and for disciplinary proceedings.

85—Regulations

This clause empowers the Governor to make regulations in relation to the measure.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Nurses Act 1999* and makes transitional provisions with respect to the Board (including by allowing the most recently elected nurses and midwives to serve out the remainder of their terms), registrations and enrolments and the completion of proceedings commenced but not completed under the repealed Act.

Debate adjourned on motion of Hon. J.M.A. Lensink.

LIQUOR LICENSING (POWER TO BAR) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:30): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. Read a first time.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:30): I move:

That this bill be now read a second time.

Under section 125 of the Liquor Licensing Act 1997 (the act), a licensee or responsible person for licensed premises can bar a person from the premises for any of the following reasons:

- if the person behaves in an offensive or disorderly manner;
- if the person commits an offence;
- if the licensee or responsible person believes that the welfare of the person or the person's family is seriously at risk as a result of the consumption of alcohol by the person;
- on any other reasonable ground.

The power to bar is a protective order for the person concerned, another person with whom the person resides and other patrons and staff.

However, following incidents involving outlaw motorcycle gangs and licensed premises (such as the shootings at Tonic nightclub and more recently in the Gouger Street precinct), it has become apparent that there is a need to amend the act to grant the Commissioner of Police, and

other police officers on the authorisation of a police officer of a specified rank, the power to make an order to bar persons from licensed premises. Licensees have expressed concerns that, in certain circumstances, they are reluctant to issue barring orders, particularly if the patrons concerned are members of outlaw motorcycle gangs or the like; they are, understandably, too frightened and often intimidated to assert their current rights.

In other situations, police are frustrated by undesirable patrons being present on licensed premises in circumstances where, while no offence has been detected, police nevertheless hold concerns as to the safety and welfare of persons resorting to those licensed premises. Thus, it is proposed that part 9 division 3 (Power to bar) of the act be amended. Some of the amendments will further divide that division into subdivisions, each of which will relate to barring orders.

Proposed new subdivision 3 is headed 'Police barring orders' and contains sections 125A to 125D. Sections 125A and 125B will enable the Commissioner of Police to make, and police officers of a specified rank to authorise the making of, orders to bar persons from licensed premises (including multiple premises in certain cases) in the public interest, or on any other reasonable ground, for an indefinite period or a period specified in the order. This new legislation gives police sergeants the power to bar people for 72 hours for committing an offence or for disorderly or offensive behaviour in or around licensed premises.

Police inspectors will be able to bar for longer periods of up to three months on the first occasion of the offence, or six months for the second time an offence occurs. A third offence could lead to an indefinite barring. Police inspectors will also be able to bar people indefinitely on welfare grounds if they believe that the welfare of the person or the person's family is seriously at risk as a result of the alcohol consumed by that person. Such orders will be subject to review by the Liquor and Gambling Commissioner, under section 128.

Authorisations to police officers are subject to certain restrictions set out in new section 125B of the bill. It is also proposed that police will be required to provide relevant licensees with information on the barring that identifies a person who has been barred.

Section 28A of the act provides that police may rely on criminal intelligence when lodging objections to applications or in disciplinary matters. In such cases, the objection or application need state only that it would be contrary to the public interest if the person were to be, or continue to be, licensed or approved.

As a result of the proposed amendment to provide the Commissioner of Police with the power to bar persons, it is necessary to amend section 28A to provide that the Commissioner of Police may rely on criminal intelligence to do so. Again, such a barring order by the Commissioner of Police need only that it would be contrary to the public interest if the person were not so barred.

It is proposed to amend section 125 of the act, the section that makes provision for licensees to make a barring order. This first amendment will enable police to provide information (including information that may identify a person) to licensees for the purposes of the licensee barring the person under subsection (1) of that section. It is an offence, under section 125, for a licensee, a responsible person for licensed premises, or an employee of the licensee to allow a person barred from the premises to enter or remain in the premises. The proposed amendment to section 125 that will allow police to provide licensees with information (including photos, where available) which may identify persons who have been barred from premises should assist licensees so that they do not inadvertently contravene the section.

Currently, when a licensee or responsible person for licensed premises bars a person for welfare reasons under section 125(1)(aa), the barring order may be for an indefinite period or for any period the licensee or responsible person sees fit. In all other cases the following applies: a person may be barred for no more than three months for a first offence; a person may be barred for no more than six months for a second offence; and a person who has committed a third and subsequent offences may be barred indefinitely or for any period at the discretion of the licensee.

In the case of a barring made by a licensee for an indefinite period, or for longer than six months, the order will lapse if information regarding the barring is not provided to the LG Commissioner within seven days of the order being made. The LG Commissioner may review an order if the person is barred for a period exceeding one month and may confirm, vary or revoke the order. For an order barring a person for a period exceeding six months, or for an indefinite period, the LG Commissioner may vary the order until further order.

Licensees have expressed their concern that circumstances have arisen where serious incidents (including assaults, drug-related offending or property damage) justify a period of barring in excess of that currently permitted under section 125(5) of the act. It is proposed to amend section 125 of the act to empower a licensee to apply to the LG Commissioner to bar a person for a period exceeding three and six months for first and second barrings respectively, in which case the LG Commissioner's decision will be reviewable by the Licensing Court.

The proposed insertion of section 125E will empower police to require a person to provide personal details and, if necessary, to verify any statement made. It will be an offence if a person refuses or fails, without reasonable excuse, to comply with such requirements, carrying a maximum penalty of a fine of $1,250. I commend the bill to members.

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

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 28A—Criminal intelligence

Section 28A relates to information relating to actual or suspected criminal activity, the disclosure of which could reasonably be expected to prejudice criminal investigations, or to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement that, is so classified by the Commissioner of Police, is *criminal intelligence*). It is proposed to substitute subsection (1) so as to clarify that information that is classified by the Commissioner of Police as criminal intelligence for the purposes of the principal Act may not be disclosed to any person other than the Liquor and Gambling Commissioner (the *LG Commissioner*), the Minister, a court or a person to whom the Commissioner of Police authorises its disclosure.

An additional subsection to be inserted relates to the amendments to Part 9 Division 3 proposed by this measure. New subsection (5) provides that if the Commissioner of Police, by order, bars a person from licensed premises because of information that is classified by the Commissioner of Police as criminal intelligence, the order need only state that it would be contrary to the public interest if the person were not so barred.

Additional amendments are proposed to this section to provide for the maintenance of judicial functions in relation to the classification of information as criminal intelligence and the confidentiality of information that has been so classified in any proceedings under the principal Act (whether to be determined by the LG Commissioner, the Licensing Court, the Supreme Court or any other court).

5—Insertion of Part 9 Division 3 Subdivision 1 and heading to Subdivision 2

It is proposed to divide Division 3 of Part 9 into 4 Subdivisions. The first Subdivision (comprising new section 124A—Interpretation) is to be inserted before section 125 of the principal Act. New section 124A defines 'licensed premises' and 'premises' for the purposes of Division 3. The second Subdivision is to be headed 'Licensee barring orders'. That Subdivision is comprised of section 125.

6—Amendment of section 125—Licensee barring orders

The first amendment proposed to this section deletes words as a consequence of the insertion of new section 124A. The next amendment allows a police officer to provide a licensee with information that may identify a person for the purposes of enabling a licensee to bar a person from licensed premises or to identify a person who has been so barred.

It is also proposed to amend subsection (5) of this section to allow a person to be barred for such period as may be approved by the LG Commissioner that exceeds the period specified in subparagraph (i) or (ii) of subsection (5)(b).

7—Insertion of Part 9 Division 3 Subdivisions 3 and 4

It is proposed to insert new Subdivision 3 after section 125 of the principal Act. That Subdivision will provide for the making of barring orders by the police.

Subdivision 3—Police barring orders

125A—Police barring orders—criminal intelligence

New section 125A provides that the Commissioner of Police may, by order served on a person, bar the person from entering or remaining on—

- specified licensed premises; or
- licensed premises of a specified class; or
- licensed premises of a specified class within a specified area; or
- all licensed premises within a specified area,

for an indefinite period or a period specified in the order if the Commissioner of Police is satisfied, based on criminal intelligence, that it is in the public interest to do so.

The Commissioner of Police may—

- revoke an order under this section by subsequent order; and
- delegate his or her power under this section to a Deputy Commissioner or an Assistant Commissioner of Police.

125B—Police barring orders—general

New section 125B provides that a police officer may, on the authorisation of a senior police officer, by order (a *barring order*) served on a person, bar the person from entering or remaining on—

(a) specified licensed premises; or

(b) licensed premises of a specified class; or

(c) licensed premises of a specified class within a specified area; or

(d) all licensed premises within a specified area,

for a specified period not exceeding any applicable limit fixed by this section—

(e) if the police officer is satisfied that the welfare of the person, or the welfare of a person residing with the person, is seriously at risk as a result of the consumption of alcohol by the person; or

(f) if the person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises; or

(g) on any other reasonable ground.

An order under this section may be varied or revoked by subsequent order.

An authorisation to issue a barring order under this section—

- is subject to the provisions set out in proposed subsection (3) that relate to the length of time for which an order will remain in force;
- may be granted orally or in writing (but a written record must be kept of the authorisation and certain details relating to the authorisation and the order).

In this new section, a *senior police officer* is defined to mean—

(a) in the case of a barring order that is to be made on the grounds referred to in subsection (1)(e)—a police officer of or above the rank of Inspector;

(b) in the case of a barring order that is to be made on the grounds referred to in subsection (1)(f) or (g)—

(i) if the order is to be made for a period exceeding 72 hours—a police officer of or above the rank of Inspector; or

(ii) in any other case—a police officer of or above the rank of Sergeant or the officer in charge for the time being of a police station.

125C—Offences

A person who enters or remains on licensed premises from which he or she is barred under this Subdivision is guilty of an offence, the penalty for which is a fine of $1,250.

A licensee, a responsible person for licensed premises, or an employee of the licensee, who knows or ought reasonably to know that a person has been barred from licensed premises under this Subdivision and who allows a person to enter or remain on those premises, is guilty of an offence, the penalty for which is a fine of $1,250.

125D—Evidence

This new section provides for evidentiary matters in relation to orders and authorisations under this new Subdivision.

Subdivision 4—Miscellaneous

125E—Power to require personal details

A police officer may, for the purposes of Division 3, require a person to state all or any of the person's personal details. It is an offence for a person, without reasonable excuse, to refuse or fail to comply with the requirements of this section, the penalty for which is a fine of $1,250.

A police officer who has required a person to state all or any of the person's personal details under this section is required to comply with a request to identify himself or herself, by—

- producing his or her police identification; or
- stating orally or in writing his or her surname, rank and identification number.

8—Amendment of section 126—Orders

It is proposed to insert new subsection (1a) to provide that if a person has been barred from premises by order under Subdivision 3, the relevant licensee must, within 14 days of the service of the order, be provided with a copy of the order and information that identifies the person. Failure to comply with this subsection does not, however, affect the operation of the order.

9—Amendment of section 128—Review of orders

The proposed amendments to this section result from the determination that if the period for which an order made under section 125(5)(b)(i) or (ii) is extended for a period approved by the Liquor and Gambling Commissioner, any application for review of the order must be made to the Licensing Court. Thus the amendments are consequential on substituting the term 'licensing authority' for Commissioner in the section.

Debate adjourned on motion of Hon. J.M.A. Lensink.

CIVIL LIABILITY (FOOD DONORS AND DISTRIBUTORS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 September 2008. Page 250.)

The Hon. M. PARNELL (15:40): The Greens will be supporting this bill, which aims to encourage food businesses and private individuals to donate safe surplus food to charity. Even though it is one of the shortest bills we have seen, it raises some very fundamental questions that in fact go beyond the simple text of the bill before us.

The first question that it throws up is whether, as legislators, we should be aiming to legislate based on evidence of problems in the community or whether this is a form of legislation that is based on a philosophical position or taking a matter of principle. I say that in relation to the bill as presented and also in relation to the amendments that are on file from the Liberals and Family First, and I will speak to those in a little while.

The evidence for the bill is scant, but that does not mean that the bill is not deserving of support. In its report on the bill, the government said:

Although we cannot be certain, the government thinks that an important factor in causing businesses to dispose of food rather than donate it is the fear of legal liability should a consumer suffer ill-effects.

We are also told that donations of food in Victoria increased after similar legislation was introduced in that state. I also understand (but I do not know for certain) that no food donor to charity has ever been successfully sued in Australia for ill-effects resulting from that food. However, I am prepared to accept that, if there is a perception that you might be sued, that could influence some food businesses not to donate. I said there is very little evidence, but we all know that a large amount of food is thrown away. What we are doing in this bill is speculating that one of the reasons why that occurs is that people do not feel comfortable donating it, because they might be sued if something goes wrong.

I am not normally one to pander to perceptions as a reason for legislating. Before entering parliament, I spent some time working in community groups, and I can clearly remember lobbying members of the Labor Party in opposition (Ralph Clarke was one, and Annette Hurley, who were shadow ministers), and they agreed with me that a certain provision we were discussing—an amendment to the Development Act—was bad law, but they said they had to support it because of the perception that if they did not they would be anti-business. They said that when they got into government they would repeal it, which of course they never have—and I am referring to section 48E of the Development Act.

In relation to this bill, we know that the risk of a food business being sued for its donation of food is low—in fact, it is so low that, to my knowledge, it has never happened. However, I am

prepared to accept that the perception is enough to dissuade some businesses from donating and I am prepared to counter that perception through legislation and, therefore, support this bill.

That pretty much disposes of the bill as tabled. However, this is clearly a live issue, because there are a number of amendments on file and the numbers, on my reckoning, appear to be quite tight. So, I will spend some little time addressing the amendments—not in detail (we will do that in committee) but just the general principles involved.

The effect of both the Family First amendment and the Liberal amendment is similar in one way, and that is that they seek to expand the protection offered by the bill to goods other than food and to services as well.

The government bill, on the other hand, is only about donations of food. I appreciated the briefing I had from government officers. I also had a short discussion with Mr Iain Evans in another place, the lead speaker on this bill for the opposition, and an even shorter discussion with the Hon. Dennis Hood to clarify the intent of his amendment. My position on the government bill, whilst I support it, is to a certain extent dependent on how it responds to the issues raised by these other amendments.

The first thing we need to clarify is the difference between negligence and recklessness, because the concept of recklessness appears in all of the bills, but the distinction is most stark in connection with the amendments proposed by Family First and the Liberals. If we take, for example, the Liberal amendment, it basically says that 'a person incurs no civil liability for loss of life or personal injury or damage to property arising from the provision of goods or services to another if, in providing the goods or services, the person acted...' and a list of five criteria follows, one being '(d) without recklessness'.

It is important to explore that concept because, when we talk about civil liability, we are primarily talking about a civil standard of negligence. I am sure other lawyers might have a slightly different take on it, but there is a reasonable consensus that recklessness requires a subjective awareness of the likelihood of harm, but negligence can be satisfied if we can say that someone in that position should have been aware of the likelihood of harm—that is the main distinction.

We could take, for example, a carpenter doing free work for a charity, as that would fall within the protection offered by the Family First or Liberal amendments—a service being provided for no charge to a charity. If he is putting together some roof supports for a charitable project and says, 'I know that this joint needs to be secure; normally I would use four nail plates, but two plates is probably okay and will probably do', and the building falls down, you would probably be able to make a case for recklessness. The case might be, 'Well, I'm doing it for free, nail plates are expensive; I think two will probably do.' There is probably a case for recklessness in that situation.

On the other hand, you may have a carpenter who was not aware that certain types of nail plates had been found to be faulty. Perhaps it is a carpenter who does not read *Hansard*, for example, as we have discussed that matter at some length, so does he use four nail plates—

The Hon. R.D. Lawson: There wouldn't be any carpenters in that category.

The Hon. M. PARNELL: The honourable member says that there would be no carpenters in the class of persons who do not read *Hansard*, but I am sure he is wrong. Let us say he uses four nail plates but takes them from stock that is several years old. The building falls down, but you would then say that the carpenter was negligent. He did not know that there had been this debate and did not deliberately use faulty nail plates. However, even if they did not know, they should have known. That is the distinction in the test for negligence.

Negligence is a higher standard and more situations are likely to be caught under the umbrella of negligence than of recklessness, but how many it is impossible to say. Here we are talking about a continuum of civil culpability. At one end of the spectrum you have people who behave in a completely proper, thorough, detailed and comprehensive way that is beyond reproach, and at the other end of the spectrum you would have something such as deliberate sabotage. In between those two you would have a range of standards. The question before us is: where should the line be drawn in relation to the people who provide services for fee and where should it be drawn in relation to people who provide services for free to charities, and should the line be different or the same? I think those lines are probably very close together, but I cannot say exactly how close together they are. We will never know what the difference is between the two standards—negligence or recklessness—unless the matter is tested by a court.

One of the principles that I understand has driven the Liberal amendments—and perhaps also the Family First amendment—is the question: why should we treat one part of society's generosity differently from some other part of society? Why should we treat food differently from other goods and services? The answer that the government gives relates to the issue of perishability, the issue of shelf life and the fact that the risk is clearer and more easily discerned in relation to food.

Putting that in the context of South Australia and the volunteer sector, we know that there are hundreds of thousands of South Australians who volunteer and who donate goods and services and their time. I will give a couple of brief statistics taken from the New South Wales Centre for Volunteering. It did not do a nationwide study, but it reported on the Australian Bureau of Statistics that had done a nationwide study showing that in Australia in 2006 5.2 million people (which was then 34 per cent of the Australian population) aged 18 and over participated in voluntary work. Those people contributed 713 million hours to the community, an average of 136 hours each per year, or 2.6 hours per week

When we look at the types of people who volunteer, we find that they are dominated by people who are in more senior roles in the community: people in managerial, administration, professional and advanced clerical roles, service workers and those in lower paid areas of work. There may be many reasons for that which we do not need to go into. The Bureau of Statistics study also showed that the rate of volunteer participation is slightly lower in South Australia than in other states. The difference is not huge, but it is a slight drop, partly because I think our population is older and the peak volunteering age seems to be between about 25 and 45, which no doubt coincides with people with younger children, because a lot of volunteer activity is connected with schools. That is a little background about volunteering.

The key question for me in relation to the amendments to this bill—because they do go so much further than the government's bill—is: what barriers are standing in the way of South Australians being more generous in supporting charitable or community endeavours? If those barriers are legal barriers, then let us have a look at removing them. If the barriers are social or cultural, then perhaps legislation is not the way to go. We can ask ourselves a whole lot of subsidiary questions, such as: why as a society are we increasingly selling our second-hand goods on eBay or through the *Trading Post* rather than giving them to charities or to op shops, as we used to nearly always do? The question is: is there a risk, a threat or a perceived risk of legal action that is standing in the way of people donating goods, time and services?

Another fairly fundamental question that arises is whether the standard should be lower for donations than it is for paid work. We know, for example, when it comes to some of the professions, that there is no difference in standard. If, for example, you are a lawyer and you provide your legal services for free, then you are, in all likelihood, covered by your professional insurance whether or not you have been paid for the job. Private law firms regularly do pro bono work. As a private solicitor in the country in Victoria many years ago, my colleagues and I would never charge for the incorporation of a non-profit group. It was regarded as a service to the community. Had we got it wrong—had we made a mistake, had we been negligent—our insurance would have picked up the tab if that charity chose to sue us. As members would know, I spent 10 years before coming into parliament working as a lawyer for the Environmental Defenders Office, and we did not charge for our work, as a rule: it was basically a free service, yet I was covered by a Law Society insurance scheme for the whole of that time. It did not matter that I was not being paid for it. That is the situation for lawyers.

What I do not know is what the situation is for the other types of professional or trades services that people might choose to donate to the charitable sector. It seems to me that if people are covered by insurance policies there is no good reason for having a lower standard apply to the work that they do for free compared to the work that they are paid for. But I am sure this is not universal. There will be cases where an individual's or firm's insurance will not apply for work that is done outside the paid work environment, but that is something that I think we need more information on.

When talking to Iain Evans, he mentioned the issues around service clubs, in particular, groups that he has been associated with (I think Apex was one), and he talked about the very heavy insurance premiums that they have to bear to enable them to do their work. I think that is a problem for us as a community. What we need to look at is whether the types of amendments that are before us would actually do anything to remedy that situation.

So the question I have is: would a service club's insurance premiums for their charitable works be lower if they had the sorts of protections that are envisaged by the amendments before us? I think if the answer to that is yes, that their insurance premiums would be much lower and they would be able to do a lot more work in the community with the resources they have, then a reasonable case for these amendments has been made, but that is information I do not have.

I mentioned a philosophical question about standards applying for paid and unpaid work. I note that the member for Heysen (the shadow attorney-general in another place) said at the very conclusion of the debate in the other place:

> I have to put on the record that I absolutely agree with what the member for Davenport is putting, that is, where someone wants to make a donation for a charitable or benevolent purpose, no matter what the nature of that donation, whether it be goods or services, whether those goods be food or other than food, it is entirely appropriate to have a principle that we apply in this state saying that, so long as you are not reckless about the way in which you do that, we will protect you from liability.

So that is the fundamental principle.

However, I come back to where I started, to say: is there a practical application of that principle so that the community will be encouraged to provide more charitable services—either through removal of the fear of litigation or, in the case of insurance premiums for charitable groups and service clubs, that burden will be reduced? So that is a pretty important issue for me.

To summarise the Greens position on this bill, as I have said, we support the heart of the bill as presented by the government. We are prepared to tackle that perception that there is a risk of being sued in relation to food. We will support that. In relation to the Liberal and Family First amendments, we support the philosophy behind those amendments—what they are trying to achieve—but I recognise, as I think the movers of those amendments probably do also, that they have not been through a thorough process of evaluation and consultation, and I think that is a process we need to go through.

So, what I have put to the Attorney-General's office is that, if I can get satisfactory assurances from the Attorney-General that these issues (such as the general issues about donations of other goods and services) will be the subject of a timely public consultation process, then I am inclined to support the bill unamended. I do not want to hear that this bill is coming back for a review in two years as a report to parliament; that is not good enough. I think these issues are important, and I do want to see them debated in the community. In the absence of any such commitment from the Attorney, I am likely to support either the Liberal or Family First amendments, or some variation on that.

My assessment of what that means in terms of the fate of this bill is that one or other of those amendments is likely to get up, so we will probably end up in a deadlock conference, and the ball will well and truly be back in the government's court to show that it is serious about promoting philanthropy in this state. On the other hand, the government might say, 'Blow it! It's taken us five years; it took us a while to get SACOSS on board'—it was initially reluctant, as I understand it—'We'll just throw the whole thing out.'

I look forward to the Attorney-General's response, but it seems to me that the amendments raise important questions that deserve consideration. If we cannot get a commitment to consider them through a proper, thorough and timely process then we may as well support them in the bill now.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:01): I thank honourable members for their contribution to the debate and for the expressions of support for the principle of the bill. I particularly thank the Hon. Mr Parnell for his very eloquent contribution in relation to the issues that face us when we consider the amendments before the council. That is, of course, something that we will do when we resume at a future time.

In answer to the Hon. Mr Lawson's question about Foodbank, I confirm that Foodbank was consulted in the development of this proposal. The Attorney-General's office had discussions with Mr Leigh Royans, the General Manager. Foodbank receives donated food and distributes that food in some cases at no fee, and in other cases at a handling fee that is determined by the weight of the goods. This bill has the potential to increase the amount of food donated to Foodbank, which, as the member says, faces an ever-increasing demand for its help.

The Hon. Mr Lawson also asked whether Foodbank would receive the protection of the bill, given that it has a handling charge for the supply of the food. I understand that Foodbank donates outright a proportion of the food it provides and, where food is donated, the protection of the bill applies. Where a handling charge is made, however, it is doubtful whether the donor would fulfil the requirement that the donor must act without expectation of payment or other consideration; probably not. Foodbank has not asked the government to alter the bill on this point.

Bill read a second time.

SUMMARY OFFENCES (INDECENT FILMING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October 2008. Page 281.)

The Hon. J.A. DARLEY (16:04): I indicate my support for this bill. The bill is especially important in criminalising the indecent filming of minors and the circulation of such material. As such, I foreshadow an amendment to increase the penalties for offences committed against minors to send a very clear message to those who are thinking of indecently filming a child that this behaviour will not be tolerated.

I was moved to draft this amendment when I was contacted by a constituent who outlined a very disturbing case that happened recently at a games arcade in a shopping centre. This constituent is the manager of the games arcade where children regularly gather. Security footage shows a man entering the arcade and following an eight year old girl around the arcade before allegedly proceeding to put his mobile telephone under her skirt to presumably take a picture once she had stopped to look at a prize area.

The footage allegedly showed him making two attempts to take the picture. On the second occasion he was caught by a parent. The matter was reported to management and the police, and security footage of the incident was handed to police. Disturbingly, no charges were laid as police found it difficult to identify an offence with which to charge him.

My amendment doubles the penalty provided in the government's bill, and this is unusual in terms of the level of penalties normally found in the Summary Offences Act. However, historically offences against or involving minors in the Summary Offences Act have higher penalties, and I note that offences such as the sale and provision of drug paraphernalia to a minor or the provision of indecent or offensive material attracts a maximum penalty of $20,000.

I also note that the government's second reading explanation outlined an exemption from these laws for private investigators who film for the purpose of catching fraudulent claimants for compensation. I ask the government whether it can give an example of the type of situation that is envisaged, and whether it has consulted with the security industry over this. I also foreshadow that I will move an amendment to get rid of this exemption.

The Hon. D.G.E. HOOD (16:06): I rise briefly to indicate Family First's wholehearted support for this bill. We acknowledge the comments made by the Hon. Mr Lawson in his second reading contribution about whether or not it is necessary, as well as the argument regarding whether this bill is actually covered by legislation; and, whilst we respect his knowledge of these matters, nonetheless we see that it does no harm at all to specifically clarify that this is clearly an offence—and, what is more, lay out the appropriate penalties for the offence. For that reason we will support the bill.

The bill makes indecent filming an offence punishable by a $10,000 fine or imprisonment for two years. I note the comments made by the Hon. Mr Darley a moment ago about doubling those penalties in the case of minors (which I have heard him mention previously), and I can indicate that at this stage we would certainly be favourable to that. I will, of course, need to consult with my colleague, but I indicate our likely support for that as well.

These measures have been on the drawing board for some time. Let us not forget that the state Attorneys-General met back in July 2006 promising to tackle this issue. Victoria legislated against indecent filming some 12 months ago and many other jurisdictions (such as New Zealand and states throughout the United States) have prohibited the practice for a number of years now. However, we are pleased this legislation has come forward; it is better late than never.

We have had a number of incidents, and I understand the catalyst for this national approach was the well-publicised case of Takuya Muto, a Japanese student living in Sydney who pleaded guilty to three separate charges after he was caught filming women showering at a

Melbourne backpackers' hotel about two years ago. On the same date he had also taken a so-called 'up skirt' photo of a woman at the Australian Open tennis tournament. Unfortunately, this offence is common in some Japanese subcultures—apparently it is even promoted in some Japanese cartoons. However, we certainly do not want to have it here.

Closer to home, we had an incident where a camera was found in the woman's shower block at Lincoln College a year or two back. Any reasonable person accepts that such filming is unacceptable and, indeed, demeaning. It is particularly insidious given that digital images and video can now be shared so easily online on sites such as YouTube and the like. It will be reassuring to know that we have specific legislation to deal with the next instance of a camera being found inside a bathroom or hotel, or shop change room, and that the uploading of such film will also be an offence.

As I said, we are mindful of the concerns raised by the Hon. Mr Lawson. It does seem that sometimes we have legislation for legislation's sake but in this case I think that, being highly specific, it does no harm at all. One question this bill does not raise is: what happens when legal photos are uploaded to a voyeuristic website without consent? Several years ago photos of Victorian schoolchildren were uploaded to a voyeuristic website. The pictures were of clothed children, but many considered their display on such websites inappropriate. Certainly, in a world that is more digitally connected than ever before we will have to increasingly consider the implications associated with our images and private details being used without consent.

With those few words I indicate Family First support of this legislation. No doubt there will be some robust discussion in the committee stage, to which we look forward.

The Hon. R.P. WORTLEY (16:10): This bill is intended to address some of the antisocial behaviours that have emerged as a consequence of the explosion in small-scale technologies such as mobile phones with camera functions and similar devices. Our individual privacy is something we probably do not think about often unless it is compromised. We are under surveillance much of the time whether or not we are aware of it and whether or not we like it. Cameras follow us down Rundle Mall, observe us at ATMs, in shops, hotels and offices, on buses and trains. These are intrusions on our privacy that we accept because they go to our collective security and wellbeing.

Individual privacy in the context of this bill, though, means the right of an individual to reveal himself or herself at his or her own prerogative. The parameters of privacy differ among people and cultures, but it is pretty clear that most people would resent intrusions on their physical space and solitude that are surreptitious or otherwise uninvited and unwanted.

I am not proposing to go into a great deal of salacious detail about the drilling of holes in bathroom walls or the wearing of mirrors on shoes in order to look up women's dresses. Such topics have been more than amply discussed by some of those opposite. All citizens are entitled to their personal integrity, and that includes the freedom to go about daily business without fear of being illicitly or openly filmed without consent or otherwise harassed in these ways. That is why the government has proposed the measures set out in the bill.

The bill creates new and discrete offences of (1) indecent filming and (2) the distribution of the pictures so obtained. As my colleague the Hon. Paul Holloway said during his second reading explanation, indecent filming occurs when a person takes moving or still pictures, by any means, of a person who is undressed or engaging in a private act or takes pictures under a person's outer clothing. The offence only occurs if the film was taken in circumstances where a reasonable person would expect privacy or would not expect such pictures to be taken. An example of the former circumstance would be a changing room or dressing-room; an example of the latter would be the taking of pictures under a skirt or dress without the subject's knowledge or consent.

The bill provides that the act of making the picture or film will itself be illegal. The test is not whether the image is seen by anyone, rather that it is made. The distribution of the image is a separate offence. Images may be distributed, as we are all aware, by mobile phone, email or upload to the internet. The offence also encompasses agreement to distribute the image—for example, pursuant to a contract to supply. Of course, the defence of consent will apply in an indecent filming offence. Similarly, there is a defence to a distribution charge if the subject consented to the distribution or if the defendant could not reasonably have known that there was no consent.

The bill will not impact on the lawful activities of the police. The Listening and Surveillance Devices Act 1972 makes provision for the issue of warrants should surveillance prove necessary for the detection and prosecution of criminal activity, nor will the bill prevent licensed private

investigators from filming private acts in circumstances where fraudulent activity is reasonably suspected, as such footage may be necessary for any subsequent prosecution.

However, these exceptions aside, the bill will ensure that the law is able to recognise technological advancement and the nefarious use of devices that are, generally speaking, of benefit to the community and used for good and proper purposes by the great majority of people. With these few remarks, I commend the bill.

The Hon. M. PARNELL (16:14): The Greens support this bill which creates new offences of indecent filming and distributing the resulting pictures. Certainly, technology is proceeding at a great pace, and I think it is not beyond the realms of possibility to imagine a society where almost every single person has a camera on them all the time, because that is where we are heading with current technology.

We can be fearful of technology; we can also embrace it. This bill deals with one of the downsides of this emerging technology but there are upsides as well. The capacity of every citizen to be able to detect and report crime, for example, is greatly increased with everyone having a mobile phone with a camera on it. But there are huge implications for privacy and the law does need to catch up with technology and it needs to strike an appropriate balance between embracing these new technologies and protecting the privacy of the individual.

As parents, my wife and I regularly talk to our children about the implications of the new technology not just for their present life but for their future. Most of us in this chamber are fortunate that, during our younger years, digital photography did not exist, and we were not, in moments when we might have been behaving less than ideally, subject to all of our friends having cameras and taking photos. We have to tell our children now that they are effectively on public display at all hours of the day or night. Things that might not be too embarrassing now to a 16 year old are going to be embarrassing to a 36 or 46 year old.

The Hon. B.V. Finnigan interjecting:

The Hon. M. PARNELL: The honourable member says, 'Especially if you are running for preselection.' That is exactly right. This material effectively lasts for ever. So, our children are living in a different world from the one we lived in. Those comments are a slight aside, but I want to refer briefly to the Hon. John Darley's amendments. I look forward to hearing the government's response to those amendments, but, at first blush, it seems to make sense to have higher penalties where the victims of these crimes are young people.

Of course, we cannot, through the law, protect people from their own foolishness. However, a bill such as this should go some way towards protecting us and our children from modern day peeping Toms armed with digital cameras. The Greens are pleased to support this bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:17): I thank honourable members for their contribution to the debate on this bill. The Hon. Mr Lawson asked some questions about the policy of the bill. First, he asked why the bill does not follow the model of the Victorian and Queensland legislation, which extends to observation as well as filming. The evil at which this bill is aimed is covert filming or photography of people in private situations where they do not expect or consent to be filmed.

The reason for the focus on filming is that, as the honourable member said, the results of filming can appear on the internet and be instantly published to the world; they can be emailed to a large group; they can be distributed to the media; and they can be screened to an unlimited number of the offender's friends, or otherwise made public in permanent form. This is a novel harm that has become possible only in recent years, and it is unclear whether the present law is adequate to deal with it.

Observation, although also offensive, is an evil with far lesser consequences. It was judged that there were some difficulties in creating a specific observation offence. A highly specific offence may be inadequate and a more general offence over-inclusive. The Victorian provision to which the member referred, for example, is specific. It criminalises the observation of a person when that is done by drilling a spy-hole for the purpose but, seemingly, does not criminalise observation through a spy-hole that already exists, for example.

The Queensland provision, on the other hand, is wide and risks capturing some innocent circumstances; for example, if a male inadvertently steps into a women's change room by mistake when there is a woman present, he commits the offence, even though he may immediately retreat.

Neither provision was thought to be a suitable model. It is also possible that sections 17 and 17A of the Summary Offences Act, which deal with being on premises without lawful excuse and trespassing on premises in such a way as to interfere with the enjoyment of premises by the occupier, would capture the peeping Tom offender.

The member also asked about the filming of children in a state of undress. He raised the possibility that a person filming on a public beach might take film of small children bathing undressed, and, of course, they can give no consent. No offence is committed in that situation because no reasonable expectation of privacy arises for those children. A person who is undressed in a public place, such as on a beach, is not in a circumstance where he or she reasonably expects privacy because it is obvious that others may see that person. He or she is thus beyond the protection of this measure. Whether to allow small children to bathe naked in public is entirely a decision for their parents. However, if their parents decide to do that, they cannot go to the police, under this measure, if a picture is taken.

The member also referred to snapshots of little children in their bath and, of course, parents commonly do take such snaps. Again, no offence is committed. Small children depend on others to bathe and dress them and so cannot reasonably expect privacy in doing so. So, the precondition for an offence has not arisen. This will change as the child matures, of course, and the offence would catch, say, a father who secretly installs a camera in the family bathroom to film his 14 year old daughter in the shower, as well it should. By that age a child does reasonably expect privacy in the bathroom.

The member expressed surprise that the exemptions in this bill extend not only to police and licensed investigators but also to legal practitioners. This exemption is needed because legal practitioners may have to distribute an indecent film as part of a court case, and it is not intended that any offence is committed in that situation.

The member also spoke about the situation where a doctor needs to take pictures of a person's body for medical or forensic medical purposes. An example might be the case where a person has been sexually assaulted and it is necessary to collect evidence of trauma to the genital region for a prosecution. Again, this would not be an offence under the bill, because indecent filming in the form of photographing a person's private region is committed only 'in circumstances where the person would not expect that the person's private region might be filmed'. In such a case, the filming is quite overt and the patient expects that it will occur.

Other indecent filming, such as photographing a person in a state of undress, is an offence only if the person would reasonably expect to be afforded privacy. In submitting to medical examination and photography, the person waives privacy to that extent, so there is no offence. It is otherwise, of course, if the person is filmed secretly, so that a doctor who somehow manages to take covert photographs of an undressed patient when the patient has no reasonable expectation that this will occur would commit an offence. I again thank honourable members for their expressions of support for the principle of the bill, and I will address Mr Darley's amendments during the committee stage.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. J.A. DARLEY: I move:

Page 2, line 15 [clause 4, inserted section 23AA(1)]—

Delete all words in this line and substitute:

Maximum penalty:

(a) if the person filmed was a minor—$20,000 or imprisonment for four years;

(b) in any other case—$10,000 or imprisonment for two years.

The amendment increases the penalty for the offence of indecent filming if the person filmed is a minor. With concerns about child pornography and the exploitation of children, I think a higher penalty for filming of children is warranted. I realise that these offences will reside in the Summary Offences Act, which usually covers offences with lesser penalties. However, I am of the view that the seriousness of filming of a minor warrants a higher penalty.

The Hon. P. HOLLOWAY: This amendment will double the penalty where the person filmed was a minor. Members will notice that, in those cases, the offence would become a minor indictable offence. That means that the person charged can elect to be tried by a jury in the District Court. This is a much more expensive procedure for the public than a summary trial, but it is the accused's right. I am advised that it is not necessarily problematic that an offence which in one circumstance is summary and in another circumstance is indictable can appear in the Summary Offences Act. Members will note that the amendment speaks only of the situation where the person filmed is a minor. It is not impossible that the same film could include both adults and minors. Presumably in that case the higher penalty would apply. The government supports this amendment.

The Hon. D.G.E. HOOD: Family First supports the amendment as well. We live in an age where child protection is increasingly important, if it was ever less important. The weakness of the amendment is that it raises the maximum penalty and no-one in our courts ever gets the maximum penalty; it is a theoretical penalty—they always are. I have done extensive research and, other than where the penalty they receive is mandatory, in other than those cases, I am yet to find a case where somebody has received a maximum penalty. Nonetheless, it serves to send a signal to the judges that it is a very serious offence, and as a result of that it receives Family First support.

The Hon. R.D. LAWSON: I was not aware of this amendment and it has not been to the Liberal Party room. Personally the concern I have about it is that, whilst it is offensive for these offences to be committed against young children, many would, I imagine—and based on experience so far—be committed by young people. To impose upon young people, many of whom may be engaged in pranks at school functions and the like, and to subject them to the possibility of being prosecuted for an indictable offence and the whole panoply of the law, seems, at first blush, unduly stringent.

I certainly agree with the sentiment behind the amendment that the proverbial 'dirty old man' should be appropriately punished. Even with the maximum penalty of $20,000 or two years, there would appear to be quite an appropriate range for a sentencing tribunal to impose a heavy penalty. Given that the government, which considered the matter, has consented to the proposal and as Family First has indicated support, I indicate that the Liberal Party will not oppose the amendment.

The Hon. M. PARNELL: The Greens support the amendment, but I will comment briefly on the observations of the Hons Dennis Hood and Robert Lawson. The Hon. Robert Lawson is correct in that the perpetrator will in many cases be another young person, and that is why I do not share the Hon. Dennis Hood's concerns about people not getting the maximum penalty as judges would be able to take into account the fact that the perpetrator was younger, but having a high maximum penalty sends the right signal.

Members would recall the case recently where a teenager threw a wild party when his parents were away and gained some notoriety in the media, for his lack of fashion sense as much as anything else. People may recall that he was eventually nabbed by the police for child pornography as a result of what was on his mobile phone. I understand that it was a fairly consensual, if alcohol fuelled, situation he had been filming, but it was other teenagers in a stage of undress. Teenagers are likely to be caught by this provision, and it may be regarded as an unfair penalty to suffer for four years, but I am happy to leave it to the discretion of our judges as it sends the right message to protect our children to a greater extent than we protect adults. I support the amendment.

The Hon. D.G.E. HOOD: I do not want to prolong the proceedings; I will just clarify my comments. When I said that maximum penalties were largely irrelevant, I was referring to a whole range of offences and not this particular offence. I think the comment made by the Hon. Mr Parnell is quite correct, whereby the one benefit, if you like, of having higher maximum penalties is that it sends a signal to the particular judge that this is regarded as a serious matter by the parliament and should be treated as such.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 2, lines 20 to 25—Delete paragraph (b)

This amendment seeks to get rid of the offence for indecent filming by a licensed investigation agent. Given the definitions of 'indecent filming' and 'private act' in the bill, I can think of no possible situation for a private investigator to be filming people in such a manner.

The Hon. P. HOLLOWAY: At present the government does not support this amendment. It would remove the protection of the bill from licensed private investigators if they film people engaged in private acts. There are two competing public interests here. On the one hand, there is the public interest in protection of privacy. In general, we do not want people being covertly filmed in their bathrooms and bedrooms without their consent. On the other hand, there is the public interest in detecting fraud. It is well know that dishonest persons sometimes make fraudulent claims for compensation by exaggerating or fabricating medical conditions. Those claims, if they are not detected, cost the public through increases in insurance premiums and, make no mistake, if a fraudulent claim is not detected, we all pay for it.

Early on in our first term of government we heard in no uncertain terms from the public about the problems that arise for everyone when insurance premiums become unaffordable, so there is a public interest in affordable insurance. Such claims are also a criminal offence. Fraud is a crime and crime costs the community in many ways, including the cost of the harm done and the cost of detection and prosecution.

The bill has been designed not to cut across law enforcement efforts even where they infringe privacy. At present it is quite lawful for a defendant who suspects that a claim against him or her may be fraudulent to engage a licensed investigation agent to collect evidence. Commonly that includes filming or photographs, although equally it could include the investigator's own testimony.

The benefit of relevant film is that it leaves the court in no doubt about what the claimant's real physical capabilities are. The defendant, in engaging the investigator, is protecting his or her own interests, of course, but they are also assisting the public because the detection of crime is in the public interest. In framing this bill, the government had to decide whether to prevent a licensed investigator from taking film that might include private acts. On balance, we decided not to do that for good reasons.

First, clever fraudsters will take care not to behave in public in ways that are inconsistent with the claimed injuries. If they are going to let their guard down, it will be in circumstances where they think that they are unobserved. If we are going to catch these people, it may sometimes have to be in a private situation. If the bill made such filming unlawful, fraudsters would have a better chance of getting away with their crimes to the detriment of everyone.

Secondly, investigators are regulated by statute, that is, the Security and Investigation Agents Act 1995. They are liable to discipline by the District Court. Anyone can make a complaint about an investigator if there is evidence that he or she has acted unlawfully, improperly, negligently or unfairly. The investigator is at risk of sanctions, including suspension or loss of licence. Thus the law does not allow investigators carte blanche. They must act properly and fairly, and this was judged to be sufficient safeguard for the public against misuse of powers.

The bill does not propose any change to the current laws about trespass or about stalking and does not authorise an investigation agent to do anything that he cannot do now. Investigators have been free to take this type of film hitherto, and the bill would not change the law on this point.

Further, the bill does not permit an investigation agent to misuse the film. If he or she distributes the film, other than for the purposes of the claim (for example, if he or she shows it to friends or uploads it onto the internet), the distribution offence is committed and the agent is liable both to the criminal penalty and the disciplinary action. The film can only be taken and can only be distributed for purposes connected with a claim. To that extent the law imposes a new restraint on private investigators.

The Hon. R.D. LAWSON: I ask the Hon. Mr Darley to indicate whether this amendment was prompted by recommendations from any particular organisation and whether he is aware of any particular problems that have arisen in the past in relation to the present capacity of licensed investigation agents to film in circumstances where an offence under this act would otherwise be committed.

The Hon. J.A. DARLEY: No, I am not aware of any particular situation. It was just the thought that, in view of the definition of 'indecent filming', there was no reasonable situation where a private investigator could undertake this activity.

The Hon. R.D. LAWSON: In that case, I indicate that we do not support the amendment.

The Hon. M. PARNELL: The Greens do not support the amendment, either, but we acknowledge that the Hon. John Darley has sought to test this provision. I am satisfied with the minister's answer that distribution outside the appropriate channels in connection with the claim for compensation will still be an offence. Most of us are familiar with claims for fraud where the film footage is the allegedly injured person kicking around a soccer ball or bowling a fast delivery in a game of backyard cricket. But it is conceivable that there are other acts that they claim they are unable to engage in that might be of a more personal nature and a film might indicate that, in fact, it was a fraudulent claim. It is uncomfortable to think of private investigators creeping up to bedroom windows and poking cameras through venetian blinds but, as the minister said, we have a regime for the regulation of security and investigation agents and, in this instance, I am happy to trust that the mechanisms under that act will properly regulate investigators.

Amendment negatived.

The Hon. J.A. DARLEY: I move:

Page 3, line 3—Delete all words in this line and substitute:

Maximum penalty:

(a) if the person filmed was a minor—$20,000 or imprisonment for 4 years;

(b) in any other case—$10,000 or imprisonment for 2 years.

This follows from my amendment No. 1 to increase penalties where the film is of a minor.

The Hon. P. HOLLOWAY: At present, the government supports this amendment.

The Hon. R.D. LAWSON: We also support the amendment, although I think an argument could be made—and perhaps should have been made a little earlier—that it is more offensive and more deserving of criminal sanction to distribute material than it is, in my view, to take it in the first place. There might be innocent prankery or juvenile prankery about snapping these indecent photographs, but there is a great deal more culpability involved if one then seeks to distribute it over the internet. We will have the same penalty in both cases but, as the Hon. Mark Parnell mentioned in an earlier contribution, the courts do have discretion in relation to this and the range of penalties is wide enough for an appropriate penalty to be fashioned for any particular offence. So we support this amendment.

Amendment carried.

The Hon. J.A. DARLEY: I move:

Page 3, lines 11 to 17—Delete paragraph (c)

This amendment has the same effect as my amendment No. 2 in relation to the offence of distributing an indecent film or image, prohibiting the exemption for private investigators who are caught filming.

The Hon. P. HOLLOWAY: The government opposes this amendment, for the same reasons that I gave in speaking on Mr Darley's second amendment.

The Hon. R.D. LAWSON: I indicate that Liberal members do not support this amendment, for reasons previously given.

Amendment negatived; clause as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

At 16:42 the council adjourned until 28 October 2008 at 14:15.