LEGISLATIVE COUNCIL

Tuesday 3 March 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

ADMINISTRATION AND PROBATE (DISTRIBUTION ON INTESTACY) AMENDMENT BILL

His Excellency the Governor assented to the bill.

CRIMINAL INVESTIGATION (COVERT OPERATIONS) BILL

His Excellency the Governor assented to the bill.

KAPUNDA HOSPITAL (VARIATION OF TRUST) BILL

His Excellency the Governor assented to the bill.

STANDARD TIME BILL

His Excellency the Governor assented to the bill.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answer to a question be distributed and printed in *Hansard*.

NATIVE WATERBIRDS

174 The Hon. M. PARNELL (29 October 2008). Will the Minister for Environment and Conservation provide protection for South Australia's native waterbirds by permanently banning recreational shooting?

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 Minister for Environment and Conservation is satisfied that the appropriate policy is in place to ensure the sustainability of South Australia's waterbirds.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Desalination (Port Stanvac) Interim Report—Attorney-General's Response to the Environment, Resources and Development Committee
Rules of Court—District Court Act 1991—Civil Rules 2006—Amendment No. 8
Dangerous Area Declarations for the period from 1 October 2008 to 31 December 2008—Returns pursuant to Section 83B of the Summary Offences Act 1953
Ethical Public Sector Superannuation Schemes—Treasurer's Response to the Economic and Finance Committee
Road Block Establishment Authorisations for the period from 1 October 2008 to 31 December 2008—Returns pursuant to Section 74B of the Summary Offences Act 1953

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

Regulations under the following Act—
Development Act 1993—
Bushfire Protection
Commonwealth National Building Program
Residential Code

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Reports, 2007-08—
Barossa Health

Ceduna Koonibba Aboriginal Health Service Inc.
Children, Youth and Women's Health Service
Children, Youth and Women's Health Service—Statistical and Financial Report
Eudunda and Kapunda Health Service Incorporated
Kangaroo Island Health Service
Local Government Activities (report on activities conducted by the State Electoral Office)
Lower Eyre Health Services
Pika Wiya Health Service Inc.
Port Broughton District Hospital and Health Services Inc.
Port Lincoln Health Services Inc.
Repatriation General Hospital Incorporated
Southern Flinders Health
Review of the Health and Community Services Complaints Act 2004, dated 12 November 2008
Review of the Health and Community Services Complaints Act 2004—Government Response

Regulations under the following Act—
Food Act 2001—Adoption of Food Standards Code

District Council By-laws—Orroroo Carrieton—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Cats

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Act—
Liquor Licensing Act 1997—General—Banning Orders

CABINET MINISTERS

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): I seek leave to read a statement issued by the Premier today in relation to two new ministers being welcomed to cabinet.

Leave granted.

The Hon. P. HOLLOWAY: The Premier's statement reads:

Yesterday at the conclusion of our Monday cabinet meeting, I received the resignations of two of my ministers, the member for Mount Gambier and the honourable member of the Legislative Council, Carmel Zollo. Both of these ministers had previously indicated to me in about the middle of last year that they intended to retire from cabinet before the next election, which is nearly one year away.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Premier continues:

I thanked them both for their outstanding contributions to the cabinet and for their hard work to bring about reform in their areas of responsibility to improve the lives, services and conditions of South Australians in so many ways. With their resignations came an opportunity to undertake a small reshuffle within the cabinet. This is a good thing. I have always believed that combined with experience and knowledge should come fresh new ideas and a renewal of vigour and purpose. A good government is about a combination of change and continuity. It's about the stability and renewal in which this government has engaged over the past seven years.

The Hon. Carmel Zollo was the first Italian-born woman to enter the Legislative Council and has been an outstanding minister for the past four years, delivering major reforms in road safety and achieving sign-off on a major new prison for South Australia. It was on her watch that South Australia last year recorded its lowest-ever road toll, while introducing big changes to the graduated licence scheme that will ensure our young people are better prepared for taking on a full driver's licence.

In her responsibilities as Minister Assisting in Multicultural Affairs, she has attended many hundreds of functions and met thousands of migrants to South Australia and has been an inspiration to many people who have seen her career develop. We will miss her wise counsel and community based approach.

The member for Mount Gambier was an Independent Liberal member when we decided to bring his rural expertise into the cabinet in late 2002. I said at the time he entered cabinet that he had talent, ability, enthusiasm and energy—all of the qualities necessary to be an effective member of cabinet. He has not disappointed us.

The member for Mount Gambier was involved for many years in local government and was and remains always a passionate supporter of our state's region. While his decision to join our cabinet ensured the government had the stability necessary in the lower house to support the government's important legislative reform program planned for this term, we invited him to stay on in our second term, because his contribution had been so outstanding. He has brought a different culture and regional perspective to cabinet. His decision to stay on—

The Hon. R.L. Brokenshire: He was guaranteed a second term.

The Hon. P. HOLLOWAY: Which is probably more than the honourable member who interjected was given.

An honourable member interjecting:

The Hon. P. HOLLOWAY: You don't like it, obviously; why are you interjecting so much? The Premier continues:

His decision to stay on was a further demonstration—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Members opposite do not know how to deal with their people; they have to sack them. The honourable leader only has to turn around and look at the person behind him to get an understanding of that. The only way in the Liberal Party is to be sacked. The statement goes on:

The member for Mount Gambier has been a champion of regional and country South Australia and his work, particularly in assisting rural communities during this extreme period of drought, has been exceptional. I have taken the decision to replace him because the severity and longevity of this current drought means the importance of agriculture, food and fisheries and our regions are priorities that continue to require a high level of ministerial time and attention.

That is why this morning I appointed the Minister for Industrial Relations and Member for Colton as the new Minister for Agriculture, Food and Fisheries and the Minister for Regional Development. He will retain his role as Minister for Industrial Relations. I believe the member for Colton will be an excellent minister representing rural regions, especially given the severity of this drought and the ongoing issues associated with it. He is a minister who has proven he can make a real connection with all South Australians—he has a natural ability as a listener, a thinker and a problem solver and will be able to continue the important work being left by the former minister.

On Thursday of this week, it will be the 7th anniversary of this government, and the swearing in this morning of two new ministers into the parliament means they are the latest of eight new ministers that have entered the cabinet since our initial cabinet was sworn in in March 2002. I am delighted that, this morning, cabinet welcomed into its ranks the member for West Torrens and the member for Napier following a ballot in our caucus room meeting, where they were both elected unopposed.

Also elected unopposed as the new parliamentary secretary to me as Premier, replacing the member for Napier, is the member for Bright.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Premier continues:

I congratulate all three on their elevation to these important new roles. The member for West Torrens will be the new Minister for Correctional Services, Road Safety, Gambling, Volunteers and Minister Assisting the Minister for Multicultural Affairs, taking over all of the former minister Carmel Zollo's responsibilities with the addition of Volunteers and Youth. This is a broad sweep of responsibilities, but I am sure that with the energy and enthusiasm this youngest minister of the cabinet has for his new role, he will make a real impact in these areas.

The member for Napier will become the new Minister for Employment, Further Education and Training and Minister for Science and Information Economy, taking over those responsibilities from the member for Colton. The member for Napier has long been recognised as a real talent on our back bench, and I expect he will tackle very well the huge challenges facing our state in terms of the skills shortages we need to fill, especially in our mining and defence industries, in the future.

We are nearly one year away from an election which will be held on 20 March next year, and I hope that these two new ministers will bring about a renewed vitality to their areas of responsibility and bring new ideas and fresh thinking into their important portfolios.

On a final note, it is worth remembering that South Australia continues to have the lowest number of ministers of any state government in mainland Australia. The Western Australian government has 17 ministers and six parliamentary secretaries, while Queensland has 18 ministers and 11 parliamentary secretaries

I remind the council that the previous Liberal Olsen/Kerin government, like this government, also had 15 ministers of whom the current leader in another place was one. I commend the new appointments to the council.

QUESTION TIME

ECONOMIC STIMULUS PACKAGE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the federal government's stimulus package and, in particular, the fast-tracking of approvals.

Leave granted.

The Hon. D.W. RIDGWAY: All members are aware that the federal government has announced a $42 billion stimulus package of which South Australia is to get a significant share. The Premier announced a whole range of projects on 16 February this year but in particular (and I quote from his press release) he said, 'This is about shielding us from the full impact of that economic downturn.' He went on to say:

In South Australia, we aim to have 190 primary school building programs under construction by the end of June this year. A further 500 primary school construction projects will follow, and all of these should be underway by the end of the year. These projects include public and private schools, and all must be completed by no later than March 2011.

I think the Premier is also quoted as saying that 70 per cent of these projects must be completed by the end of next year. In addition he said, 'Beginning in March 2009 [Sunday], 1,500 new social houses will be built in South Australia, to be completed by December next year.'

On 27 February this year, the minister put out a press release entitled 'Government fast tracks nation building and jobs plan projects', in which he outlined that the government would be amending the development regulations to allow the timely delivery of such projects. I will not go into all the detail of it, but basically he appoints South Australia's Coordinator-General, Mr Rod Hook, to oversee all the projects that are due to be delivered under this time frame.

This raises a number of questions. One in particular that has been raised with me relates to the fast tracking of building approvals and concerns raised by community members about inappropriate developments and fast tracking developments, which may lead to corners being cut and safety concerns within our community.

The Hon. B.V. Finnigan interjecting:

The Hon. D.W. RIDGWAY: Mr President, the Hon. Bernard Finnigan interjects. I would like you to pay attention to those interjections, if that is possible.

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Chuck them out! One of the biggest concerns that has been raised with me is the capacity of the South Australian building community to actually deliver these projects. The HIA, the MBA, and the Property Council, the peak industry groups, do not believe that the capacity exists to deliver these projects. Also, why on earth do we have to have the projects delivered by December next year? The cynics amongst us would say that that is when it is time for the next federal election. Surely, if we do not have the capacity, a three to five year time frame would be more appropriate.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:37): What an extraordinary last question.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I would have thought that the answer was obvious to everyone. Right now we are facing the greatest global financial crisis in 70 years, and we need the

money spent now, not in three years. We need the stimulus package to work now. Why do you think the federal government rushed it through parliament? The federal government has set such tight time frames because the crisis is now and not in two or three years.

We are increasingly hearing horror stories about what is happening in the economies of Europe, the United States, and many other parts of the world. Inevitably, because we are now in a global economy, some of those difficulties will be exported here. Will we be able to sell as much of our wine in the UK market when that country is experiencing such difficulties? It will take some time for that to feed through, but that is what will happen. So, we need a stimulus package right around the world that works as quickly as possible. That is the answer to the last question, and that is why the commonwealth government has set these very tight time frames.

This government has responded to the commonwealth's package. The conditions in respect of when the money will be spent are set by the commonwealth—not us. It is not necessarily the state government's choice to spend it within that time frame, but the commonwealth government has basically said, 'Either use it or lose it.' So this government intends to use it; we will use it, not lose it.

The Leader of the Opposition also talked about inappropriate development. What we are talking about here is 1,500 houses for low income people and major school buildings. There are two lots of these. There are, I think, up to 500 Australia-wide, and we hope that our share will be somewhere around 40 to 45 special projects for major secondary schools. Primary schools have access to 800 buildings. If the honourable member reckons that it is inappropriate for primary schools in this state to have major activity in new buildings or developments, he must be the only one with that view.

The commonwealth has said that we need to stimulate our economy urgently. This money is available for only a short time because, unless that money can be spent and the stimulus go into the economy immediately, it will not have the necessary benefit. They are the rules the commonwealth has set; we have accepted that. I would be very disappointed if we were not the state quickest to use this commonwealth funding, ahead of every other government.

Last week the coordinators-general of each state met on this, and it is my understanding that they are all asking for copies of our development regulations, which went through last week. That will enable us to achieve this objective because the other states are still scratching their heads, wondering how to do it, while we are getting on with it.

In relation to the last part of the honourable member's question, he was suggesting that because we were fast tracking planning approval somehow that would lead to safety issues. We are fast tracking planning approval: we are not fast tracking building approval. Everything needs building approval. In any case, most of those buildings being constructed at schools, under the ordinary rules of the Development Act, would be assessed under section 49, which is the crown development section; so, effectively, they would have gone to DAC anyway.

Perhaps I should explain to the chamber, since the honourable member has raised it, exactly how this will work. With the tight timelines that are imposed on the funding by the commonwealth, it is imperative that we avoid any logjams that would hold up the development planning approval for this significant multibillion-dollar outlay on public infrastructure.

As I said, we approved last week—and they were part of the regulations I tabled in this place a few minutes ago—to bypass local planning authorities and centralise the approval process with a specially appointed Office of the Coordinator-General. The appointment of Mr Rod Hook, the Deputy CEO of the Department for Transport, Energy and Infrastructure, as Coordinator-General was also gazetted in last Thursday's *Gazette*.

These amendments to development regulations are necessary to ensure the delivery of projects across the state within the timeframes that have been established by the commonwealth, and failure to meet these timeframes would result in a loss of commonwealth funding, and that would mean South Australians would be needlessly exposed to the economic fallout of the global financial crisis.

The development approval process previously requiring the input of either several government or local government agencies will be removed for projects funded by the Nation Building and Jobs Plan and will be managed through the Office of the Coordinator-General. Projects approved by the Coordinator-General for funding through the Nation Building and Jobs Plan will be exempt from planning consent.

Where there are planning issues associated with projects, the Coordinator-General will liaise with the department of planning and local government to ensure an appropriate assessment of applications against the relevant planning requirements. Prequalified contractors will be required to submit all projects relating to the Nation Building and Jobs Plan to the Office of the Coordinator-General. As I said, building rules consent will still be required, so it is nonsensical even to imply that safety regulations and requirements are being compromised by the government's decision to fast track planning approval. The same safety requirements imposed on all building works in this state will be met; no corners whatsoever will be cut in that regard. Safe building practices will not be jettisoned, and to suggest otherwise is quite outrageous.

In fact, the Coordinator-General has assured me that, in relation to safety, he will be insisting that only certifiers that also hold engineering qualifications will be accepted for engagement to undertake building rules assessment of these projects. These changes simply allow planning approvals to be centrally coordinated and avoid bottlenecks as the planning authorities are inundated with development applications. For the fiscal stimulus package to have maximum impact on the local economy, projects need to be approved and construction work has to begin as quickly as possible. I think only an economic illiterate would think that it was sensible policy to delay a stimulus package until after the global financial crisis has hit our economy. I notice that the leader put out a press release the other day, calling this 'A dash for cash'. However, rather than a 'dash for cash', this is the sort of package that will not only cushion the South Australian economy but provide a legacy for decades to come by providing much needed public infrastructure for our schools and communities.

Members interjecting:

The Hon. P. HOLLOWAY: A legacy of debt! The honourable member should really think about what would happen if there was not a stimulus package and we had the sort of economic decline they have had in Europe. The debt would be far greater. Yes, a stimulus package will add to debt but, if it is successful, it will avoid an even bigger debt if the economy crashes like it has in some other parts of the world. You have only to look at Spain, which I think has over 20 per cent unemployment. What do you think unemployment at the sort of level they have in parts of Europe at the moment would do for debt? Yes, a stimulus package will add to debt, but it will be a lot less debt than otherwise would be the case.

We know where the Liberal Party stands on taking a proactive approach to protecting Australians from the worst economic consequences of the global economic downturn, given the Liberal Party's outright rejection of the stimulus package in the federal parliament. The Liberal Party would rather let South Australians bear the full brunt of the economic tsunami heading our way than take decisive action to limit its damage.

The timing of this nation building exercise is part of the policy prescription. Allowing projects to be delayed simply because local planning authorities cannot cope with the sudden surge in applications is just bad economics, and it would unnecessarily disadvantage this state. Only projects approved by the South Australian Coordinator-General, Rod Hook, for funding through the Nation Building and Jobs Plan will be exempt from planning rules consent. I think it is important that we understand that only public schools and some private schools are eligible for this package, although most of them will be at government schools.

The Coordinator-General will also work closely with the Local Government Association to ensure that community projects put forward by local councils can benefit from the fast tracked approval process. All the councils have been consulted—and I have spoken to the Local Government Association in recent weeks—and they are very keen to ensure that they are also able to spend as quickly as possible the money that will be provided to them through this package, because they do not want to lose that money, either. Exceptional circumstances do require exceptional measures, which is why this fast tracked approval process will be used only for national building projects while we face this unprecedented economic challenge.

The Coordinator-General is required to liaise with South Australia's Department of Planning and Local Government should planning issues associated with the project arise so as to ensure the appropriate assessment of applications. Pre-qualified contractors will be required to submit all projects relating to the Nation Building and Jobs Plan to the Office of Coordinator-General.

As there will be some heritage issues in relation to some schools, I also indicate that state heritage protections will remain in force. Finally, I say that—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, you asked the question; you wanted the details. I think it is important to note that, sensibly, these exceptions to the state's planning regulations will expire in December 2012. So, a sunset clause does apply when they are no longer required to implement the projects funded under the National Building and Jobs Plan. As I indicated—

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is the time frame requirement for these projects to be completed. So, there is a sunset clause for these rules. As I said earlier—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —it is probably true that many states in the commonwealth will struggle to meet the incredibly tight time frame. However, this government is determined that, given this money is available on the conditions that have been applied by the commonwealth government, we will do our best to ensure that our entitlement is spent within this state to assist the economy of South Australia.

ECONOMIC STIMULUS PACKAGE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:49): As a supplementary question, is the minister confident we have the construction capacity within this state to deliver these 700 school projects and 1,500 houses in a bit under two years?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:49): It will be an incredibly complex and difficult issue, but we will spend as much of that money as we possibly can. How we are going about the issue is a fair point raised by the honourable member. Yes, it is an incredible ask, but—

Members interjecting:

The PRESIDENT: Order! The Hon Mr Wortley and the Hon. Ms Lensink will come to order. The minister is answering a very important supplementary question.

The Hon. P. HOLLOWAY: This government will certainly not throw its arms in the air and say, 'We can't spend it all; we won't even bother to try.' No-one questions that it is difficult. The Coordinator-General will be working under my colleague the Minister for Infrastructure. I know from information he has provided that one of the ways he is looking at ensuring we can do this, particularly in regional areas where it will more difficult, is to try to get a builder who can package up a range of these in regional areas as the most effective use of resources. This government will do everything within its power to ensure that we spend as much of this money as we can, and I will be very disappointed if we do not do better than any other state.

APPRENTICESHIPS

The Hon. J.M.A. LENSINK (14:51): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs about early finishes for trade apprentices.

Leave granted.

The Hon. J.M.A. LENSINK: A number of contractors working under the Plumbers, Gas Fitters and Electricians Act 1995 have outlined their concerns to me about early licensing of apprentices and, specifically, that apprentices are finishing off-the-job training at either TAFE or a registered training provider and applying to OCBA to receive their licence before the four year on the job training has been completed. A number of contractors I have spoken to are concerned that this may lead to unnecessary accidents and affect the quality of the trade pool in South Australia. One stated specifically that 'Electrical apprenticeships should now be five years for the amount of stuff we need to know.'

At a regular meeting of the OCBA Plumbing and Electrical Industry Group in November last year, one of the attendees raised the issue that apprentices are being licensed by the Commissioner for Consumer Affairs early and without them first being signed off by their host. My questions are:

1. Can the minister clarify exactly what the guidelines for apprentices are and whether it is four years for on the job training?

2. Is she concerned that licences are being granted without being signed off by the host?

3. Will she review these conditions?

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) (14:52): I thank the honourable member for her question. In terms of trade apprenticeships, the licensing of some of these qualifications does come under the Minister for Consumer and Business Affairs; however, the setting up of the courses, curriculums and accreditation and their articulation and credits given in terms of recognition for other courses, including interstate recognition, are things that are mainly done through the education sector, and it is mainly the TAFE sector.

The Licensing Commissioner does not have a great deal of say in that. However, there are certain standards in terms of the recognition of competencies and educational standards for the licensing of apprentices. My understanding is that these are well articulated, and I am advised that they are consistent with those interstate and, in fact, where they are not, there is a push at the federal level to bring about some national consistency around licensing to address those issues of inconsistencies where they occur.

So, a great deal of work is currently being done and will continue to be done on that to bring about better national consistency, and that is in the interests of all our tradespeople, because it means they will more easily and readily obtain employment across borders where at present in some cases they cannot, because some of their qualifications are not accredited or recognised interstate.

In terms of the licensing in relation to the signing off of apprentices, I am not familiar with the details around our policy in that regard. I am happy to look into it and bring back that information to this chamber. The advice I have received is that the way our commissioner goes about licensing is, in effect, consistent with what happens elsewhere. I am happy to take that detailed part of the question on notice and bring back a response.

WASTE COLLECTION

The Hon. S.G. WADE (14:56): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about local government involvement in a state government trial.

Leave granted.

The Hon. S.G. WADE: In January 2008 the government invited councils to participate in a Zero Waste food waste trial and suggested that the councils trial a fortnightly collection of waste. In June 2008 the government announced that 10 councils would receive state government funding to participate in the trial, and the release indicated that four councils would trial fortnightly collection. Under the Public and Environmental Health (General) Regulations 2006, clause 4(2), owners of premises are required:

> To ensure that refuse on premises that is capable of causing an insanitary condition is disposed of as often as may be appropriate in view of the nature of the refuse, but in any event at least once a week.

The key phrase is 'in any event at least once a week'. The maximum penalty for breach of this regulation is $1,000. My questions to the minister are:

1. When she implemented the fortnightly collection trial as the Minister for Environment and Conservation, was she aware that she was putting householders and councils at risk of breaching the public health regulations?

2. Will she now apologise to local councils and their ratepayers for the invidious predicament in which she has put them?

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) (14:57): As members would be well aware, currently my portfolio responsibilities include that of state and local government relations, amongst others, and I am no longer minister for DEH with the associated responsibilities in relation to Zero Waste. It eludes the member opposite—obviously, he has been asleep on the job since then. I am not the relevant minister any more. Obviously, Jay Weatherill is

the minister for the environment and for Zero Waste, and it is important that I not discuss his portfolio or policy areas. Nevertheless, I think I can make a few relevant comments in relation to this issue.

The waste trial currently taking place was something on which, when I was minister for the environment, we set frameworks, sent out expressions of interest to councils encouraging them to consider participating in the trial and, having done that, took the next step, if my memory serves me correctly, and established an information forum where we informed interested councils of parameters around the trial. That was the extent of my involvement.

I recall, to the best of my knowledge, that some of the things we did with Zero Waste during those information sessions—and something in which the councils were interested—was to look at options available for them in relation to waste collection and at some of the financial implications of that as well. Clearly, councils were looking to bring about these changes in the most cost-effective way possible, and Zero Waste supported that—obviously, not forgoing any health considerations.

They were all matters that were talked about at the time, and I know that Zero Waste had various information on the different sorts of impacts that the waste collection scenarios have. That was really the extent of my involvement. Clearly, the trial was established to improve recycling here in South Australia. We are under great pressures environmentally due to greenhouse gas emissions and, of course, recycling and re-using our materials is a very important strategy to help address that. So, the principle of recycling and improving our rates of recycling is very sound. I visited other countries, including Germany, when I was environment minister, and some of those countries, in terms of their waste treatment management systems, are way ahead of us. There is a long way to go, even though we should be very proud that South Australia is in fact pretty much the leading jurisdiction here in Australia in terms of recycling. That should be recognised, also.

I had the carriage of setting up at least the first stages of the trial, and it was about trying to improve our responses to the environment and reduce greenhouse gases. It was a strategy consistent with those sorts of principles, and they are very sound principles. It was a trial. We were putting forward a trial for consideration and for people to try to see how it would work. That is why nothing was introduced at that time as a particular policy position. It was set up as a trial. It was a fairly new thing in this state. Burnside council had done some work on it beforehand and we had learnt some important lessons from that which we used in the second round of trials, but it was a trial and we were learning. No-one—the local councils and Zero Waste—pretended to know all the answers, and that is why this was established as a trial—so that we could apply these things, see whether they worked and then amend accordingly.

That certainly appears to be occurring now, and it is to be encouraged. The local communities have a strong view about how things are going and are feeding them back into their councils, and those matters are being considered and the trial is being adapted accordingly, as it should be. I think that is a very positive thing.

WASTE COLLECTION

The Hon. D.G.E. HOOD (15:03): I have a supplementary question, Mr President. Does the minister acknowledge that fortnightly collection may, in fact, result in a substantially increased health risk to the population?

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) (15:03): That is not a matter for me. I am not a health expert. The health matters of garbage—the life of garbage, the detrimental effects on the community and whether there are risks in terms of disease or rodents—is completely outside my expertise. I point out, however, that these matters are for trial so, if the community is finding that there are issues of concern, they should be fed back into the trial and taken up.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order. Has the minister finished?

The Hon. G.E. GAGO: I can only emphasise that this is a trial and if the community are not happy with it or have issues of concern about the current collection rates then what they should do is raise those matters—which they have done. I think that is a good thing. The collection rates

and the trial itself should then be amended accordingly. It is not for me to set policy for waste collection in an area that is clearly outside my portfolio responsibility. That is outrageous.

As I said, it is a trial, and if people have concerns in terms of health or odour—or any concerns—they have the right (which I encourage) to feed that back to their local council so that those matters can be considered, no doubt carefully by that council, and their concerns accommodated.

WASTE COLLECTION

The Hon. A. BRESSINGTON (15:06): Will the minister explain why a trial was necessary when, in fact, fortnightly waste collection has been trialled in Queensland, in Great Britain and in a number of other jurisdictions and failed, simply because of the health reasons that have been raised?

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) (15:06): I can only emphasise that I am not the Minister for Environment and I no longer have—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —responsibility for this policy area. I already answered this question when I said that there are other countries in the world that have developed their waste management to a much more sophisticated level than we have. This is about trying to improve the environment. That is the principle underpinning this. It is very important that, as a government, we continue to explore all possible ways of improving our environment. Millions and millions of tonnes of waste are going to landfill causing greenhouse gas emissions in the form of methane and CO_2. We have materials that we use only once—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: We have millions of tonnes of raw materials that we use only once and then dump into landfill. It is most important that, as a responsible government, we continue to explore all possible ways of improving our impact on the environment, by reducing our environmental footprint. I think that is a really good thing. Trials are, as a general premise, a good thing because they enable us to try things out and amend and accommodate accordingly. I think that is a positive thing. What are we so scared of? People have had a chance to raise their concerns, they have raised them, and my understanding is that the councils are considering feedback from local residents–and that is exactly how it should be. I commend them for that.

WASTE COLLECTION

The Hon. J.M.A. LENSINK (15:09): Did the minister, as the then minister, seek—

Members interjecting:

The PRESIDENT: Order! Both sides of the chamber continue to interject. The ministers have had a number of supplementaries. They have tried to answer them comprehensively. We have another supplementary, which I will allow.

The Hon. J.M.A. LENSINK: Can the minister advise, when she approved Zero Waste's strategy, whether she sought health department advice and, if so, what that advice was?

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): It was almost a year ago, and I do not carry those details around in my head. I do not know the answer to that, and it is not appropriate for me to return an answer to it because it is no longer my responsibility.

WASTE COLLECTION

The Hon. D.G.E. HOOD (15:10): Is the minister aware that Prospect council, just this week, has announced that it also will be moving to a fortnightly collection regime, not as a trial but as an ongoing practice?

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): If members want to continue to waste the time of this chamber, I am more than happy to stand up and to keep reiterating that that is no longer my responsibility. Irrespective of what Prospect has done in relation to a future waste trial, it is not my responsibility, and if the member has any questions on that I am happy to refer those questions to the appropriate minister, the Hon J. Weatherill, in another place and bring back a response.

DESALINATION PLANT

The Hon. B.V. FINNIGAN (15:11): Here we go!

An honourable member interjecting:

The Hon. B.V. FINNIGAN: Well, I am not surprised that they take so much interest in garbage because that is where they go trawling for their questions. I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the desalination plant project at Port Stanvac.

Leave granted.

The Hon. B.V. FINNIGAN: Building a $1.37 billion desalination plant at Port Stanvac to supply water to the Adelaide metropolitan area is a crucial part of the government's four-way strategy to secure our state's water supply, but it is also important that such a project takes into account the need to safeguard the marine environment of Gulf St Vincent. I am very worried about the marine environment of Gulf St Vincent. The opposition may not care, but I would ask the minister to inform the council what steps the government has taken to ensure that the design of the desalination plant achieves this objective.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:12): I thank the honourable member for his important question. Indeed, it is important that the new Adelaide desalination plant does meet the highest environmental standards. Construction of that desalination plant at Port Stanvac was approved last week following an exhaustive assessment using the major development process.

This approval means that the project has cleared the final hurdle in the process of development assessment, and work can now begin on what I am sure will be one of the most modern desalination plants in the world using best practice and the latest technology in this field.

The plant will initially produce 50 gigalitres of desalinated water per year with the capacity to be expanded to 100 gigalitres per year, reducing our state's reliance on the River Murray for our drinking water. But, just as importantly, the plant provides Adelaide with an option that does not rely on rainfall to supply water, whether that rainfall is in the Mount Lofty Ranges catchment or the Murray-Darling Basin.

While the project is of immense importance to this state, its development approval has been subject to the most transparent and robust processes that are available under South Australian laws, including a comprehensive environmental impact statement. That environmental impact statement was required to address more than 100 separate environmental, social and economic issues identified by the Independent Development Assessment Commission and, in response to that weighty document, SA Water received 39 public submissions, including 26 from members of the public, 11 from government agencies and two from local government or, to be more specific, the Marion and Onkaparinga councils.

Members of the public were also able to air their concerns at a public meeting at Hallett Cove held during the six-week consultation period. This meeting was in addition to the many public forums hosted by SA Water in the lead-up to the EIS process. This major development assessment concluded that appropriate environmental objectives and performance criteria were being imposed on the plant in a way that safeguards the marine environment and water quality in the Gulf St Vincent. An independent panel of marine experts has supported this conclusion.

The major development assessment recommended that conditions be imposed on the final design and location of the diffuser, and that should ensure that the plant achieves environmental objectives and performance criteria as set out in the environmental impact statement. Eleven conditions have been attached to the development approval and are required to be put in place to

ensure the successful development and operation of the plant. These conditions apply to both the construction and operational phases of the plant and include management plans to address issues such as site contamination, noise and vibration, abatement, air quality and traffic controls in and out of the construction site.

SA Water will be required to operate the plant in accordance with an approved operational environment management and monitoring plan prepared to the satisfaction of the Environment Protection Authority. The structures of the intake and outfall will also need to be designed, constructed and operated in accordance with parameters set out in environmental objectives and performance criteria. Further licensing requirements under the Environment Protection Act will also be required.

The assessment report conceded that the operation of the plant involved significant greenhouse emissions as an unavoidable cost of the desalination process. However, the assessment report found that the government's commitment to offset the greenhouse emissions through the use of accredited renewable energy sources and/or the purchase of carbon offsets is appropriate. In fact, the report concluded that the 100 per cent offset strategy is greater than would normally and reasonably be expected from such a development.

This has been a thorough and painstaking process. The approval covers both the construction and operation of the plant, including everything from noise, waste disposal and, of course, more importantly, the marine issues to ensure that the plant has a minimal impact upon the gulf. I look forward to the plant delivering the first water by the end of 2010.

DESALINATION PLANT

The Hon. R.L. BROKENSHIRE (15:16): I have a supplementary question. Given the minister's remarks about the sensitivities of environmental issues at Port Stanvac, will the minister indicate whether the government is prepared to listen to the wishes of the southern community and reconsider the second opportunity—that is, further south around Cape Jervis—to overcome the problems with marine biology degradation and the like?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:17): The environmental impact statement found that, providing the 11 conditions to which I referred and the environmental authorities are in place, the new Adelaide desalination plant can meet the environment standards necessary for such a facility. It would not be appropriate to start the whole process again, and I believe there would then be a whole lot of new issues about shifting the water from the plant.

A lot of effort has been put into this process and there is a detailed report. I invite any member to look at that report, which is available on the Department of Planning and Local Government website. I believe that after this exhaustive process it is important we now get on with the process of building this plant and delivering water from it.

DESALINATION PLANT

The Hon. DAVID WINDERLICH (15:18): I have a supplementary question. The minister mentioned a carbon offset scheme. That is a state government carbon offset scheme. Can the minister assure the council that under the proposed Rudd government carbon pollution reduction scheme the carbon offset scheme will reduce greenhouse emissions, or will it just subsidise the reduction of greenhouse emissions by other polluters and not add to the net reduction in greenhouse emissions?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): I can only refer to the relevant section of the assessment report, which says:

> The proponent has established a procurement strategy and is working through market sounding and procurement processes to complement the federal government's Carbon Pollution Reduction Scheme. In this regard, the EIS indicates the majority of energy will likely be purchased from off-site renewable energy sources supplying the grid, as on-site generation of the scale required for the proposed [Adelaide desalination plant] is not feasible due to site constraints. However, the proponent indicates there may be opportunities to incorporate small scale on-site renewable energy systems to potentially cover ancillary infrastructure…

Obviously, the commonwealth government's carbon pollution scheme is still under discussion and, as I understand it, the final form of the legislation is yet to be introduced into the federal parliament. Obviously, we will pay attention to that, but this state does not have the luxury to wait for the final version.

As I just indicated in answer to the Hon. Mr Brokenshire's question, we really need to get on with this plant. The greenhouse issues have been taken into consideration and, again, I invite the honourable member to read the report for further details in relation to that.

CABINET MINISTERS

The Hon. R.L. BROKENSHIRE (15:21): I seek leave to make a brief explanation before asking the Leader of the Government questions regarding the ministerial reshuffle.

Leave granted.

The Hon. R.L. BROKENSHIRE: In the past 24 hours we have heard of the resignation of ministers Zollo and McEwen and this morning the appointment of Mr Michael O'Brien and Mr Tom Koutsantonis. I acknowledge the good work that minister Zollo did, particularly with emergency services and volunteers. In the media overnight, on Adelaidenow for instance, the Premier has been quoted as saying:

> ...it was up to Caucus whether or not Ms Zollo's replacement came from the Upper House, where the Government will be left with only two ministers if he or she comes from the Assembly.

The resignation of minister McEwen represents not only an opportunity to fill the portfolios of primary industries, agriculture, food and fisheries, and regional development but also his departure represents a significant lessening of country experience and representation around the cabinet table.

The latest ABS data shows that, out of a total population of 1.584 million in South Australia, 426,000 (some 27 per cent) of those live outside of Adelaide. I believe the Hon. Bernard Finnigan best represents country interests—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.L. BROKENSHIRE: —but this time his chance has passed, as we now have new ministers sworn in. I note that, in talking about former minister McEwen, the Premier's media release yesterday stated that the minister was kept on into the government's second term 'because his contribution had been so outstanding' and that 'he has brought a different culture and regional perspective to cabinet'.

Family First has been so concerned about the nation's future in agriculture that it has been lobbying the federal government for a stimulus package for agriculture, because research shows that spending money at the base of the supply chain where there can be value-adding on that spending is the best way to stimulate an economy. Therefore, my questions are:

1. Did the minister have discussions with the Premier about the minister assuming the portfolio responsibility for primary industries, which he held admirably earlier?

2. Did the minister lobby for three ministers to be retained in the Legislative Council?

3. How will country South Australians be represented at the cabinet table after this reshuffle?

4. Will the new Minister for Agriculture, Food and Fisheries support Family First's campaign for an urgent agricultural stimulus package?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:24): In relation to the latter question, that is a matter for my colleague in another place, but I am sure that the member for Colton will do a magnificent job as Minister for Agriculture, Food and Fisheries.

While we are talking about stimulus packages, it should be recognised that a significant amount of that commonwealth package will be spent in regional areas. If one looks at the schools, every primary school under this package is entitled to a major piece of infrastructure and, because schools are so much smaller in local areas with smaller average school sizes, a disproportionately large number of those schools will be in regional areas. One would expect that a significantly disproportionate amount of that package will be spent in regional areas. The same would apply to the local government package as well. Of the 68 councils, a large number are in regional areas. I think that answers that.

In relation to the ministerial reshuffle, I thank the honourable member for acknowledging the work of the Hon. Carmel Zollo because she has done a great job in all her portfolios and, before that, as a parliamentary secretary.

In relation to the presence of ministers in this council, it is a matter for caucus, as the Premier has said, where ministers should reside. In fact, there is a view around that there should be no ministers in the upper house. Many people have put the view that, if this council is to perform as a proper house of review, maybe there should be no ministers at all in the council. Regardless of that, this government now has two ministers in the council, which was the case during the period from 2002 to 2005, and that is the decision of caucus.

CABINET MINISTERS

The Hon. C.V. SCHAEFER (15:26): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about discrimination.

Leave granted.

The Hon. C.V. SCHAEFER: In the almost seven years of the Rann government, there have been five resignations/sackings from cabinet, one being a male Independent. However, of the other four female ministers, three are members of the Labor Party. As the Minister for the Status of Women, does the minister believe that these women are less talented or less committed than their male counterparts in cabinet, or does she believe that she is part of a misogynist cabinet and, if so, what does she intend to do about it?

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) (15:27): I thank the honourable member for her question, because it gives me an opportunity to place a number of very important facts on the record. One of the first things I want to point out is that the Rann government does, in fact, place enormous importance on women as decision-makers. That is why it has been included as one of our Strategic Plan targets, which is certainly more than—

An honourable member interjecting:

The Hon. G.E. GAGO: We will look at the results in a minute, and I am happy to compare them with the opposition's own results. This government has had the courage to set a target for itself—a target that is publicly acknowledged and publicly accountable. It is a target that we are monitored by and report to, and that takes courage. This government has had the courage to set itself a 50 per cent target by 2014. Some of these targets are very ambitious, but we are not afraid to have a go. It is something that members opposite have failed to do. They are too frightened to set a target or key directions for themselves, and it shows in their numbers.

It is timely to look at a few statistics. After five years, the Labor Party has a 46 per cent representation of women in the House of Assembly, which is in stark comparison to the Liberal Party's 20 per cent. Whichever way you care to look at it, the Liberal Party's record is absolutely appalling. Liberal Party members do not even try, and they do not even care that they do not try. Labor has 15 women in the South Australian Parliament to the Liberal's five. That is 15 women to Labor and five to the Liberal Party. Let us just cast around the chamber: the Democrats, zero per cent women; Family First, zero per cent; Greens, zero per cent. You do not have to go very far in this chamber to see how well we are doing.

We may not have achieved our 50 per cent; it is a challenging thing to do, but we have tried damn hard to do it and are far in advance towards achieving it of anyone else in this place. That is 42 per cent of state MPs elected under Labor compared with 23 per cent Liberal. It is the opposition that is letting us down here; it is an absolute disgrace. It appears that the Liberals are making no real effort to enhance their representation in future either, with only five women.

Let us a look at a few more things I would like to put on the record. I thank the Hon. Caroline Schaefer for drawing this to my attention and reminding me of the importance of putting this on the record. Five women amongst 22 candidates for the next state election are listed on the Liberal website. That is what the Liberals have: five women amongst 22 candidates for the next state election, compared with 10 Labor women amongst 25 candidates. That is a vast difference, so they should be ashamed. The Hon. Caroline Schaefer should be working her bejeebers off to make sure her position is replaced by a woman. That is what she should be concentrating on, not bagging the good work that this government has done, way in advance of

anything members opposite have done. That is what she should be doing: making sure that she is replaced by a woman.

Speaking of Labor women, we are proud to have the specific group by the same name within the Labor Party that has specifically formed to help increase participation. We acknowledge it is not an easy thing—it is a very challenging thing to do—but we have got that group in place, and they help support the election of deserved female candidates.

I work hard for the promotion of women and the government's record. I work very hard towards our achieving that target, and the success speaks for itself. I know and am the first to accept that we still have a way to go, and I accept how difficult it is to reach these targets. It is challenging, and a lot of work needs to be done, but of all those sitting in this chamber it is Labor that has done the most for women by far—way in advance. To recap, 42 per cent of state women MPs are Labor; 23 per cent are Liberal; zero per cent are Democrats; zero per cent are Family First; and zero per cent are Greens. So, I rest my case.

LIQUOR LICENSING

The Hon. R.P. WORTLEY (15:33): I draw attention to the fact that it has taken almost one hour to get to our second question. It is outrageous. I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the recent amendments to the Liquor Licensing Act 1997.

Leave granted.

The Hon. R.P. WORTLEY: Until now, only liquor licensees had the power to bar people from their premises. Some licensees have been reluctant to bar people, for fear of retribution. Particularly in a case where a licensee is trying to kick out a bikie gang member from their hotel, you can understand their fear. What changes have been made to the Liquor Licensing Act 1997 to assist police with drunk and disorderly conduct in and around licensed premises?

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) (15:34): At midnight on Saturday night new powers came into effect that allow police to bar troublemakers from licensed premises. These new powers will assist police in being able to reduce crime and disorderly conduct in and around licensed venues. Police are now able to bar someone from one or many licensed premises for specified periods. The barring orders are flexible. The police can bar a person from all licensed venues in a particular area or from all licensed venues of a particular type.

A person can be barred from licensed premises for reasons based on criminal intelligence, welfare and also offensive and disorderly conduct. Police sergeants have the power to bar someone from licensed premises for a period of 72 hours for committing an offence or for disorderly or offensive behaviour in or around a licensed venue. Police inspectors have the power to bar someone from licensed premises for a period of three months on the first occasion of the offensive behaviour or an offence being committed, and six months for the second time. If a person commits an offence thereafter—a third time—they can be barred indefinitely.

Barring on the grounds of criminal intelligence can be issued only by the assistant commissioner or above. Police are also able to now provide information to licensees, including a person's identity, to assist the licensee in barring a person from the premises. A person who contravenes that bar can face a penalty of up to $1,250. I am advised that these new laws have already been effective. Within 12 hours of being operative, three people have been barred for three months from a hotel in Glenelg for drunk and disorderly behaviour, so it is working already.

The new amendments will also provide licensees with greater powers, and the amendments incorporate provisions to enable barred persons to seek a review of the barring order by the licensing authority in certain cases. These changes should assist the community by making licensed premises safer for everyone—not only patrons but also staff. The changes will also allow more cooperation between police and licensees. The powers will take the stress of barring away from licensees who in the past may have been reluctant to use their powers because of potential threats and intimidation. These changes will ease the burden on licensees in these situations, and the move has been welcomed by the industry.

ANSWERS TO QUESTIONS

MINING SECTOR

In reply to the **Hon. M. PARNELL** (30 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 advised:

1. The Department for Environment and Heritage employs one ongoing position dedicated to coordinating the administration and assessment of exploration and mining activities in parks and reserves. However, assistance is also provided by a number of senior departmental staff, including Rangers, in progressing mining-related activities.

2. At 1 May 2008, there are 376 licences under State mining legislation over parks and reserves.

3. The Department has reviewed the resources required in relation to exploration and mining activities in parks and reserves as the level of exploration and mining has increased. This is done annually as part of normal budgetary processes, taking into account all priorities for managing parks and reserves and the importance of supporting the State's economic development opportunities.

SCHOOL BUSES

In reply to the **Hon. C.V. SCHAEFER** (10 September 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 Education has provided the following information:

There was no pre-election commitment of the type described in the question, however on 15 August 2006, the Rann Government pledged that all new school buses would be fitted with lap-sash seatbelts.

The Department of Education and Children's Services (DECS) has advised that at the start of 2009, there will be a total of 71 DECS owned school buses fitted with seat belts. This equates to 31 per cent of the DECS operated fleet being fitted with seatbelts.

A donation from the Freemasons also assisted DECS to retrofit four buses.

DECS is committed to providing seatbelts on all new buses purchased by the department. All new contract bus services will have seatbelts fitted at the start of each new contract.

With the exception of Western Australia and some routes in Queensland, South Australia is leading the nation by installing seatbelts in its school buses.

EXECUTIVE POSITIONS

In reply to the **Hon. R.L. BROKENSHIRE** (12 November 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): I am advised that:

1. We all share a responsible concern for the world financial situation and any effect it may have on the local economy.

2. The three OCBA positions follow an internal restructure and have no additional cost to the OCBA budget.

3. No.

4. The review of OCBA over the past year takes into account the findings of the Productivity Commission Inquiry Report of April 2008 into the Review of Australia's Consumer Policy Framework as well as an internal review of the organisation to meet current day trade and consumer environments.

PSYCHOLOGICAL PRACTICE BILL

Consideration in committee of the House of Assembly's message.

The Hon. G.E. GAGO: I move:

That the Legislative Council do not insist on its amendments.

The Hon. J.M.A. LENSINK: This bill has been on the table and neglected for several months, perhaps for even over a year. My question to the minister is: why deal with this now prior to the Social Development Committee's report into unregistered health practitioners, which is supposed to guide some of our directions in this? What is the timing for this? Has anything changed since we last debated the bill?

The Hon. G.E. GAGO: I have been advised that the report of the Social Development Committee on its inquiry into bogus and unregistered practitioners will be completed by April. The Minister for Health (Hon. John Hill) has provided a report to that committee on those matters.

The advice is that there is no need for this bill to be held up pending an outcome of that inquiry, because the outcome is likely to have very little impact on the provisions that we are considering here before us. The minister has already indicated that, if there were matters that needed to be added to this bill in future, dependent on the outcome of the inquiry, he would be happy to consider that at the time.

The Hon. S.G. WADE: Could I clarify the minister's advice to the committee? If the minister is advising us that the Minister for Health considers that the council or, for that matter, the parliament would get no benefit from receiving a report from the Social Development Committee on, as I understand it, particularly the hypnosis elements of this bill, why did the minister refer it in the first place?

The Hon. G.E. GAGO: Sorry, I missed the first part of that.

The Hon. S.G. WADE: Apparently, the back bench is trying to undermine the minister. As I understand the minister's advice, the Minister for Health is of the view that there is no need to wait for the Social Development Committee's report in relation to the hypnosis elements of this bill. If that is the case, why did the minister refer the matter to the Social Development Committee in the context of this bill?

The Hon. G.E. GAGO: These are, indeed, related but they are not dependent on each other. The Social Development Committee inquiry is obviously about considering a much broader context in relation to a range of alternative health practitioners. Any provision in relation to hypnosis, the matter that was mentioned, needs to be considered in relation to that context. I guess the short answer is that they are related questions but not dependent on each other.

The Hon. S.G. WADE: This matter has not been discussed in this place since the last session, and it has been restored to the *Notice Paper*. As a member of the Social Development Committee, I understand that a report will be available in the not too distant future. Bearing those matters in mind, does the minister consider that it might be of assistance to this council to receive that report before consideration progresses? Or to put the question another way: if it is not necessary to wait now, why have we waited so long?

The Hon. G.E. GAGO: I consider that to be obstructive. I have already answered the questions about matters being related but not dependent. The Minister for Health has already given a commitment that he will consider recommendations from the Social Development Committee's inquiry and, if required, amend at a later time.

This matter has indeed been before us for a considerable time and I believe that it would be irresponsible and obstructive of the opposition not to proceed with it now, given the minister's commitment.

The Hon. J.M.A. Lensink: We've been ready to do this for ages.

The Hon. G.E. Gago: Well, get on with it.

The Hon. J.S.L. Dawkins: You get on with it.

The CHAIRMAN: Order!

The committee divided on the motion:

AYES (6)

Finnigan, B.V.	Gago, G.E. (teller)	Gazzola, J.M.
Holloway, P.	Wortley, R.P.	Zollo, C.

NOES (13)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A. (teller)	Lucas, R.I.	Parnell, M.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.
Winderlich, D.N.		

PAIRS (2)

Hunter, I.K.	Schaefer, C.V.

Majority of 7 for the noes.

Motion thus negatived.

MOUNT GAMBIER HOSPITAL HYDROTHERAPY POOL FUND BILL

In committee.

(Continued from 17 February 2009. Page 1256.)

Clause 3.

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

Page 2—

Before line 8—Before the definition of 'Country Health SA' insert:

'Commissioner' means the Commissioners of Charitable Funds under the Public Charities Funds Act 1935;

Line 11 [clause 3, definition of 'Fund']—Delete 'of Charitable Funds'

The Hon. G.E. GAGO: The government is pleased to be able to support all the Hon. John Darley's amendments. The proposed amendments enable the Commissioners of Charitable Funds to continue to hold in trust the funds for the hydrotherapy pool until an alternative proposal is approved, to apply the funds to this proposal, to fulfil the other functions proposed for Country Health SA in relation to the advertising of an alternative proposal, and to return donations with interest.

The amendments are in keeping with the government's objectives for this bill, save that under these amendments the Commissioners of Charitable Funds have the significant responsibility and not Country Health SA. In the end, the same objective for the community is achieved, and the amendments are therefore supported by the government.

The Hon. S.G. WADE: The opposition also supports the Hon. John Darley's amendments.

The Hon. D.G.E. HOOD: I advise that Family First also supports the Hon. Mr Darley's amendments, and is pleased with the outcome.

Amendments carried; clause as amended passed.

Clause 4.

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

Page 2, lines 19 to 27—Delete the clause

Amendment carried.

Clause 5.

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

Page 3—

Line 2 [clause 5(1)]—Delete 'Country Health SA' and substitute:

Mount Gambier and Districts Health Advisory Council Inc

Lines 3 and 4 [clause 5(1)]—Delete 'in consultation with Mount Gambier and Districts Health Advisory Council Inc,'

Line 6 [clause 5(2)]—After 'with' insert:

Country Health SA and

Lines 7 and 8 [clause 5(2)]—Delete 'and may make such submissions as Mount Gambier and Districts Health Advisory Council Inc thinks fit to Country Health SA following such consultation'

Line 9 [clause 5(3)]—Delete 'Country Health SA must not implement' and substitute:

Notwithstanding any provision in the *Public Charities Funds Act* 1935 to the contrary, the Commissioners must not apply the remainder of the Fund in accordance with

Line 10 [clause 5(3)]—Delete 'Country Health SA' and substitute:

the Commissioners

Lines 11 and 12 [clause 5(3)(a)]—Delete 'having considered any submissions made under subsection (2), reasonably believes' and substitute:

reasonably believe

Line 14 [clause 5(3)(b)]—Delete 'considers' and substitute:

consider

Amendments carried; clause as amended passed.

Clause 6.

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

Page 3—

Line 18 [clause 6(1)]—Delete 'implementing a funds proposal, Country Health SA' and substitute:

this Act, the Commissioners

Lines 22 and 23 [clause 6(1)(b)]—Delete 'Country Health SA' and substitute:

the Commissioners

Lines 26 and 27 [clause 6(1)(c)]—Delete 'Country Health SA' and substitute:

the Commissioners

Line 28 [clause 6(1)(d)]—Delete 'Country Health SA thinks' and substitute:

the Commissioners think

Line 30 [clause 6(2)(a)]—Delete 'Country Health SA is' and substitute:

the Commissioners are

Line 35 [clause 6(2)(b)]—Delete 'Country Health SA has, or is' and substitute:

the Commissioners have, or are

Line 37 [clause 6(2)]—Delete 'Country Health SA' and substitute:

the Commissioners

Amendments carried; clause as amended passed.

Clause 7.

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

Page 4—

Line 3 [clause 7(1)]—Delete 'Country Health SA' and substitute:

the Commissioners

Line 5 [clause 7(1)(a)]—Delete 'Country Health SA' and substitute:

the Commissioners

Lines 7 and 8 [clause 7(1)(b)]—Delete 'Country Health SA in accordance with the policy referred to in subsection (2)' and substitute:

the Commissioners

Lines 9 to 11 [clause 7(2)]—Delete subclause (2) and substitute:

(2) Subsection (1) has effect notwithstanding any provision in the *Public Charities Funds Act* 1935 to the contrary.

Line 12 [clause 7(3)]—Delete 'Country Health SA' and substitute:

The Commissioners

Amendments carried; clause as amended passed.

Clause 8.

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

Page 4—

Line 16 [clause 8(1)]—Delete 'Country Health SA' and substitute:

Subject to section 5(3), the Commissioners

Lines 19 and 20 [clause 8(2)]—Delete subclause (2)

Amendments carried; clause as amended passed.

Clause 9.

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

Page 4, lines 22 and 23— Delete 'revocation of the trust established under section 4' and substitute:

the application of the remainder of the Fund in accordance with this Act

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

STATUTES AMENDMENT (PROHIBITION OF HUMAN CLONING FOR REPRODUCTION AND REGULATION OF RESEARCH INVOLVING HUMAN EMBRYOS) BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1398.)

The Hon. J.S.L. DAWKINS (16:06): This is a conscience issue for members of the Liberal Party, as was the case in 2003 when we debated the Prohibition of Human Cloning Bill and the Research Involving Human Embryos Bill.

I support the legislation. I have taken considerable note of the debate in the House of Assembly and also the contributions that have been made in the Legislative Council so far in this debate. There are a range of views across the political spectrum, and I think that is one of the good things about debate on a conscience issue. Certainly, most of us agree that you cannot run a government on conscience issues, but it is good to have that across party debate, and I welcome that.

It was also interesting to go through the range of views expressed by my colleagues on both sides of the political fence in the federal sphere, which again showed that a number of close allies in a political party have differing views on this matter, and sometimes it is the case that our colleagues in other parties share our view.

I have had a lot of lobbying on this issue, as I think most members have, and a lot of that has come from people I respect and admire, but I do not necessarily agree with those people on this matter. I have had quite a bit of encouragement—some of it has probably been stronger than encouragement—to consider the new advances that have been touted, particularly induced pluripotent stem cell techniques.

Over the time I have been a member of this place, I think I have consistently supported measures that have advanced the quality of life for people. I have given support for medical

research that can enhance the quality of life, and that encompasses my support for voluntary euthanasia and surrogacy. I have consistently believed that we should support the medical advances that are available and not shut the gate on measures when we do not know that alternatives are absolutely proven.

I would like to read from a letter which was forwarded to me last October from Professor Robert Norman, the Director of the Robinson Institute at the University of Adelaide. I have had quite a bit to do with Dr Norman through the debate on surrogacy, and he among others gave very good evidence to the Social Development Standing Committee in relation to the surrogacy bill. This letter was sent to most members, if not all, and states:

Dear honourable member

Statutes Amendment (Prohibition of Human Cloning for Reproduction and Regulation of Research Involving Human Embryos) Bill 2008.

I am writing on behalf of the leaders of the newly established Robinson Institute for research into reproductive health and regenerative medicine at the University of Adelaide. I lead over 150 research and clinical scientists who bring more than $25 million per annum of competitive money into this state for medical research. I represent the University of Adelaide's Research Centre for Reproductive Health, the Centre for Stem Cell Research and the Centre for Early Origins of Health and Disease, also incorporating (but not representing) researchers from the Hanson Institute, IMVS, and Women's and Children's, Royal Adelaide, The Queen Elizabeth and Lyell McEwin hospitals.

We urge state parliamentarians to support the current proposal to amend the Bill regarding stem cells and embryo research (Prohibition of Human Cloning for Reproduction and Regulation of Research Involving Human Embryos). The success of this bill is essential for University and Hospital based researchers to continue their studies into use of stem cells and embryos for cures for diseases including cancer, neurological and blood disorders, infertility and renal disease to name but a few. Therapeutic cloning would allow patients or groups to have personalised stem cells which minimise their need for immunosuppression and would allow disease specific cell lines to be made from patients which could be used to study a disease and test drugs. In addition, elements of the Bill are essential for us to continue to improve embryo culture conditions and maximise outcomes for embryos from couples undergoing IVF and fertility treatment.

We welcome recent development in human adult stem cells and induced pluripotent stem cells as being of great potential for future breakthroughs but, as scientists and clinicians, we recognise that we need access to all technologies to adapt rapidly to scientific advances. Although promising, all scientists including the inventors of iPL cells, agree it is too early to rule in or out any one type of stem cell technology. In addition these adult derived stem cells are genetically modified with viruses. They contain multiple copies of a particular transportation factor, they do not have the same expression pattern as embryonic stem cells and we do not know if they can do everything embryonic stem cells can do. The transcription factors may also be oncogenic.

We are the leaders in reproductive research in Australia and have several researchers in stem cell biology who are highly innovative and internationally competitive in their field. If the Bill does not proceed through State Parliament our research will be severely curtailed and will place South Australia medical research at a disadvantage compared with some interstate colleagues and international competitors.

Our members are representative of the full range of differing ethical, moral and religious views found in the general community. We share our research and discoveries with our peers in medicine and science as well as with our communities and families. We submit all our research proposals to ethics committees based on NHMRC guidelines and some of our work is regulated by State and Federal statutes regarding reproductive technology. As a result, we are well aware of community opinion regarding issues in this bill and obey all regulations and laws regarding our research. We have no desire to be involved in research that the community considers to be unethical or inappropriate and therefore wish to see this Bill passed so we can practice our research with the support of the population of South Australia.

Yours sincerely, Prof Robert Norman, Director, Robinson Institute

On behalf of the Robinson Institute, Research Centre for Reproductive Health (Associate Professors Jeremy Thompson and Sarah Robertson), Centre for Stem Cell Research (Associate Professors Mark Nottle and Stan Gronthos), Centre for Early Origins of Health and Disease (Professor Julie Owens) and Dr Michelle Lane (NHMRC Senior Fellow and Scientific Director Repromed)

That is a very relevant piece of correspondence. It sums up the situation in my view and emphasises the question that many of us may ask, namely, will it be a number of years before the alternatives put forward are proven? That is a strong indicator to me and the reason I support the legislation.

Another interesting factor has come up in this debate. Someone has said to me, 'You're a Christian, a former chairman of the Parliamentary Christian Fellowship, how could you support this bill?' This person made the assumption that all Christians would be against this bill. I was interested to read the debate in the House of Assembly. The Hon. Trish White, the member for Taylor in another place, touched on this issue.

The Hon. S.G. Wade: A former Labor minister.

The Hon. J.S.L. DAWKINS: She is. She touched on this issue and I thought that what she said was worth repeating in this place, as follows:

> There is an assumption that a Christian cannot vote for stem cell research. I do not believe that is true. I would describe my own faith as an open, dynamic and, hopefully, courageous faith, where continuous questioning is part of my faith. God for me is found in life, and life is complex not simple, so my decision making in all of these matters is not simple. My decision on this bill is to support the bill. I think the member for Mitchell said, 'Why close a door?' and I say, 'Why put up a road block?'. There has been a lot of discussion in this house. It has been said that this legislation is obsolete, that a new cure has come along that we do not need embryonic stem cell research any more. I do not see it that way.

I concur with the member for Taylor, I have a very similar view about my Christianity, and my stance on this legislation is similar. I strongly believe we should not shut a gate when we do not need to. I also believe that we should not make a move that potentially could lose a lot of that research effort to the state. For those reasons I strongly support the bill.

The Hon. J.A. DARLEY (16:19): I rise to speak on this important bill and, in so doing, acknowledge the difficult task that all members of this parliament were faced with in considering this issue. I am sure all members of the council have been lobbied heavily by representatives from both sides of the debate, as have I—a debate that I recognise in a rather simplistic way as moral opinion versus scientific advancement.

The practice of creating embryos in a laboratory environment (or research involving embryos, as it is commonly referred to) purely for the purposes of destroying them for scientific research has evoked strong community reaction. The question of at what point an embryo becomes a life has been raised a number of times and is not a question that I wish to address today. However, I would like to highlight the controversy that surrounded the original research involving the human embryos bill in 2003, when there was vocal opposition to the use of excess reproductive embryos for the purpose of scientific research. Had South Australia not progressed with the original bill, we would not be leaders in reproductive research in Australia.

The practice of using excess reproductive embryos is not one that I take issue with as I understand these embryos would otherwise be destroyed. I see the advantages that these excess reproductive embryos have given to the scientific community in terms of advances in medical research. I am told that the process used to harvest eggs from a woman is emotionally and physically draining as well as expensive. Further, eggs donated to scientific research are limited in number and, as there is a way in which to continue research into embryonic stem cells without these limitations, I believe it should be pursued.

It is also for this reason that I believe it is necessary to create hybrid embryos, provided it is purely for the purpose of testing sperm quality as human eggs are not readily available and should be used carefully. This is not to say that I am entirely comfortable with creating research embryos with the intention of destroying them or with the creation of hybrid embryos. However, I am able to see the benefit that both these processes can produce and have confidence in the strict licensing and monitoring requirements that this bill outlines.

As previously mentioned, South Australia is the leader in reproductive research in Australia, and I encourage the continuation of this and other related research. Should this bill not pass, South Australian medical research may be at a disadvantage, especially when compared with other states.

I highlight that I do not discourage research into induced pluripotent stem cells. On the contrary, I believe that both methods of research should be explored in order to see which method produces the best results. I do not believe that we should concentrate all our prospects or resources on one method, especially given that both methods are in their early stages of research. Having said this, I indicate my support for the bill.

The Hon. J.M. GAZZOLA (16:22): It will come as no surprise that I support this bill. I also suggest that there are compelling practical reasons to support it. Vigorous debate has preceded the passing of this bill in federal parliament and, backed by the Lockhart report and further considerable debate in the other place, there are considerable safeguards and penalties. These have been debated at length during the passage of this bill so far and I will not take us through this again. It is also clear that the passing of this bill will not drag us into an instant cure for everything, for years of research still need to be undertaken. We need, then, to give our scientific community

the assurance and authority to advance research. If we fail to do so, we face a considerable loss of scientific expertise.

Many consider that there are far more important considerations than these, and a free vote on this bill, both in the federal and state parliaments, has seen the expected range of debate. If we read the Lockhart report, we see both sides of the debate buttressing their stand with expert opinion. Central to the debate, though, have been assumptions about degrees of religious perspective, appeal to authority, the potential for abuse of technology, and what are the standards for truth.

Some people have commented on the difficulty with scientific exposition, so I am grateful for the assistance provided by Dr Zoe Gill and the research staff of the Parliament Research Library in their report. I also note the remarks in the Lockhart report by Senator Fielding, leader of the Family First Party, where he said that it is 'important that people in the embryo cloning debate do not use language designed to confuse people or hide the truth'. We all endorse these sentiments as to what clear understanding and the truth may be.

Such a debate produces interesting argument, and I would like to sift through some of these contributions which lie at the heart of this debate. Senator Bernardi pointed out in his second reading speech to the federal Senate that no-one has a mortgage on definitive truth. The real question is about the grounds for belief. The proposition on the sacredness of human life and the complete prohibition of human interference here as morally prescribed by fundamentalist religious values is very much at the heart of his argument on truth. If this is to be settled at the time of conception, I wonder about the lack of rational consistency when scientific research has endeavoured to ensure the worth and sacredness of human existence in the myriad examples of service to humanity.

I also wonder why religious positions on the sacredness of human life do not consistently extend to and include the consequences on humankind of climate change, war, the ravages of AIDS, economic inequalities, and so forth. The embryo, as Senator Bernardi points out, is, for him, the start of human life—a fact for some, but not all, I point out. We do not have a hotline to God on these matters, and we need to trust the authority of reason, as this bill does, and act on this consent.

We have no other sensible foundation of truth if we are to move ahead and improve the human lot. There are, however, more tolerant religious and inclusive attitudes to the issue, and I refer to the second reading speech by then senator Amanda Vanstone on the bill in the federal parliament. She uses at length the reflections of Bishop Richard Holloway (evidently an eminent theologian and a member for seven years of the British Fertilisation and Embryology Authority). I refrain from quoting his opinion in what resembles, at times, a pyrrhic battle of the quotes in this bill. Suffice to say that he sensibly endorses reasoned ethics over divine warrant.

Many are concerned about where such research could take us—the slippery slope argument: the path of unacceptable experimentation or extreme and exploitative social practices. We do not need to make a distinction between science and technology to loosen the hold this argument may have, and again point out the punitive provisions that this bill contains as well as reminding ourselves, as others have, of the social and ethical constraints that we and the scientific community accept, live and work under.

In closing, I say that it is a sensible bill—a cautious bill that offers the possibility of hope to many and confidence and opportunity to the scientific community, and it reflects expectations of accountable, rational and moral standards.

Debate adjourned on motion of Hon. S.G. Wade.

ARCHITECTURAL PRACTICE BILL

In committee.

Clauses 1 to 12 passed.

Clause 13.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 35 [clause 13(1)]—Insert:

(fa) to take such measures as the Board considers appropriate to promote education in architecture, to assist students in architecture or to further knowledge of architecture among the public;

As I indicated in my response to the second reading of this bill, I had undertaken to take up a couple of matters that had been raised by the board in discussions, and they were keen that one of the tasks of the board that should be included was to promote education in architecture.

Although, arguably, the board could have undertaken that role without it being specifically set out in accordance with its wishes, I have moved this amendment so that it is quite clear that it has this educative function as part of its task.

The Hon. D.W. RIDGWAY: I indicate neither support nor opposition to the amendment; I simply place on the record that the minister's earnest adviser gave me a copy of these amendments at about 1pm—it might have been a little earlier but some time today. I put a call into the Architects Board. I am not doubting the comments or advice that the minister's adviser gave me but I have no idea what the Architects Board's view is, and we are awaiting a response from it.

The Hon. P. HOLLOWAY: Perhaps I could read into the record an email from James Bailey, the registrar of the Architects Board as follows:

Thank you for this advice and your telephone call yesterday afternoon. I have discussed this with Andrew Davies–

who is the chair of the Architects Board–

and we have no issue with the proposed amendments to the bill.

Clearly, they are happy with these amendments. As I say, this amendment relates only to the functions of the board.

The Hon. D.W. RIDGWAY: I do not want to prolong things but I indicate that, if we get contrary advice from the Architects Board or the registrar, we will perhaps take some appropriate action and move an amendment to the bill.

The Hon. P. HOLLOWAY: We are doing this only because it was a matter that was raised by the board in a meeting with me. This bill has been in discussion with the Architects Board for a long time. In fact, the competition policy review was before we came into government; that is how far back it goes. There was a competition policy review in, I think, the late 1990s or early 2000s.

As I said, under this legislation, there are a number of functions that the board has, some specifically related to keeping the register of architects and registered architectural businesses. The board was keen to have this function and it was really at its request that I have added this measure. The only issue really was whether the wording of it was satisfactory, and it appears that is the case. I certainly would not be doing this unless it was at the board's request.

Amendment carried; clause as amended passed.

Clauses 14 to 67 passed.

New clause 67A.

The Hon. P. HOLLOWAY: I move:

Page 32, after line 6—After clause 67 insert:

67A—Immunity from liability

(1) No civil liability attaches to the registrar for an act or omission in the exercise or purported exercise of powers or functions under this act.

(2) An action that would, but for subsection (1), lie against the registrar lies instead against the board.

(3) This section does not prejudice rights of action of the board in respect of an act or omission of the registrar not in good faith.

This provision is similar to what is in the current bill and ensures that no civil liability attaches to the registrar for an act or omission in the exercise or purported exercise of powers or functions under this act.

It is my advice that this issue is being properly addressed through the Public Sector Bill, which is currently before the parliament. However, we could have a situation where that bill is passed by both houses, assented to and then proclaimed, and in the meantime this bill is

proclaimed, creating a gap between the two. What we have done is to include this amendment in the bill which could subsequently be deleted if and when the new Public Sector Bill goes through. It is covered under that bill but, just to make doubly sure, should there be some timing problem, it will be covered by this particular clause. That should put any issues beyond doubt. Certainly, it has always been the government's intention that there should be an immunity from liability for the registrar for any acts or omissions in the exercise of his or her power under this act.

The Hon. D.W. RIDGWAY: I indicate that this amendment is the same as the other one, in that it was provided to us only a couple of hours ago and, likewise, I have had no advice from the registrar or the chairman of the board. However, we will support the amendment that the minister has moved, having put that information on the record.

The Hon. P. HOLLOWAY: The amendments were tabled yesterday. I apologise if the honourable member's attention was not drawn to them. I did ask for them to be tabled well before we had this debate but, unfortunately, my office did not contact the honourable member until then. Again, I assure the honourable member that the amendments are at the request of the Architects Board. As I said, they will be addressed in the Public Sector Bill when we deal with that legislation. This will at least ensure that there is no window of opportunity for the registrar to be vulnerable for any action against him for liability.

New clause inserted.

Remaining clauses (68 to 70), schedule and title passed.

Bill reported with amendments.

Bill read a third time and passed.

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1383.)

The Hon. A. BRESSINGTON (16:38): The intent of this bill is summarised adequately in the following words of the Dalai Lama:

> We must insist on a global consensus, not only to respect human rights worldwide, but also on the definition of these rights, for it is inherent nature of all human beings to yearn for freedom, equality and dignity and they have equal right to achieve that.

Carlos P. Romulo, Filipino diplomat, politician, soldier, journalist and author says:

> Nations rise and fall, but equality remains the ideal. The universal aim is to achieve respect for the entire human race, not just the dominant few.

We can even look to the US Declaration of Independence for reference to equality. The opening paragraph of this document, presented on 4 July 1776, states:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

I and, I am sure, other members have received numerous letters asking us to oppose this bill. I have communicated with all those who originally wrote asking for further clarification and, after that, I received about 30 individual responses to my concerns.

Not only did none of these responses satisfy me that the bigger picture was being considered with this bill but, in fact, that the bigger picture was irrelevant to those who would secure their own rights. Thomas Paine, British revolutionary, radical and inventor wrote:

> He that will make his own liberty secure must guard even his enemy against oppression.

Make no mistake: when basic human rights are denied, then that group is oppressed and repressed. I met with a representative of the Christian lobby and, although I respect the information that was forthcoming, I again heard nothing that convinced me that this bill should not pass. I repeat the words of the Dalai Lama:

> …it is inherent nature of all human beings to yearn for freedom, equality and dignity and they have equal right to achieve that.

We have seen many struggles for equality in the history of mankind, and it seems that the common obstacle is that one group truly believes that their rights are more precious or more deserving than others', and the struggle continues for centuries while we human beings retain our selfish and

sometimes biased views about who should be equal. Arthur Schopenhauer awakened us to the cycle of change and acceptance when he said:

> Every truth passes through three stages before it is recognised. In the first, it is ridiculed, in the second, it is opposed, in the third, it is regarded as self-evident.

I hope that, in the not too-distant future, the followers of Christianity will realise that equal means equal and, by God's own instruction, we are not here to judge the choices and lifestyles of others, that that is his job on judgment day as stated in Romans 14:10:

> You then, why do you judge a brother? Or why do you look down on your brother? For we will all stand before God's judgment seat.

For some reason, the Christian lobby believes that they will be compromised should this bill pass, and such compromises were outlined in one response that I received, as follows:

> While I understand your response, I do need to say that you have very much misunderstood my reasons for writing. You seem to think that my reasons for writing are my personal preference. Please be assured it has far wider implications than my own limited personal preference. This bill, in its current form, cuts deeply at the core of Australian heritage.

Although this letter mentions the deep cuts to the core of Australian heritage, nowhere in the letter are any of those core issues outlined. If, in fact, Australia has a history of discrimination, which we truly cannot deny, then perhaps that is part of our heritage that we do need to change, and change quickly. The letter continues:

> Yes, it is very important that individuals (i.e. people) in minority groups are considered equal under the law. However it is very unwise to make some minority groups more important than others.
>
> Should this bill pass in its current form, it will place increased burden on some schools and churches. For example, in clause 18, (new s.34(3)(c)), schools will be required to advertise on their website if they will not hire homosexual teachers and/or staff. This makes schools subject to divisive public criticism and protest and possible violence.

While I have heard this concern, I am still not sure why the Christian lobby believes that it has the right to determine an individual's worthiness to teach based only on their sexuality. In any other workplace, hiring and firing is based on performance, qualifications, outcomes and work ethic. If, in fact, Christian schools want to reserve the right to discriminate in such a way, then I see no reason why they should not put that policy statement on their website, because it may save individuals the trouble of applying for advertised positions.

As for public criticism, I wonder why the Christian lobby fears this criticism if it believes that its discrimination is justified. As for protest and possible violence, this is a difficult one, but I would like to draw members' attention to the fact that the Christian community has in fact been responsible for protests outside clinics that perform abortions, and those who work in those places have been subjected to verbal recriminations for the work they do. This particular fear that has been expressed in a number of letters is just a little like the pot calling the kettle black. The letter further states:

> In clause 25, which deletes section 50(2) exemption, para-church organisations including Christian lobby and welfare groups (which are also minority groups) and book stores for example, may lose the right to refuse to hire people with sexual lifestyle not in keeping with the Christian ethos.

Again, the depth of the effects is minimised by this statement. While this response talks about lobby and welfare groups and bookstores, the discriminations in place affect people who work in certain hospitals as nurses and others in care work who are either gay or lesbian. If they are discovered to have an alternative sexual preference, they can be dismissed on that basis alone. Why is the experience, years of study and love of a profession less valuable when a person is gay or lesbian? I quote again:

> If a Christian church, school or camp ground has a hall for hire, or hires or rents other facilities (or provides any other good or service) the new section 39 would require them to provide that hall or facility even to people or groups with lifestyles contrary to the Christian teaching. As in the UK, churches may be required to hire their hall for a gay 'wedding' ceremony or other activity against their will.

I ask: how does the hiring out of a facility to a gay or lesbian person or group interfere with how Christians live their faith? How does it change their value system in any way? It seems that the occupancy of the building is far more important than another group having the right to celebrate not only gay weddings but anything else in a building owned by Christians. I would like to see anyone else refused hire of a premises based on this reasoning—but somehow, again, dispensation is

sought for something that would seem trivial to many when we are talking about equality and human rights. I quote again:

> Churches may now be unable to refuse employment to those with sexual lifestyles that are not in line with Christian teaching in administrative roles within the church [although liturgical and clerical positions would still be protected], depending on judicial interpretation of the protection found in section 50(1)(c). As I have said in my previous correspondence, the bill in its current form will open possibilities for some minority groups but savagely curtail them for others. The end result will not equate in equality for minority groups or for the community as a whole. In fact, quite the opposite. I would respectfully ask you to rethink your stand on this issue.

As I said, Mr President, broad and sweeping statements about Australia's heritage but no example of how. The responses I have received are all along the same lines as this and, although I admit that change is never easy when a group feels threatened, I believe that the response to this bill has been significantly dramatised in some areas while the effects on individuals, people who are gay or lesbian seem unworthy of consideration or mention.

The last time this bill was presented, the main objection was the racial and religious vilification clause, and that has been removed. Franklin D. Roosevelt stated:

> If civilisation is to survive, we must cultivate the science of human relationships, that is, the ability of all kinds to live together in the same world at peace.

It seems that equality has been on the political agenda across the globe for quite some time, and I had hoped that South Australia would take a daring step forward in this long political, social and moral battle.

We will not eliminate discrimination through legislation alone. It will take both political and community will. Unfortunately, it is part of the human condition, along with lust, gluttony, greed, laziness, wrath, revenge, envy and pride. How do we eliminate what is part of humanity when we refuse to look to history to change the present and, by that, guarantee a better future?

Most of us are familiar with the novel by George Orwell titled *Animal Farm*, because many of us were required to read it at school. Perhaps as a reminder some of us should commit to reading this book again, because by my reckoning we are at about page 63—and almost ready to start all over again. Orwell wrote that one of the motives for writing was a 'desire to see things as they are, to find out true facts and store them up for the use of posterity.' He said:

> In a peaceful age I might have written ornate or merely descriptive books. When I sit down to write a book, I do not say to myself 'I am going to produce a work of art.' I write it because there is some lie I want to expose, some fact to which I want to draw attention and my initial concern is to get a hearing.

Well, he certainly got his hearing—to a worldwide, generational audience, with a serious reminder that viewing others as less equal or valued is dangerous ground to tread and that failing to act has serious consequences for all.

Historically, we know about the Holocaust, and the fact that Hitler was able to convince an entire country to turn a blind eye to the horror that was perpetrated and a deaf ear to the screams of pain. The figures from that period show that 11 million were tortured and put to death in the death camps. At first it was the Jews, who account for approximately 6 million; the rest were gypsies, Slavs, homosexuals, the disabled, communists and other dissidents. So what do we do in 2009? We enshrine in legislation those forms of inequality and discrimination that will remain acceptable so long as it is openly put in words that will form a policy statement.

Are we truly so naive as to believe that bigotry and prejudice cannot lead us down the same path that history reflects? Lest we forget. Every year we commemorate those who died for this country and for freedom and democracy, and here in 2009 we see the same underlying sentiments that provoked a madman to believe that he had the right to eliminate 11 million people because they were not considered to be fit to live, and for fear that they would contaminate this nutcase's ideal of the perfect race. I quote:

> When the Nazis came for the communists, I remained silent; I was not a communist.
>
> When they locked up the social democrats, I remained silent; I was not a social democrat.
>
> When they came for the trade unionists, I did not speak out; I was not a trade unionist.
>
> When they came for the Jews, I remained silent; I was not a Jew.
>
> When they came for me, there was no-one left to speak out.

That poem was written by Martin Niemoller, a German pastor and theologian born in Lippstadt, Germany, in 1892. Niemoller was anticommunist and, for that reason, supported Hitler's rise to

power—at first. Niemoller became disillusioned. He became the leader of a group of German clergymen opposed to Hitler and who, unlike Niemoller, gave in to the Nazis' threats. Hitler personally detested him and had him arrested and eventually confined in the Sachsenhausen and Dachau concentration camps.

Niemoller was released in 1945 by the Allies. He continued his career in Germany as a clergyman and a leading voice of penance and reconciliation for the German people after World War II. His poem is well-known and is frequently quoted, and it is a popular model for describing the dangers of political apathy, as it often begins with specific and targeted fear and hatred which soon escalate out of control.

It is my belief that, as elected members and legislators, we are supposed to be in here to represent the needs of all South Australians, without fear or favour, in a legal framework—not a religious one. It is interesting that even throughout history the Christians have themselves split, broken away and established many versions of Christianity, so if we are to consider Christian values as a basis for decision-making in this place then I ask: which group? How could we be sure that in another 10 or 20 years we will not come under the same pressure from another breakaway Christian group who do repeat history and who do believe they are the absolute authority on God's will? Mohandas Ghandi put it best in the context of this bill when he stated:

> All compromise is based on give and take, but there can be no compromise on fundamentals. Any compromise on mere fundamentals is a surrender—for it is all take and no give.

This bill dabbles with the basic human right of a person to be considered equal under the law, and it does not do as good a job as it could. However, it seems that equality is a gradual process of change and, although it is a long-held ideal, it seems we have simply not grown up enough to realise that ideal just yet. I wonder how many more centuries will pass before we see no use in making one group inferior to another for the sake of values that are, as I see them today, counter to the true Christian philosophy.

I see this struggle no different from the freeing of the slaves in the United States. It was a firmly held belief that Negro men and women were not human simply because of the colour of their skin. Charles Sumner, US Senator and anti-slavery activist during the Civil War, stated:

> From the beginning of our history, the country has been afflicted with compromise. It is by compromise that human rights have been abandoned.

This country can boast no better history, either.

There is a rising expectation within each interest group affected by this bill. All will want equal assurances that their freedoms will be protected after the bill is passed, without creating oppressive change and disadvantage where previously there was none. Each interest group will want to know that their group is not going to be more protected than another, and rightly so. Each constituency will want to know that it remains free in some parts of society to express political, religious views and teachings (such as churches and mosques) without the risk of breaking some obscure interpretation of a law that parliament had not intended to create or a freedom that it had not intended to forbid.

I received a number of letters of support for this bill from various groups who believe that their consumers will benefit greatly from it. I truly believe that this speaks volumes for the fact that the majority of South Australians in the area of human service recognise the need for change and will embrace the modest steps forward that we have taken.

We will give a voice to people who are being harassed and intimidated both at school and in the workplace. We will protect the employment of those who have a disability as well as their carers and ensure that their lives are not able to be turned upside down by some who may want to change work schedules and routines without consideration. We have also provided a level of protection for those injured at work to be able to resume employment without prejudice.

All we need now is a commissioner with the will to execute these duties and use the powers provided to make a positive difference to those this bill seeks to assist, and I am hopeful that the current and future commissioner will do the best that can be done.

I do not share the Hon. Dennis Hood's concerns for the increased powers of the commissioner because my interpretation of those increased powers is to assist an investigation to take place when a person is too afraid to make a formal complaint or perhaps even for the commissioner to investigate and decide whether or not a claim is vexatious or frivolous. The

commissioner with these increased powers, as I understand it, cannot take the next step without a formal complaint being laid.

I have never been and am not currently a lobbyist for gay rights. However, I am an avid supporter of equal rights, and I believe that has been a consistent message since entering this place in 2006. I have no tolerance for beliefs that a certain lifestyle choice is 'the one', but I respect every individual's right to that lifestyle as long as they live within the law and within the reasonable expectations of society. Without equality, many are not able to reach their full potential and many are held back by rejection and by being invalidated. These are not values that I subscribe to.

In my previous life, I saw enough damage done to individuals because of rejection, judgments and intolerance; I also saw the amount of strength and determination needed to recover from such attitudes. Any discrimination is destructive on every level: physical, emotional, psychological and spiritual.

I congratulate the Hons Iain Hunter and Gail Gago for having the intestinal fortitude to continue to pursue this issue of equal opportunity when most others threw up their hands in frustration. No change ever comes without effort and determination.

I want to make this point: this bill, although it does not affect me personally, also contains religious discrimination connotations. I want to put on the record in this council that my son is a Muslim. He converted 18 months ago; he married a Muslim girl. They are planning to start a family, and I want to know what I tell my future grandchildren about why they are not as equal as Christians. Why are they not considered to be as whole as Christian children? If this sort of discrimination continues, other grandparents, parents and I will be put into the untenable situation of having to have that conversation with these innocent children. I want to know who has the right to put any parent, grandparent or child in that position to hear that they are not equal.

I have heard a lot about Islam and, before my son converted, I was a bit dodgy about it. I did not have a great understanding of it, but I have studied this religion with my daughter-in-law, and I can tell you that the aspirations of Islam, as expressed in the Koran, are no different from the Christian belief system. Muslims believe in Jesus Christ; they believe he was a prophet who walked this earth.

We can have extremist Muslims, we know we do, but they are not indicative of the average person who comes here on the promise of a better life. They are not all extremists. The changes I have seen within my son over the past 18 months are not radical; they are mild and subtle. His self-confidence has improved, as has his self-respect, self-esteem and his basic respect for humanity, since studying this book. Tell me how that can be any less valuable than a Christian who has studied the Bible and come to the same conclusions.

I ask all members to consider that this is not just about sexual discrimination. As I said, the bill contains underlying tones of racial discrimination. I am not quite sure how anybody in this place can come to the conclusion that one group of people is less equal than another. Further to that, my sister-in-law in Queensland is a lesbian and her current partner is 45 years old, married with two kids, and she decided at the age of 45 that she was not heterosexual. She has been a teacher in a private school for 27 years. Under this legislation, if a parent or another faculty member discovers that she is no longer heterosexual but homosexual, she could, after 27 years of loyal service, good outcomes and dedication to her students, be sacked just like that just because she is no longer heterosexual. I find that absolutely appalling.

I commend this bill in its entirety to members, and I look forward to the committee stage, where all concerns and all matters of interest can be put on the public record through questions and answers.

Debate adjourned on motion of Hon. B.V. Finnigan.

STATUTES AMENDMENT AND REPEAL (FAIR TRADING) BILL

Adjourned debate on second reading.

(Continued from 26 November 2008. Page 909.)

The Hon. J.A. DARLEY (17:01): I want to address two issues in relation to this bill, and they both relate to the protection of consumers from being hurt in some way by others. The first is the issue of consumers having no remedy through the Office of Business and Consumer Affairs if they are misled or deceived in some way by a business in relation to the provision of goods and/or services.

Two cases have come to my attention recently where constituents of mine have been on the receiving end of allegedly misleading and deceptive conduct, and there has been no remedy (other than a costly legal battle in court) available through the Office of Business and Consumer Affairs. The first incident involves a person who wanted to buy a cruising yacht. The flier advertising the boat specified that it was a Bayliner hull, and representations were made by the vendor that it had a Mercruiser stern drive and engine.

The yacht broke down within a few days of being purchased by my constituent. The marine surveyor who came out to inspect the yacht discovered that it had an OMC stern drive coupled to a Play Craft kit engine. Not only did the yacht not meet the specifications outlined by the vendor but it needed repairs and it did not work as promised. The matter was reported to OCBA, which investigated the matter and went as far as it could. As OCBA could not pursue the vendor to issue a penalty, there was nothing further it could do. The other case involved a person with a disability who bought a spa for therapeutic use. The spa broke down within months of installation, and it has never worked satisfactorily, been replaced or satisfactorily repaired; nor has a refund been offered by the manufacturer.

I have placed on file an amendment which would allow OCBA to issue a fine to people if they are found to be in breach of section 56 or section 57 of the Fair Trading Act. The amendment would make it an offence to engage in misleading, deceptive or unconscionable conduct in the course of trade or commerce. I think that OCBA needs to take a far more proactive approach when contacted by members of the public who have been misled or deceived. It is most often the case that consumers do not have the resources to fund lengthy and costly litigation against a rogue vendor or manufacturer, and consumers rely on OCBA to take up issues on their behalf. However, under the legislation, it is often the case that OCBA has no power to act in the consumer's interest, and my amendment will go some way to remedy this deficiency.

If the Office of Consumer and Business Affairs has extra powers and the ability to issue fines, it will send a clear message to those engaging in trade that any attempt to mislead or deceive will not only bring with it the right to be sued by the other party but that a significant penalty could be imposed. Some vendors take advantage of consumers because they know that consumers do not have the money to sue and there is no-one else who can hold them to account. I hope that, if my amendment is supported, it will have a deterrent effect on these rogue operators.

Just after Christmas last year, the Minister for Consumer Affairs was heard on the radio urging people to call OCBA to report instances where goods purchased were not as promised or were faulty, and the minister further stated that any corporation found guilty of such conduct would face a fine. Yet, if a corporation falls foul of section 56 or section 57 of the Fair Trading Act, OCBA is powerless to do anything. My amendment will simply ensure that it will be possible for OCBA to issue a fine for all forms of unlawful conduct under the Fair Trading Act.

The second issue I raise in relation to this bill is to do with the effect of waivers of liability and standards of care by recreational service providers. I am sure that many other members have been contacted by representatives of recreational service providers who are concerned about the interpretation of the new provisions and the fact that they will do little to reduce rising public liability premiums, which this legislation is intended to remedy.

I am concerned about the worrying trend to try to codify the well-established and ever evolving common law of personal injury. I have talked to both recreational service providers and those representing people who suffer injuries, and they agree that these matters are best left to common law, where judges can impartially look at each party's submission and come to a decision based on the individual circumstances before them. With those comments, I support the second reading of the bill, and I look forward to the debate on the amendments in the committee stage.

The Hon. M. PARNELL (17:06): This bill deals with a number of issues, but the one that has attracted the most interest in the community and the one that I want to address today is the question of liability for injury or loss that occurs as a result of participation in recreational activities that are provided by commercial service providers, including not-for-profit service providers.

I will start by making the comment that we are, to a certain extent, revisiting the debate of several years ago, where we had to question whether we as a society were becoming too litigious and whether the consequences of that was that insurance premiums were out of reach for service providers. We are back to debating this again because the measures the government put in place to try to deal with that public insurance crisis have been unsuccessful. Most of us accept that things can happen to us and that no-one is to blame. If someone falls off a ladder at home because of

their foolishness and not because the ladder is faulty, they simply have to put up with it and they have to deal with the injuries and loss as best they can.

We are always looking for someone else to blame when things go wrong. I think we are much less able to simply write things off to bad luck than perhaps we were in years gone by. Having said that, if a person was in the business of providing services and if those services were dangerous because of some fault, then we would expect that some liability attached to those service providers. For example, if you go on what you believe is a 30-metre bungie jump and you are provided with a 50-metre rope, chances are you will suffer some injury or death, and clearly that is a case where you would expect someone to be liable. If, for example, you go on a bungie jump and the blood vessels in the back of your eyes burst, perhaps not, because as I understand it that is a fairly common occurrence among people who go bungie jumping, which is why it is not for all of us.

If you rent a canoe and it has holes in it—perhaps there are holes drilled into the buoyancy tank, it fills with water and it sinks—most of us would expect that if there was a loss there would be some consequences on the person who rented that faulty canoe. Clearly, we have to strike a balance.

Many people have commented on the fact that, when it comes to our children's play, we are far less adventurous than we used to be. Adventure playgrounds are being closed all over Australia, and I think monkey bars will soon be a thing of the past, if they are not already, but we know that kids need a level of adventure and excitement and we cannot wrap them in cotton wool. There will always be some danger inherent in recreational activities.

In fact, a study that I recall hearing referred to on the radio many years ago looked at children's levels of engagement and attention span in two different scenarios. One was a modern, plastic playground and the other was a creek, and that research showed that the kids were engaged twice as long playing in the creek. Hiding amongst the tree roots and messing around with mud were far more engaging for them than a modern, plastic playground—but we do have to strike a balance.

The current position under the legislation is flawed, and the government has recognised that, which is why it has brought this amendment to us. The main flaw, it seems, is that the safety codes which were seen to be a good idea at the time as a pathway for service providers to reduce their liability have turned out to be too difficult and too expensive to implement and, as a result, they have not worked. Under this bill the implied warrantee or, if you like, the statutory duty of care is to render services with due care and skill; that is the phrase that is used. The bill provides that that standard can be waived, but it cannot be waived in all circumstances. It cannot be waived if the conduct was reckless (and that term is defined), and it cannot be waived for people under the age of 18.

I want to talk a little about the question of waivers. The question for us is: in what circumstances should a recreational service provider be able to invite a client or participant to waive the benefit of their statutory warrantee and, if such an invitation by a participant is accepted, what should be the extent of liability on the part of the provider, if not the statutory warrantee of providing services with due care and skill?

If we accept that waivers are acceptable, what we are saying is that a lower standard of care will be expected of those providers. The standard provided by the bill is that of due care and skill, and the service provider will be liable only if they are reckless, provided they have a signed waiver from the participant agreeing to that lower standard.

We know that many waivers are not worth the paper they are written on. Whilst it was some little while ago that I studied first year torts (in fact, 30 years ago this year), the stuff of the class was waivers and their effectiveness in dry cleaning shops and commercial car parks. Yes; the ticket may have written on it that the car park provider will accept no responsibility, but that is not always valid. If the car park provider drove their car into your car I am pretty sure you would have a good case to claim against them in negligence. There are similar cases with other service providers such as dry cleaners.

The question that has been raised by many of the constituents who have contacted me is in relation to young people, and children in particular. The question is whether we as parents, care givers or guardians should be able on behalf of children in our care to sign waivers agreeing that they should expect a lower standard of recreational service providers. We have to start by

accepting that we already put our children through a lot, and we already expose them to a lot of risk. We put our children in harm's way every time we load them into a car.

Most parents take their children swimming at some stage; many go boating, canoeing, fishing, cycling, bushwalking, rock climbing, abseiling and caving. The range of recreational opportunities knows no bounds, and we know there is a level of danger, but we do it ourselves and we involve our children in it because we see that the benefits of those activities outweigh the risks.

The question is: should parents be able to sign waivers on behalf of young people? Should we be able to say to service providers, 'This person is not of an age where they are able to make their own decisions, but we agree that we will not sue you if you breach your statutory obligation to our children, namely, that you warrant that the services you provide will be tendered with due care and skill or that any materials you supply in connection with the services will be reasonably fit for the purposes for which they are supplied'?

One constituent who contacted me drew my attention to the position that government agencies and other bodies take in relation to waivers and young people. I was provided with a copy of the contract, or the terms and conditions of entry, of the most recent Tour Down Under community event, called the 2009 Skoda Breakaway Series. 'Mutual Community Challenge Tour' was one, and the other one was called a 'Mini-tour for Kids'. There is a lengthy document, made up of some 36 paragraphs, entitled 'Terms and conditions of entry'. At the end of this document, clause 36, under 'Acknowledgments', it states:

> I acknowledge that cycling involves the real risk of serious injury or even death from various causes, including over-exertion, equipment failure, dehydration, accidents with other competitors, spectators or road users, course or weather conditions and other causes.

That is fairly straightforward and stating the obvious. It goes on to say:

> I accept all risks necessarily flowing from my participation which could result in loss of life or permanent injury.

It then goes on to say:

> I release all persons or corporations associated directly or indirectly with the conduct of the event from all claims, demands and proceedings arising out of my participation, and I hereby indemnify them against all liability, including liability for their negligence and the negligence of others, for all injury, loss or damage arising out of, or connected with, my participation in this event.

It does not get any broader than that in terms of a waiver. It continues:

> This release shall extend to and include the South Australian Tourism Commission—

so there is government—

> Tour Down Under, the event manager; Burnside Village; the City of Burnside Council; Barossa Council, the South Australian Ambulance Service; the South Australian Police; Mutual Community; Skoda; *The Advertiser*—

Basically they have listed everyone who has any role in this event and said that it is a complete indemnity, and it concludes with the words:

> This release and indemnity continues forever and binds my heirs, executors, personal representatives and assigns.

Clearly a lawyer has written that and, basically, for anything bad that happens to me that is in any way vaguely connected with this event I will not blame anyone. The signature bar on the bottom of that condition of entry states:

> I, the participant named below, hereby agree to all the terms and conditions set out in this form—

including that waiver and indemnity, and it goes on to say:

> If the participant is under 18, then a parent/ guardian must provide consent.

In this bill the government is specifically excluding parents and guardians from being able to sign waivers on the part of their children when it comes to any commercial service provider, and that includes not-for-profit service providers. Yet, when it comes to an event the government is promoting or sponsoring, such as the community part of the Tour Down Under—which is an excellent event, and I was disappointed not to be part of it myself—they are more than happy for parents to sign waivers on behalf of their children in relation to releasing the government from liability. That is one question I have of the minister: why the double standards?

Some organisations provide recreational services specifically or primarily for young people, and one such organisation is the Scouts. The Scouts have considered this legislation and I imagine all members would have had a copy of the letter from Mr Dan Ryan, the CEO of Scouts Australia, wherein he basically says that his society's view is that, when people are over 18 years, they themselves should be able to sign the waiver. That is fairly uncontroversial, but they recommend that for a young person under a determined age (which I think they agree is 18 years), a waiver could still operate but be signed by a parent, guardian or carer. Overall the position of the Scouts is that they endorse the waiver system as a potential adjunct to more accessible and affordable insurance premiums for recreational service providers and they encourage the government to consider additional methods to assist the not-for-profit sector specifically. There are some other measures not included within the scope of this bill.

So, here we have probably the biggest provider of recreational services in South Australia saying that they want the right for parents to sign waivers on behalf of their kids. That is not an organisation that takes safety lightly. Anyone who has participated in scouting activities knows that they go to great lengths to make sure activities are safe. Sometimes I have thought that they have gone too far, but at the end of the day its interest is in keeping young people safe while allowing them to engage in adventurous activities.

I have had representations from the horse riding fraternity in particular and I thank Sarita Stratton, who sent through a great deal of material, including some opinions she has received from those involved in the insurance industry in relation to the effect of this legislation on insurance premiums. At the end of the second reading stage I will look at the government's answers to specific questions I will pose in a second, but the way we as a parliament need to approach this is to pose the first question: are we as a community providing a range of recreational opportunities for both adults and children that entertain, challenge, keep us fit and add to our quality of life? That is the first threshold question. Secondly, is the provision of recreational services in South Australia commercially viable? One of the factors that will influence the answer to that question is whether or not recreational service providers are able to get public liability insurance for their activities and whether that insurance is affordable.

The question that we have to ask specifically in relation to this bill is: does this bill help or hinder the provision of recreational services in South Australia? The specific questions that I would like the minister to address in his second reading reply are:

1. What information, if any, does the government have as to the likely effect of this bill on public indemnity insurance premiums for recreational service providers?

2. What is the policy rationale for not extending the benefit of waivers to children, especially since the government seems happy to invite parents to go down that path when it comes to government-sponsored events?

3. What would be the implications of simply removing the need for safety codes in the legislation that is to be repealed by this bill and reverting to the common law of negligence?

With those words, I indicate that I support the second reading of this bill.

Debate adjourned on motion of Hon. J.M. Gazzola.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1385.)

The Hon. S.G. WADE (17:23): I rise to indicate the opposition's position not only in relation to the particulars of this bill but also the more general issue of native vegetation management for bushfire prevention purposes. At this point I indicate that on behalf of the opposition I will move amendments to the native vegetation bill moved in another place by my colleague the member for Stuart regarding the issues of bushfire prevention and agricultural land management.

In relation to the bill as a whole, I indicate that the opposition supports the bill. Indeed, the main thrust of the bill (the concept of native vegetation offsets) was initially a proposal of the former Liberal government. The bill has three main purposes: first, the native vegetation offsets; secondly, a minor modification to the Native Vegetation Council composition; and, thirdly, minor amendments to the Native Vegetation Act.

The first issue is the primary feature of this bill. This is the issue of native vegetation offsets and allowing out-of-region offsets and offset credits. Under the current arrangements, landholders, where approved, can clear native vegetation provided they plant more native vegetation on the land after it has been cleared or on adjacent land as an offset for the native vegetation cleared. Any such offsets only apply where they are conducted as part of the proposed clearance.

Under the scheme proposed by this bill, the offset scheme will be expanded in two ways. First, the bill provides for offsets to be delivered anywhere in the state without regard to the location of the proposed clearance. Where there is the opportunity for important environmental benefit from native vegetation establishment and maintenance in another region, the offset may be delivered there as an alternative. The opposition considers that this is a sensible suggestion and, as I mentioned, it was originally put forward in a bill introduced by the former Liberal government. Unfortunately, after the 2002 election the proposal was not reintroduced and we have been left waiting until now—seven years of wasted opportunities for environmental benefit.

The second expansion to the offset scheme is the creation of a credit system. As I said, currently, any offsets must be agreed to as part of the proposed clearance to which they relate. Many landholders have experienced situations where they previously conducted native vegetation establishment or regeneration for various reasons but, when they have later submitted an application to clear native vegetation, the work they have done has not been permitted as an offset, forcing the landholder to conduct further native vegetation improvements. This has led to a general perception that, if you are planning to undertake native vegetation improvements, you are best advised to wait until you need to clear other native vegetation so that the improvements can be used as an offset. This sadly delays valuable native vegetation improvements for no good reason.

Under the new system, landholders will be able to claim credits for any native vegetation improvements they undertake, regardless of when and where it is conducted. This encourages landholders to conduct native vegetation improvements immediately, secure in the knowledge that, should they wish to clear other native vegetation at a later date, they can claim the native vegetation improvements as offsets.

The Liberal Party supports this concept—again, a Liberal Party proposal—although we believe that the concept could be taken further. In addition to preventing offsets, we believe that allowing offsets to be traded or sold would provide further incentives for landholders to conduct valuable native vegetation improvements, particularly in areas where the environmental benefit would be especially valuable. Whilst it is disappointing that the government chose not to introduce this further measure, we are nonetheless pleased that the idea of out-of-region offsets and offset credits has finally been introduced, and we support these measures.

There are two other less significant elements in the bill in relation to the changes to the Native Vegetation Council. I understand the federal minister has decided to no longer nominate a representative to the council and, accordingly, this bill seeks to replace the minister's representative with a planning or development expert. We support this measure and agree that such expertise would be of value to the council and its operations.

The final feature of the bill is amendments which update the act and also increase some of the penalties relating to breaches of the act. The opposition supports these amendments, also.

Having addressed the particulars of the bill before us, I now turn to the amendments that I will move on behalf of the opposition. The amendments deal with bushfire prevention and agricultural land management. I will mention those amendments particularly dealing with bushfire prevention, and my colleague the Hon. Caroline Schaefer will handle those amendments relating to agricultural land management.

A commitment to fire prevention and management should be the underlying principle of native vegetation legislation, in the view of the opposition. The opposition's amendments respect the right of landholders—and, indeed, the responsibility of landholders—to take fire prevention measures, including to clear firebreaks and provide access tracks. The current system is too complex. It needs to be simplified so that landholders better know their rights and responsibilities. Landholders need to be able to clear native vegetation for fire prevention purposes. The Victorian experience shows that often the only time to stop a fire is before it starts.

The Rann government has failed to act on repeated recommendations to better manage native vegetation and, accordingly, is putting South Australia at risk of a major bushfire—perhaps a bushfire of the magnitude of the Victorian disaster. The lack of native vegetation control has

already contributed to major fires such those in Port Lincoln, Kangaroo Island and the Ngarkat park.

The recent Proper Bay fire was yet another example of the importance of effective management of native vegetation. This is not a new issue. The Premier's Bushfire Summit in 2003 raised concerns regarding native vegetation management which were echoed in the 2005 parliamentary committee report into native vegetation and the Port Lincoln fires.

The coronial inquest into the Wangary fires again raised issues in relation to the management of native vegetation, particularly through firebreaks and prescribed burns. That report was at the end of 2007. In June 2008 the government, in response to that coronial inquest report, assured the community that the Coroner's recommendation would be addressed, including amendments to the Fire and Emergency Services Act, and in relation to a code of practice for native vegetation.

The government said the code of practice would be in place before the commencement of the 2008-09 fire danger season. Yet, here we are in 2009 and still we have not seen any amendments to the Fire and Emergency Services Act. Three weeks ago, more than half-way through the 2008-09 fire danger season, we finally received the code of practice. While the code of practice may be useful in clarifying the current arrangements, it does not change the arrangements. We still have exactly the same system.

The government has wasted six years since the Bushfire Summit. The opposition believes that we cannot afford to continue waiting in the hope that the government will eventually take action. That is why we are taking this opportunity to amend the Native Vegetation Act. The first amendment seeks to remove burning as a definition of clearance for the purpose of native vegetation. The reasoning behind this, as outlined in another place by my colleague the member for Stuart, is to permit the practice of back-burning to reduce fuel loads. Fuel load reduction is an important part of reducing fire hazards. A number of my colleagues in another place commented on the importance of back-burning and the effectiveness of fuel load reduction in reducing fire hazards, and the opposition believes that this is an important step in addressing fire risks.

I draw to the attention of the council that the House of Assembly debate was particularly long. A number of members of the opposition spoke at length and with passion—and that debate was before the Victorian fires. This is not a reaction to the Victorian bushfires but a reiteration of a long-standing concern which has merely been highlighted by the Victorian fires. In South Australia, a series of fires have demonstrated the danger presented by high fuel loads where the fires were fed by years of accumulated fuel: Ngarkat, Kangaroo Island and Proper Bay, to name just three.

The recent tragedy in Victoria has brought to national attention the importance of bushfire prevention, including the need to reduce high fuel loads. Without proper preparation we are planting the seeds of fires which may not be able to be controlled and which may wipe out entire communities. Many firefighters, scientists and other experts have observed that the lack of clearance and the back-burning of native vegetation was a key factor in the disaster which unfolded last month. We need to learn from this disaster. In this context I highlight the situation in merely one of a number of areas of South Australia which are at risk.

The Northern Argus of 18 February 2009 had a front page article headed 'Bushfire disaster could have happened in Clare.' The article states:

> It's been 26 years this week since the Ash Wednesday bushfires swept through the Clare Valley destroying property and changing lives. Now, almost three decades later, the local CFS remains concerned that some property owners have not done enough to prevent another disaster.

In another part of the same article CFS Group Officer Chris Sullivan is quoted as saying:

> The Victorian bushfire disaster could easily have been replicated in South Australia.

CFS volunteer Alister Hope is quoted as saying:

> ... believe it is imperative landholders are allowed to clear appropriate fire breaks of at least 25 metres around their property. I don't think people should have a pine tree within 50 metres of a house.

The concerns expressed in this article by the CFS volunteers are similar to views held by many throughout the volunteer firefighting community and, for that matter, many in the professional MFS firefighting community.

I turn now to the second amendment, which is of particular importance. Currently, the Native Vegetation Act takes precedence over the Fire and Emergency Services Act except during

an emergency situation where a CFS officer may take any action deemed necessary to protect people, animals or property. The opposition believes that the protection of human life should always be the overriding consideration before any other issues and, as such, the Fire and Emergency Services Act should take precedence over the Native Vegetation Act.

We believe that for this to be fully achieved there may need to be a range of changes to these and perhaps other acts, but we believe that it would be an important first step for this council to clearly state the principle that the protection of life is paramount.

Bushfire prevention is equally as important in protecting lives as emergency firefighting itself. It is better for the community that a fire never happens in the first place or, if it does, that it is controllable. It is not acceptable to say that firefighting takes precedence only in an emergency, at the last minute. The reality is that, in many fires, men, women and children are condemned to die before the fire even starts if proper prevention measures have not been taken. The opposition appreciates that there is a diverse range of factors increasing the risk of bushfires and that private landholders bear significant responsibilities. However, we implore the government and the wider community to avoid a blame game where inadequate preparation in one area is highlighted to distract or even justify inadequate preparation in another. We must all do better.

The final amendments relate to fire prevention measures involving the clearance of native vegetation for fire breaks and access tracks, and amendments permitting the practice of cold burning. I have already stressed the importance of fuel load reduction, so I will turn now to the issue of the clearance of native vegetation for the purpose of establishing fire breaks and access tracks.

The current provisions for establishing fire breaks and access tracks under the Native Vegetation Regulations are limited as to where breaks and tracks can be established and how wide they can be. The member for Stuart ably outlined the problems with the current situation, particularly in relation to the width of fire breaks and access tracks in that they are not sufficiently wide enough to allow room to manoeuvre a vehicle, particularly in an emergency. For example, if there was a sudden change of wind, an emergency vehicle may need to change direction but may not be able to turn on such narrow tracks.

The minister in the other place agreed that these amendments are based on common sense but stated that the government would not support them as it asserts that it needs a planned and orderly approach. When the minister referred to a 'planned and orderly approach' that, to me, sounded like code words for 'bureaucratic and slow'. I was recently advised of a landholder who has been waiting for 2½ years to get a bushfire-related plan approved in relation to his properly.

This bureaucratic, slow-moving approach is not acceptable. The opposition believes that it is important that adequate measures are taken to ensure that native vegetation can be cleared for firefighting and prevention purposes. Whilst the protection of native vegetation is important, the protection of human life and the ability to control fires must take precedence.

The minister in the other place suggested that a number of the opposition amendments could be better drafted. The opposition is very keen that this parliament take decisive action to ensure that landholders and councils have the ability to better prepare for bushfires so that South Australia may be spared from fires of the intensity of those in Victoria.

I would indicate to the minister in this place that we stand ready to work with the government to see how best to achieve that goal. Likewise, the opposition will be engaging crossbench members. After all, the government has a monopoly on neither wisdom nor common sense.

Debate adjourned on motion of Hon J.M. Gazzola.

MENTAL HEALTH BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1421.)

The Hon. J.M.A. LENSINK (17:39): I rise to indicate opposition support for this bill. It was originally tabled in this council under the carriage of the former minister for mental health and substance abuse and arises from a report by Ian Bidmeade which was commissioned by the former minister for health, Lea Stevens, as I understand it.

An honourable member: Another sacked woman!

The Hon. J.M.A. LENSINK: Yes, indeed, another sacked woman, as my colleague interjects. This report, entitled 'Paving the Way', was provided to the government in April 2005 and was a review of mental health legislation. It included not only the Mental Health Act but also the Guardianship Act and looked at the criminal justice system. This is the first in those areas of legislation to formally come to parliament, and I would like to place on record as a formal question to the government: what is the status of the review of the Guardianship Act and the matters arising out of the review of the criminal justice system?

I think it is fair to say that the Bidmeade report was very well received by all stakeholders. I think it was a highly appropriate response and very balanced in its approach to the needs of people with mental health difficulties. As the minister's second reading explanation states, this bill is essentially about the 3 per cent of people who have a mental health issue at any stage of their life who may potentially need their liberties curtailed for reason, usually, of some psychosis, and that is a particular definition which is in the first part of the bill that has been changed.

It is very important that it is being framed in the correct way. There are a number of changes to the existing act, particularly when it comes to treatment orders. It really is, in fact, the wrong way round in that a person cannot be on a community treatment order until they have actually been detained in the mental health system. I think that most people recognise that it is far more desirable for people to be treated in the community than to have to undergo some sort of detention in an acute facility and thereafter be placed on a community treatment order.

I think it is fair to say that it does greatly modernise many ways in which people with mental illness at the pointy end (so to speak) will be treated. The language is modernised. There are references to voluntary patients and very extensive provisions in relation to level 1 and 2 community treatment orders and then level 1, 2 and 3 detention and treatment orders.

There are areas which I think are grey areas for us as legislators, particularly the neurosurgery issue which we were told in our briefing has never actually taken place. Many people would probably be quite disturbed by some of the activities that happened in the United States in the 1960s where even children were given frontal lobotomies, but that has not been the case in South Australia in particular.

There are other areas that are new. Part 8 of the bill refers to further protections for persons with mental illness including interpreters, copies of board orders and decisions of statements of rights to be given, patients' rights to be supported by a guardian, issues of neglect and ill-treatment. The transfer arrangements between South Australia and other jurisdictions is an area about which the Law Society, in particular, has raised concerns, and I may refer to some of those as well.

Another area relates to reviews and appeals which, in the first instance, will be heard by the Guardianship Board and, from there, in the District Court and the Supreme Court. The bill also outlines functions of the minister and a new position, which is the Chief Psychiatrist. It also has clauses about authorised medical practitioners and authorised health professionals.

In the other place, the health spokesperson, the member for Bragg, moved an amendment in relation to authorised health professionals. I think we need to recognise that they will now be entitled to detain people—that is, deprive them of their liberty. We had concerns about the expansion of that range of professionals, in that it will include not just psychiatrists who have received that specific training, of course, but also mental health nurses, social workers and even occupational therapists and psychologists.

We had an amendment relating to those particular concerns which I will not be moving; it is somewhat covered by the fact that the government has accepted the Liberals' amendment. This means they will be bound by a code of practice, something that was put to us by stakeholders; in fact, I believe it was John Brayley, former director of mental health services in this state, who is now the Public Advocate. He has concerns about community treatment orders; in particular, that they should be used carefully with a broad range of well-resourced support services and should have effective checks and balances. Dr Brayley said that they will need additional training so that they are neither too vigorous nor too lax in their decisions to detain.

In relation to authorised health professionals, I would like some assurances from the government as to what training it intends to provide to this group of people. From what it said in its second reading speech and in relation to opposing the Liberals' amendments, they will be highly credentialed people (I may be paraphrasing what was said) with a great deal of expertise.

I think part of the concern with expanding the range of professionals who can detain people to beyond psychiatrists is that there may be a 'dumbing down' of the system; that people with lesser qualifications will be used to cover the fact that there may be a shortage in the current regime of people who can detain, that is, psychiatrists. I would like to know from the government whether it has identified anyone within the system who, in its view, would qualify as authorised health professionals. I would also like the government to advise what the number of those would be and from what professional discipline they come.

There is also a section here about treatment centres, including limited treatment centres that will be available in the country, which I think is to be welcomed. In relation to those country treatment centres, I think (from memory) of the order of 30 beds were to be provided under that provision, and I would like the government to advise the status of those beds and where they will be located, whether they will be solely in the fully upgraded, country regional centres or whether they would be in other centres as well.

The bill also makes it explicit that it applies to children. I have read through the old act and clearly the provision for children was not in that act, so would the government advise whether there was any legal ambiguity as to whether the Mental Health Act has ever applied to children (not that I have any problem with it)? Video conferencing is also used extensively, particularly by the rural and remote unit at Glenside, which has psychiatrists with doctors at the remote locations on video link to share information, so that will be formally recognised within the new legislation.

There has been a change to the definition of neurosurgery from psychosurgery. I understand from my former life in the health professions that neurosurgery is much broader than just psychosurgery, so I would like an explanation from the government as to why it thinks that 'neurosurgery' is better terminology than 'psychosurgery', which I would have thought narrowed the bill's aims.

The bill makes it explicit that there should be regular medical examination of patients, and it also makes provision for treatment and care plans to be included in the legislation, and I think that is laudable. Again referring to my experience, medical practitioners vary a great deal in terms of how well they communicate with their multidisciplinary team—some are excellent, some are hopeless and some are just downright arrogant—so I think it is good to put this in the legislation to ensure that it is actually required and that the care plan is much more transparent to other health practitioners and family members. We will move an amendment which proposes that those care plans be provided to the Guardianship Board when they are reviewed for orders.

I have compared clause 8 with section 11 of the existing act, and I note that subsection (3) has been deleted. My question is: if someone is admitted as a voluntary patient but subsequently needs attention, will the centre no longer be able to detain, or has this provision been made elsewhere?

As to clause 9 of the bill, which refers to voluntary patients being given a statement of rights, and which also refers to guardians and so forth, I assume that the government will use best endeavours to find the next of kin. What is the process? In the first instance, do they ask the patient or, if the patient cannot and does not respond, what is the process thereon?

My understanding is that, under the current act, a person must be admitted into hospital before a CTO can be issued only by the Guardianship Board. Part 4 is likely to expand the number of people who potentially will be captured by this legislation, and my question for the government is: does this mean that it expects that there will be more involuntary acute detentions as a result of the passage of this bill, and what changes within the system has it made to cope with that capacity?

Questions have been raised, particularly by the Law Society, about the definitions under which somebody can be detained. For example, I note that these clauses are identical whether it is a community treatment order or an involuntary detention within an acute hospital. For instance, clause 10(1)(b) provides:

> because of the mental illness, the person requires treatment for the person's own protection from harm (including harm involved in the continuation or deterioration of the person's condition) or for the protection of others from harm;

I note that this is a change from the existing act. There are a few aspects to this. We, on the Liberal subcommittee, debated amongst ourselves about whether we should include the issue of deterioration of the person's condition. I accept the government's explanation that this is because,

being a lower level test, it will more likely capture people who may become unwell, rather than waiting for them to become unwell, as can happen in the current system.

I also note that Bidmeade recommended that the deterioration aspect of it should be included. There are also elements that the Law Society question: for instance, the definition of 'harm'. It states that it should instead be health and safety.

Parliamentary counsel has advised me that the reference to health and safety has been included because of the difficulty of interpretation, and I accept that definition as well. I would appreciate it if the government could provide on the record some information about the background it has to those definitional aspects. I understand that health and safety has been quite difficult to interpret within the courts, therefore 'harm' has been used instead; and it is also used in other jurisdictions. I think it would be good if the government could place those particular aspects on the record.

I refer to the transfer provisions, which people have raised with us as being an area of extreme concern. I ask the government: under this bill, is there any possibility that a person can be sent interstate on a transfer order without first being reviewed by a psychiatrist? It has been put to us that that is a possibility. I think that most people would find that suggestion quite disturbing. I note that new clause 78 of the bill will provide some appeal rights, and I think that is to be commended. We will also be moving a number of amendments to allow MOUs between states, and they will provide a guide as to how they will be undertaken.

Back on the issue of authorised health professionals, another question is whether the government anticipates that any other profession—other than occupational therapists, mental health psych nurses, social workers or psychologists—will be captured. As an example, I refer to dentists or physiotherapists, although I would have thought that that would be unlikely.

Clause 85—Delegation by chief psychiatrist—is a new provision. Subclause (1) allows the chief psychiatrist to delegate powers or functions. My question for the government is: under what circumstances is that likely to occur? For instance, if the chief psychiatrist is on leave, or is it a deliberate means to manage the workload? Division 3—Authorised medical practitioners—is a new area. My question to the government is: what has this section been created for? Is it for psychiatrists, forensic psychiatrists or for medical practitioners with some psychiatric experience but who are not actually qualified psychiatrists?

My question on clause 91 is: how is the proper interest determined? For instance, I think that a parent of an adult child should qualify. There would certainly be others who should not, but parents are not now told about what happens to their adult children when they are in treatment and when they are discharged. So, what is anticipated to change? Clause 93 relates to errors in orders etc., and in relation to subclause (2) I ask whether the government is aware of any such cases having occurred.

The Liberal Party will be moving a series of amendments (about five) to introduce a community visitors scheme, which was a key recommendation of Ian Bidmeade's review 'Paving the Way'. We suspect that the government's decision to omit it was likely taken because of resource implications and also because the government is not keen on introducing consumer advocates within acute settings. However, I think that all health professions working within the health system would be largely supportive of a community visitors scheme. I am told that some form of community visitors scheme operates within every jurisdiction in Australia, except South Australia.

We feel it is very important that people with a mental illness, who are some of the most vulnerable people in our community, have some form of advocacy. They may be estranged from family and they may not have many close friends, and we believe it is very important that they have someone who is able to provide some assistance to them and some form of advocacy.

We are also changing the fine regimes, because this bill does not update the maximum financial penalties that were set down in 1993. Division 4 fines, as described in the current act, are $20,000; and for division 5, $10,000. So, for those similar penalties, we have respectively increased the $20,000 fine to $50,000, and the $10,000 fine to $25,000 to reflect some form of CPI increase.

We will also be moving that treatment and care plans be provided to Guardianship Board reviews, as recommended by the Bidmeade report. My amendment No. 19 will introduce an offence for assisting an absconded patient. This amendment introduces a new offence for

harbouring and/or criminally failing to report a detained person who has absconded from a treatment centre, which is similar to the existing clause 96 and which is a recommendation made by the Coroner in his findings into the death of Damian Paul Dittmar on 16 March 2006, as reported on 24 October 2008. The Coroner made a recommendation that those who assist an absconded detained patient to evade apprehension should be subject to criminal proceedings. In the findings of that inquest, the Coroner said:

> During the course of that afternoon [15 May 2006]...[Mr Dittmar] was detained. He remained in the Emergency Department of the Queen Elizabeth Hospital for a good part of the afternoon but, while still under detention, left the hospital without permission and proceeded to the premises of a male friend in whose company he remained for the rest of the night. The police were notified of the fact that Mr Dittmar had absconded, but inquiries conducted that night failed to establish...[his] whereabouts.

In the weeks leading up to his death, he had been detained under the act. On one earlier occasion, he was discharged and the existing detention order was revoked. At paragraph 10.7, the Coroner said:

> Whatever the legal position may be, it is my recommendation that the act of knowingly assisting an absconded detained patient to evade apprehension should be criminalised. Having regard to the underlying reasons that led to a person being detained under the Mental Health Act, one would have thought that such activity should be heartily discouraged.

In my view, the position of a detained patient at large is to be distinguished as that of a missing person who is not unlawfully at large, and we will therefore seek to have such a clause inserted into this bill.

The final point relates to the review date; that is, the new act will be reviewed after four years. Part of the rationale for that is to keep tabs on how some of the areas where we have specific concerns are operating and so that we may have another look at them.

I think governments generally resist having review dates because administratively they cause quite a lot of work. I believe that under this new regime the chief psychiatrist will be keeping a lot of statistics, which will be very useful. As I have said, we have concerns about the authorised health practitioners, and concerns have been raised about interstate transport and community treatment orders.

Dr John Brayley articulated very well that community treatment orders, indeed any orders, should not be used because they are easier to use than having what is known in the sector as assertive care, that is, a broad range of well resourced support services to ensure that these things are being implemented, because there is a reliance, to a degree, on this bill and there is a reliance on the professionalism of practitioners.

While I do not doubt that most people who work within the sector are doing it for the right reasons, there can be issues of culture which can creep into any sector, whether it is mental health or otherwise. As I have said, these are some of the most vulnerable people and are, therefore, most vulnerable when people are not doing the right thing by them.

For all of the various areas that we have concerns about, we think that this bill should be reviewed within four years and closely examined to ensure that correct training is taking place, that people are not being unnecessarily subject to treatment orders and that they are not being transported in the middle of the night, as has been put to us, without any rights able to be exercised by those people. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

At 18:08 the council adjourned until Wednesday 4 March 2009 at 14:15.