LEGISLATIVE COUNCIL

Thursday 5 March 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

WATER TRADING

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I lay on the table a ministerial statement made today by the Premier announcing a constitutional challenge on water trading.

BUSHFIRE TASK FORCE

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I lay on the table a ministerial statement made today by the Minister for Emergency Services announcing a bushfire task force.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:21): I seek leave to make a personal explanation.

Leave granted.

The Hon. G.E. GAGO: I need to correct a date that I gave yesterday during my second reading response on the Native Vegetation (Miscellaneous) Amendment Bill. What I stated yesterday, based on advice that I was given at the time—

The Hon. J.M.A. Lensink: Blame someone else!

The PRESIDENT: Order!

The Hon. G.E. GAGO: —was that Mr Ferguson attended the Natural Resources Committee on 19 and 26 February this year. I would like to clarify that I have received further advice that Mr Ferguson did make comment on 19 February this year and 26 September 2006. For the record, I point out that the substance of Mr Ferguson's comments on both these occasions remains as indicated by me yesterday.

QUESTION TIME

FIREARMS AMNESTY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning, representing the Minister for Police, a question about the gun amnesty.

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday, the Minister for Police released a statement championing the great work that had been done with the gun amnesty and saying that some 1,144 firearms had been handed in during the amnesty. Members would be aware that, if that number of guns has been handed in, clearly there are a large number of illegal guns in our community; in fact, of the 200 or so guns that are stolen each year, only about 3 per cent are ever recovered by the police.

Already in the first two months of this year we have seen 10 violent aggravated robberies involving firearms. My question to the Minister for Police is: how many of the 1,144 firearms that were handed in were handed in by known criminals or members of outlaw motorcycle gangs?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:23): It is not usually the habit of known members of outlaw gangs to hand in their guns but, of course, in any case when you have a gun amnesty it is not necessarily going to be recorded. People will not necessarily go into the police station and say, 'I'm a member of the (such and such) outlaw motorcycle gang.'

What is important is that this parliament has in recent years passed some new firearm laws that will enable the firearm prohibition orders to be introduced. That is a significant advance on previous firearms legislation and will help keep firearms out of the hands of those people who should not have them.

What will be important is that, under that new legislation—which was passed through this parliament, and I am pleased that (I think) all members supported it—members of motorcycle gangs, if they have criminal records and the like, will be subject to one of these prohibition orders. That will greatly enable the police to deal with the illegal firearms issue. A firearms amnesty is something that the police commissioner offers from time to time, and it is a very sensible way of trying to remove as many unregistered firearms from the community as possible. The fewer unregistered or illegal firearms in the community, the fewer can be stolen and used for criminal purposes. So, in itself, it is a very worthwhile exercise.

In terms of dealing with crime, an amnesty is just one small part of a much wider range of measures taken by this government. In particular, firearms prohibition orders is an area where I think this state will lead the rest of Australia in relation to the measures we take.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, which other state has an equivalent to firearm prohibition orders to keep firearms out of the hands of people who should not have them? I will refer the honourable member's question to my colleague in another place.

SA LOTTERIES

The Hon. J.M.A. LENSINK (14:26): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about SA Lotteries.

Leave granted.

The Hon. J.M.A. LENSINK: As I was viewing Channel 10 last Tuesday night, I was interested to see an SA Lotteries advertisement about how much money SA Lotteries has been donating to South Australian charities. My questions are:

1. How much is this advertising campaign costing, including the production costs and advertising fees?

2. What community benefit does the government believe is obtained by advertising the activities of SA Lotteries?

3. Has SA Lotteries been asked to contribute to the budget savings of $9 million for advertising, which is part of the cross budget measures and, if not, why not?

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) (14:27): I thank the honourable member for her important questions. We know that the lotteries do indeed contribute large sums of money to the South Australian government, a good deal of which goes into health related matters. I do not have the specific figures in front of me today, but I am happy to take those questions on notice and bring back that information. Likewise, I do not have the exact figures in relation to the advertising campaign, but I feel very comfortable saying that it would be only a very small amount compared with the money generated by SA Lotteries and the money it returns to the government which, in turn, then benefits many members of our community.

I have been advised, and to the best of my knowledge, the advertising campaign is simply to generate people's awareness of the competitions conducted by SA Lotteries, particularly when there are big prizes to be won, and to promote the activities of SA Lotteries.

As I have said, the community benefits are considerable. Lotteries generate large amounts of money, which is passed on to the state government to be used to fund a large range of community benefits. To the best of my knowledge, some of those funds go back into the administration of SA Lotteries itself. My advice is that the lotteries pay for themselves, as well as making a considerable contribution to the community.

In terms of budget savings, to the best of my knowledge the lotteries pay for themselves out of a small part of the income they generate, and a significant component of the funds goes into government coffers and is passed on to the general community. In terms of the specific figures, I am happy to take that part of the question on notice and bring back a response.

ADELAIDE CITY COUNCIL

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Adelaide City Council.

Leave granted.

The Hon. S.G. WADE: On 17 October last year, Business SA and the Shop Distributive and Allied Employees' Association called for an expansion of the electoral roll for the Adelaide City Council to include city workers. On 7 November on Radio FIVEaa Mr Koutsantonis advised that the proposal had become Labor Party policy. My questions are:

1. Has the minister prepared a submission or is she aware that a cabinet submission has been prepared for permission to draft a bill that would expand the electoral roll to include people who do not reside in the Adelaide City Council area but are employed in the area?

2. If so, what consultation has occurred with Adelaide City Council and the Local Government Association in the preparation of the instructions for the draft bill?

3. Is it government policy to extend Adelaide City Council voting rights to city workers, and does the government intend to extend this policy to other local councils?

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) (14:31): The honourable member has certainly been in this place long enough to know that any details pertaining to cabinet submissions or potential submissions are not made public. So, I am certainly not prepared to talk about what may or may not be in the mind of members of cabinet at this point in time.

However, a resolution was passed at our last convention in October that called for an amendment to legislation to allow employees who work in the city to vote in the Adelaide City Council elections. Obviously, this is a very complex matter and a number of issues would need to be considered if a bill were to be developed to amend that act.

Some of those issues include things such as whether city workers should automatically be enrolled or should have to take action to claim enrolment; how to define 'city workers' for inclusion in the expanded voters roll; what type of identity check, if any, should be required of those claiming an entitlement to vote; which agency should be required to compile the 'city workers' voters roll and how the administrative burden of compiling the larger roll should be resourced; whether a person who has more than one entitlement to vote, such as a worker, a resident or a property owner, should be able to vote any more than once in each of the two elections; and what penalty, if any, should be imposed for falsely claiming an entitlement to vote.

I am sure that as these issues are explored many other detailed issues will emerge that will have to be considered very carefully. It is important that we do not rush in and change a system in a way that creates a wide range of serious complications or irregularities, and even problems legally. My office has written to the Attorney-General's office seeking the advice of the Electoral Commissioner on these issues and, to the best of my knowledge, I have not heard back from the Attorney-General.

Clearly, in identifying the wide range of issues that obviously need careful consideration, we would have to consult with a wide range of different stakeholders in assessing those matters, and that is a task that would also need to be considered.

ADELAIDE CITY COUNCIL

The Hon. S.G. WADE (14:34): In relation to the Labor Party policy that the minister referred to—and, for that matter, government policy—does the policy apply beyond the Adelaide City Council area?

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) (14:34): If I recall, the resolution pertained only to the Adelaide City Council.

SASKATCHEWAN MINING DEVELOPMENT

The Hon. CARMEL ZOLLO (14:35): My question is to the Minister for Mineral Resources Development. Will the minister provide details of the progress being made by this government to work more closely with our overseas counterparts to boost our knowledge and expertise in the area of mining and resource development? I refer in particular to the Saskatchewan cooperation.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:35): I thank the honourable member for her first question in four years. South Australia in many areas leads the way in assessing and regulating the mining and energy industries, but that does not mean we cannot look abroad for inspiration and support for scientific and technical expertise to improve our world class regulatory system or that we should not share our experience and expertise with others.

Within the past few days, in Toronto, representatives of Primary Industries and Resources SA, Minerals and Energy division, have signed a memorandum of understanding with their counterparts in the Canadian province of Saskatchewan. The objectives of the memorandum of understanding, signed on the sidelines of the world's biggest mining convention, are to:

- encourage and maximise the economic development of the mineral sectors of their province or state;
- share similar jurisdictional issues in relation to the administration of exploration and mining;
- share experiences with information systems to most effectively disseminate government and industry geoscientific information;
- seek a 'window' into the mining and mineral exploration scenes in their respective jurisdictions;
- advance and promote best practice and continuous technical and scientific improvement in their geoscientific activities (an aspect of this could include professional development exchanges); and
- cooperate in the preparation of geological studies or other forms of information of mutual interest to both participants.

There are many mutual benefits that can flow when two agencies with such a wealth of experience and knowledge in the promotion of exploration and regulation of mining are able to pool their resources and know-how. Saskatchewan is the leading jurisdiction in North America for uranium exploration and mining production. The Athabasca Basin in Saskatchewan has the world's largest high-grade uranium mines and produces about 23 per cent of the world's uranium. On the other hand, South Australia is recognised as being one of the most prospective geological terrains for the next generation of uranium mine development in Australia. The Olympic Dam deposit in its own right contains more than one-third of the world's known low-cost recoverable uranium resources.

I quote from my counterpart, Bill Boyd, Minister for Energy and Resources in Saskatchewan, who stated:

> The partnership between our jurisdictions will foster an environment for open exchanges on world's best practice mineral exploration and mining. Good science is often forged by innovative alliances such as this.

I wholeheartedly share those sentiments admirably expressed by Mr Boyd, and I look forward to the joint cooperation of the South Australian and Saskatchewan geological surveys leading to new insights for exploration and discovery and the benefits that provides to both our jurisdictions.

I also add that the beginnings of this arrangement came during a visit by a number of Canadian ministers, including the Hon. Nancy Heppner, the Minister of Environment in Saskatchewan. She was a newly installed minister who sought cooperation with South Australia in relation to how Saskatchewan could improve its regulation of mining activities that come under that portfolio within Saskatchewan. I am very pleased that, as a result of those initial contacts we had during that visit by the Premier of Manitoba and other ministers such as Ms Heppner, we were able to develop this memorandum of understanding with Saskatchewan, which I am sure will be of long-term benefit to both our state and the province of Saskatchewan.

HOUSING SA

The Hon. D.G.E. HOOD (14:40): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities a question about Housing SA.

Leave granted.

The Hon. D.G.E. HOOD: On page 86 the housing trust annual report from 2006-07 notes that the staffing cost there totalled $42.8 million. The housing trust, as it was then called, has approximately one FTE staff member for each 55 dwellings it manages. The average cost per staff member is some $53,581 per annum. By comparison, Lutheran Community Housing also has one FTE staff member per 55 dwellings but at an average cost of just $37,655 per annum, or approximately 70 per cent of the housing trust's cost. It appears that community housing providers can do the same job for less cost.

Housing SA has a dilemma. The housing trust annual report from 2006-07 notes that the interest cost to it was $33.8 million on its $474 million debt. The organisation has placed great emphasis on reducing this cost and is currently disposing of 18 per cent of its stock—some 8,000 houses—to reduce the debt. To deal with the reduced stock, the housing trust has redefined its eligibility criteria and, after the eligibility criteria were redefined, demand has fallen from 13,892 applicants for housing in 1997 to just 6,184 applications in 2007.

The housing trust has seen a 55 per cent decrease in demand since 1997, which has exceeded the 30 per cent decline in supply since 1992. As at June 2007, the housing trust held some 22,339 applications for its 44,220 houses, or approximately half an application for each of its existing houses. In contrast, Lutheran Housing had some 1,300 applications for the 456 houses it manages, or approximately 2.8 applications per house. My questions to the minister are:

1. Is Housing SA now actively discouraging new applicants for public housing?

2. If this is the case, why should state and commonwealth funds not also be structured to bypass Housing SA where possible and be provided directly to the community housing organisations that appear to operate more efficiently at less cost?

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) (14:42): I will refer those questions to the Minister for Housing in another place and bring back a response.

AP SERVICES

The Hon. R.D. LAWSON (14:42): I seek leave to make a brief explanation before asking the minister representing the Minister for Aboriginal Affairs and Reconciliation a question about AP Services.

Leave granted.

The Hon. R.D. LAWSON: Concerns have been raised in the past about the Aboriginal corporation called AP Services, which operates on the APY lands in South Australia, although its head office is in Alice Springs. I myself have raised on behalf of constituents dissatisfaction with the way in which AP Services was conducting its activities.

On 16 February last, an administrator was appointed to AP Services. The accounts for AP Services reveal that in the past financial year it received substantial government grants, over $1.5 million of which are identifiably funds from the South Australian government. A matter of some deep concern to many would be the fact that this Aboriginal corporation spent $396,000 in the latest year on legal costs. My questions to the minister are:

1. What is the extent of state government funds paid to AP Services during the current financial year, and what forward commitments have been made by the government to make payments to AP Services?

2. Will the minister assure the parliament that all of those funds have been appropriately applied and accounted for and that there has been no misapplication or misappropriation of those funds?

3. What steps is the South Australian government taking to ensure that services to people on the APY lands are not compromised by the administration of AP Services?

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) (14:44): I thank the honourable member for his questions and will refer them to the Minister for Aboriginal Affairs and Reconciliation in another place and bring back a response.

WINDOW COVERINGS

The Hon. R.P. WORTLEY (14:44): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about corded internal window coverings.

Leave granted.

The Hon. R.P. WORTLEY: On 15 December 2008, the Coroner released the findings of an inquest that related to the death of a 13 month old child who died after becoming entangled in the cord of a blind that was hanging down into his cot. The Coroner made a number of recommendations to address the danger posed to children by blind cords. My question to the minister is: will she advise the council what has been done to address the recommendations made by the Coroner?

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) (14:45): I thank the honourable member for his important question. Last year, the Coroner made four recommendations that addressed the danger posed to children by blind cords, one of which was that a public warning be issued to the community. Since then, I have issued a public warning and several media statements about the risks to children of unsafe blind and curtain cords.

In relation to the recommendation that the Minister for Consumer Affairs and the Minister for Health conduct an ongoing awareness and education campaign, I can advise the chamber that officers from the Office of Consumer and Business Affairs have met with officers from the Department of Health, and they are planning a coordinated education and awareness campaign through various child health and parent agencies, such as Kidsafe.

Product safety agencies, including the Office of Consumer and Business of Affairs, are also progressing a proposal to implement a national education awareness campaign concerning looped blind cords and curtains. The Office of Consumer and Business Affairs has also included comprehensive consumer and trader information and advice on its website concerning the dangers of blind cords to infants.

The Coroner also recommended that a safety standard be introduced that covered corded blind and curtain installations, and mandated the fixing and warning labelling of products, and that the implementation of the safety standard be expedited. On 22 January, I made a declaration of dangerous goods under the Trade Standards Act 1979 for corded blinds and curtains. This declaration took effect on 27 January 2009.

The ban requires that the bottom of a looped blind or curtain cord be at least 1,600 millimetres from the base of the blind or curtain or, alternatively, that safety devices must be fitted. Warning labels must be attached to all blind and curtains sold or installed. Safety devices can include an inexpensive two pronged hook, a cord tensioning device or a cord breakaway device.

On 29 January 2009, the Office of Consumer and Business Affairs commenced compliance monitoring of the blind and curtain industry, and its officers have so far visited 27 traders, and they have found five retailers selling products that did not have the correct warning labels or instructions. These products were immediately withdrawn from sale.

Warning letters have been sent to the five retailers and their suppliers. Officers will visit traders again over the coming months and, if any traders are found to be in breach of the ban, the Office of Consumer and Business Affairs will consider undertaking prosecution action. Noncompliant traders risk a maximum fine of $10,000.

I remind families that, while governments can introduce standards, it is also up to them to ensure that hooks are put to good use in order to be effective. The ban was introduced to protect young children from injuries, and even strangulation, from looped blind and curtain cords. Consumers should ensure that looped cords are fastened tightly, that furniture, including cots beds,

high chairs and so on, are placed well away from curtain or blind cords and that any climbing hazards are removed.

Obviously, the Office of Consumer and Business Affairs will do all it can to enforce the new safety requirements, and I urge consumers to follow these simple precautions to reduce the hazards to small children.

THOROUGHBRED RACING SA

The Hon. J.A. DARLEY (14:50): I seek leave to make a brief explanation before asking the minister representing the Premier a question about Thoroughbred Racing SA.

Leave granted.

The Hon. J.A. DARLEY: I refer to an article in last Saturday's *Advertiser* headed 'Kiwi chief new boss of TRSA' in which the Chairman of Thoroughbred Racing SA, Mr Philip Bentley, announced that Jim Watters from New Zealand had been appointed as the new Chief Executive Officer. I refer to another recent appointment to a board involving Mr Bentley, namely that of the new Deputy CEO of WorkCover, Mr Jeff Matthews, also of New Zealand. My questions are:

1. What was the selection criteria for the appointment of the new CEO?

2. Given the Premier's recent commitment to promoting the use of South Australian and Australian businesses in these tough economic times, how many applicants were considered for the position and how many of those were from Australia?

3. Does the Premier agree that there are no suitable applicants in Australia to take on executive positions on South Australian boards?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): I will refer those questions to the Premier in another place and bring back a reply.

NOSKE, MS K.

The Hon. R.I. LUCAS (14:51): I seek leave to make an explanation before asking the Leader of the Government a question about a public sector appointment.

Leave granted.

The Hon. R.I. LUCAS: Recently the minister's Department of Planning and Local Government appointed a new person to be in charge of Strategic Communications in his department. The person appointed was Ms Kaye Noske, who is a former Labor government ministerial staffer who was recently head of communications in PIRSA. I have received a number of complaints from persons within the Public Service about the process used to make the appointment within the minister's department.

I have been informed that the position was not advertised, contrary to usual public sector guidelines in relation to such a senior appointment, and in doing so this prevented a number of other persons from applying for consideration for that position. I have also been informed that, just prior to the appointment, the minister's department significantly increased the remuneration payable for the position to a level of $120,000 in salary and the addition of a car, significantly above the old level for the position.

I have also been informed that Ms Noske was approached to apply for the position and indicated that she would do so only if the position was reclassified and the salary increased to $120,000 with the addition of the car. My questions to the minister are:

1. What is the total employment cost (TEC) for this position, including, obviously, the superannuation, car and any other benefits that attach to the position? What was the total employment cost for that position prior to the appointment of Ms Noske?

2. What process was used by the minister's department for increasing the total employment costs for that position, and why did the minister's department increase the TEC significantly?

3. Why did the minister's department not advertise this position publicly so that a proper merit-based appointment could have occurred for that senior position, and what is the term and the nature of Ms Noske's appointment to the position?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:53): My understanding was that it was for a limited time, but they are matters for the Chief Executive of my department. I will get the information—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I do not know; I will have to ask the Chief Executive. What I do know is that, for many years, Ms Kaye Noske worked with the Department of Primary Industries and Resources in its Communication Unit, and from my experience I know that she performed an excellent job. I know that she is very good at her job. I am very pleased that she is able to work in the department, particularly at such a crucial time when the government is rolling out its planning reforms. There is significant workload in relation to providing information with respect to the many details associated with the new planning system and in particular the code.

That workload will continue over the next six months as the code is refined to bring in areas where the residential code applies for new dwellings and also where character areas apply. I am pleased that we have a very experienced media person in Kay Noske in such a key position within the department. I will get the details from the chief executive.

NOSKE, MS K.

The Hon. R.I. LUCAS (14:55): By way of supplementary question, is it correct that the minister discussed the appointment with his chief executive prior to Ms Noske being appointed?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:55): No, it is certainly not correct that it was discussed with me.

JOHNS, MR K.

The Hon. B.V. FINNIGAN (14:56): My question is to the Leader of the Government, the Minister for Mineral Resources Development.

Members interjecting:

The PRESIDENT: It is nice to see people from the government reaching the heights they deserve.

The Hon. B.V. FINNIGAN: It is the first time I have been called 'little' for a while. Is the minister aware of any recent honours bestowed on former South Australian public servants in the area of mines and energy?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:56): I am pleased to inform members that Keith Johns, the former director of mines and energy in South Australia, was awarded an Order of Australia medal for services to the mineral resources and energy sector in the recent Australia Day honours. Mr Keith Johns was born at Port Pirie on 24 April 1927 and educated at Crystal Brook West and Port Pirie District and Adelaide high schools. In 1947 he graduated with a Bachelor of Science with Honours in geology at the University of Adelaide, and added a Master's in Science degree 13 years later in 1960 to his academic qualifications.

Initially he was employed in the geological survey of South Australia as an assistant geologist before moving up through the ranks to supervising geologist. His main interests were in regional mapping and in exploring for and assessing a variety of the state's mineral resources. His contribution to the geological understanding of this state includes regional mapping on Eyre Peninsula, in the Flinders Ranges, Willouran, the Mount Lofty Ranges and the Stuart Shelf. These maps were published in the *Geological Atlas of South Australia*.

The results and reports on delineating coal resources and other commodities were published in departmental publications, including the *Mining Review*, *Bulletins of the Geological Survey* and *Reports of Investigations*. Through the Government Geologists' Conference, Mr Johns edited *History and Role of Government Geological Surveys in Australia*. His booklets *Cornish Mining Heritage* and *Mineral Resources of the Adelaide Geosyncline* were published as departmental special publications, and 'Mineral Exploration and Development in South Australia 1836 to 1991' was published in the *Mineral Industry Quarterly* in 1991.

His work included visits to major mineral development projects in other states, the Northern Territory and overseas, and some examples of these investigations include: exploration for and

development of phosphate, evaporites, brines and sulphur in South America, UK, Europe and Israel; aspects of the development and management of energy resources in the UK, Europe and North America; and, energy resource development and management in Canada, the UK, Europe, Israel and Japan, particularly in relation to uranium.

In December 1973 Mr Johns was appointed deputy director of mines and deputy government geologist in the department of mines. A major project then was the discovery and development of the Olympic Dam mine at Roxby Downs. He succeeded Mr Bruce Webb as the director-general of the mines and energy department in June 1983, and served until his retirement on 24 April 1992. Further to his duties as director-general, Mr Johns served as a member of the Pipelines Authority of South Australia (PASA) Board, the Amdel Council and the South Australian Water Resources Council, was a director of the South Australian Oil and Gas Corporation and was deputy chairman of the Uranium Advisory Committee.

Mr Johns was also a member of numerous ministerial committees, including the State Energy Committee, the State Energy Research Advisory Committee (SENRAC), the Advisory Committee on Future Electricity Generating Options, the Steering Committee to Review Energy Planning Processes, the Future Energy Action Committee, the Coalfield Selection Committee, the Natural Gas Task Force, the Energy Planning Executive and the Standing Committee of Officials for the Australian and New Zealand Minerals and Energy Council (ANZMEC).

Keith was a foundation member of the Geological Society of Australia and served for a term on the committee of the South Australian division. He is a longstanding member of the Australian Institute of Mining and Metallurgy and was a key contributor to the AusIMM Centenary Conference in Adelaide in 1993. In retirement, Keith has published numerous papers relating to historical aspects of mineral development and promoting the state's mining heritage.

These publications include: *Sir Henry Ayers, First President of the Institute and the Burra Burra Mines* in the *Proceedings of the AusIMM Centenary Conference*; *Uranium in South Australia—politics and reality* in the *Journal of Australasian Mining History*; and *The Cornish at Burra, South Australia* in the AMHA Journal.

In addition, Mr Johns is an occasional contributor to *The Australian Geologist* and the *Earth Sciences History Group Newsletter*. Currently, he is preparing a history of the discovery, opening and development of the Olympic Dam mine for publication. Keith has maintained his passion for the geological and mining professions, continuing to be a keen supporter of the state's mining industry and an advocate for its future.

I congratulate Mr Johns on being awarded an Order of Australia medal and hope that members will join me in acknowledging the great body of work that he has produced which has increased our knowledge and appreciation of this state's history and its mineral wealth.

PORT LINCOLN, PLANNING

The Hon. M. PARNELL (15:01): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about building heights in Port Lincoln.

Leave granted.

The Hon. M. PARNELL: Recently, the Port Lincoln city council received a record number of submissions from the public in relation to proposed changes to planning rules in that city. Local residents are particularly upset at changes to building heights that are being allowed in the city centre zone, and this is the zone, members would know, that follows the foreshore at Port Lincoln.

The zone is primarily two-storey buildings at present. However, the new development plan amendment by the minister allows building heights of between three and 12 storeys. Over 200 people made submissions to the council opposing the new height allowances and over 4,000 people signed a petition opposing the changes.

These were overwhelmingly Port Lincoln residents so, when you consider that the entire population of the city is about 13,000, it represents about a third of the population of Port Lincoln who have signed this petition. I understand that the minister also has a copy of this.

A community action group has formed to oppose these changes to the planning rules, and typical of the responses that I have received from Port Lincoln residents is that, if they wanted to live in a high-rise coastal environment, they would move to the Gold Coast. Residents see these changes as harming the very character of Port Lincoln and destroying the town's special ambience.

My question is: what will the minister do to address these concerns, and will he reverse the changes to building height rules?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:02): The first point that needs to be made is that the development plan amendment is not a ministerial development plan amendment; it is a council-initiated development plan amendment. The other point that the honourable member needs to understand is that, as I understand it, there are currently no height limits in relation to the foreshore.

Certainly, most of the buildings along there are less than two storeys, but my understanding is that the current development plan does not have height limits. I have had a meeting with the community action group and I understand its concerns. The dilemma that I face is that, if I were to disallow the council's development plan amendment, it would revert to the current plan which has no height limits.

There are no height limits and, therefore, you could certainly build a large building. That is the dilemma that I face, and I think that I had a good discussion with the community action group. The members of the group understand that, and I am considering how I can deal with that. So, there is a healthy debate going on at the local level within Port Lincoln. This has been initiated by the council.

There has been a reaction from residents. Ultimately, it will come to the government. Clearly, I will be considering the advice I receive. To this stage, I have not received any recommendations from my department in relation to it. Of course, one of the options that I have whenever there are controversial development plan amendments is to refer them to DPAC, the independent policy advisory council. That is one of the options I have.

I will await the advice of the department, but I think it does need to be understood that, if it were just a question of rejecting the proposed development plan amendment, it would revert to the current situation where there are no height limits at all on the foreshore.

PORT LINCOLN, PLANNING

The Hon. M. PARNELL (15:05): I have a supplementary question. If, as the minister says, this was a council initiative, is it correct that the minister declared it to come into interim operation, under section 28, on 21 August last year, before any consultation with the community had occurred?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:06): I will have to check the record. I deal with one or two development plan amendment applications every week and there are numerous applications relating to a whole range of issues. There may well have been other reasons why the council sought interim operation, and I presume it would. It would be unlikely in a case such as this that I would support interim operation of a development plan unless there was a specific request from the council. As I have said, I will have to check the record. I have dozens of these every year.

I had a recent meeting with the group and undertook to investigate the situation, and I will do that. I will check to see exactly what were the issues in relation to interim operation, and I will get back to the honourable member on that matter.

OFFICE FOR THE NORTHERN SUBURBS

The Hon. J.S.L. DAWKINS (15:07): I seek leave to make a brief explanation before asking the Leader of the Government in this place questions about the Office for the Northern Suburbs.

Leave granted.

The Hon. J.S.L. DAWKINS: On 1 August 2008, at the Northern Community Summit, the Premier announced the new Minister for the Northern Suburbs would be responsible for an Office for the Northern Suburbs to be located in Elizabeth. On 17 February 2008, the member for Schubert in another place asked the Minister for the Northern Suburbs, why, after a six month delay, the Office for the Northern Suburbs was yet to open. The minister was unable to provide any information in relation to the office or its preparations.

I am informed that the Minister for the Northern Suburbs had the lease agreement approved by state cabinet in November 2008 for office space at 7 Philip Highway, Elizabeth. The office would be staffed by a director and two other employees. I have now driven past that office space on a number of occasions and found it empty. This morning I noticed that work was being done to commence a fit-out.

I am also aware that on 21 February 2009 a job advertisement was placed in the career section of *The Advertiser* seeking a senior policy officer for the Office for the Northern Suburbs. The advertisement was placed under the provision of the minister's department (the Department of Planning and Local Government). My questions are:

1. Given that there has been a seven month delay in preparing the Office for the Northern Suburbs, when does the minister expect it to be open for business?

2. Why has it taken the minister's department three months to place a job ad in the newspaper since the lease agreement was approved by cabinet?

3. Will the minister indicate whether the lease for 7 Philip Highway, Elizabeth, is operational and, if so, what was the starting date and how much rent has been paid to date?

4. What, if any, action has been taken to fill the remaining two staff positions for the office, particularly the crucial appointment of the director?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:09): It is correct that the Office for the Northern Suburbs comes within the Department of Planning and Local Government, as does the Office for the Southern Suburbs. However, the minister responsible is my colleague the Minister for Families and Communities, and I will refer the question to that minister. Although the Office for the Northern Suburbs comes within the department, my colleague is the minister responsible for that office. I will obtain the information and bring it back for the honourable member.

CONSUMER RIGHTS

The Hon. J.M. GAZZOLA (15:09): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about consumer rights.

Leave granted.

The Hon. J.M. GAZZOLA: The minister has informed the council about guides for assisting shoppers to know their rights. Will the minister inform the council about the guide developed specifically for Aboriginal communities on the APY lands?

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): The APY lands community will benefit from a new information booklet on consumer rights that is being released today. *Talk About Shopping* is a booklet that forms part of an education program to inform Aboriginal consumers about their rights when purchasing goods and services using credit. It addresses basic consumer topics relevant to residents of the APY lands such as credit, booking up goods and purchasing a car.

The booklet was developed by the Office of Consumer and Business Affairs to assist consumers to better understand their rights and where they can go for help if problems arise. Officers from the Office of Consumer and Business Affairs worked closely with members of the APY community and Aboriginal organisations to design a booklet that residents of the APY lands can relate to and enjoy reading. Important messages about consumer rights are conveyed in an easy, straightforward way, with culturally appropriate illustrations to help convey the message. The visual representation of the consumer message should work well with people for whom art and visual imagery are second nature.

The Office of Consumer and Business Affairs was also assisted by Better World Arts in Port Adelaide in purchasing the rights to the cover art of the booklet. The artwork represents a Dreamtime creation story and was painted by an artist from the APY lands, and it is a very lovely cover.

This is the fourth publication in a series that targets specific consumer groups such as migrants, refugees and Aboriginal people. Informed consumers can make better choices when it comes to buying goods or services and deciding how to pay for them. *Talk About Shopping*

ensures that everyone understands their rights when buying goods or services, and more information on the *Talk About Shopping* booklet can be obtained from the Office of Consumer and Business Affairs.

HOUSING SA

The Hon. R.L. BROKENSHIRE (15:12): I seek leave to make a brief explanation before asking the Leader of the Government a question about the status of Housing SA.

Leave granted.

The Hon. R.L. BROKENSHIRE: I have recently been contacted by a constituent regarding the Housing Trust residence where she lives. I am advised that the resident has asked many times to be allowed to move to premises within Housing SA due to the disrepair and subsequent safety of the house.

Some of the maintenance issues include the following. The ceiling is falling down and rain is coming into the house, creating a mess and an electrical safety hazard. The lights are falling out of the ceiling and fibreglass is falling out of the ceiling cavity. A maintenance person was sent to inspect the lights but did not even get into the roof to carry out the inspection or fix the situation. The resident slipped and broke her toe due to sewage and water leaking onto the pavers outside and then into the house. Fences are falling down and are not being fixed. Lino in the house is lifting, which causes the resident and her daughter to trip regularly. A fan exploded in the house because carpenters did the rewiring work instead of electricians. There are also concerns about the amount of asbestos in the house.

The resident has letters from a doctor confirming her injuries. The resident is so despondent and concerned for her safety that she is considering moving out of the premises into private housing that she cannot afford, because she has to put her safety and that of her family first. However, she is concerned that, if she does so, she might not be able to return to Housing SA premises.

The confounding thing about this lady's situation is that I have data indicating that, as at 28 January 2009, 1,872 Housing SA premises were vacant, 17,703 premises were awaiting maintenance and 135 premises were both vacant and awaiting maintenance. My questions to the leader are:

1. Can a house be made available immediately so that the resident and her daughter can move into safer, more suitable Housing SA accommodation?

2. If there are 1,872 premises vacant and 135 of those are awaiting maintenance, can this resident be placed in one of the other 1,632 premises that are vacant and not awaiting maintenance?

3. Is this situation symptomatic of an endemic problem within Housing SA?

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) (15:15): I thank the honourable member for his important questions and will refer them to the Minister for Housing in another place and bring back a response. I am sure it would be helpful to the minister if the honourable member were to provide the details of the particular constituent and circumstances to the minister's office and they will be pleased to take that up.

KANGAROO ISLAND NATURAL RESOURCES MANAGEMENT PLAN

The Hon. C.V. SCHAEFER (15:15): I seek leave to make a brief explanation before asking the minister representing the Minister for Environment and Conservation a question about the Kangaroo Island natural resources management plan.

Leave granted.

The Hon. C.V. SCHAEFER: The latest edition of the *Stock Journal* adds weight to the various letters I have received protesting about the draft natural resources management plan for Kangaroo Island. It states that on 16 February 135 Kangaroo Island residents voted against and one voted for the inception of that plan, and adds:

> While a majority of farmers supported the need for a level of water management, major concerns were raised over the scientific data used to calculate the 25 per cent rule.

The 25 per cent rule appears to be exclusive to Kangaroo Island and allows for farmers to catch only 25 per cent of the runoff on their properties. The article further states:

> But former CSIRO head of the Division of Water Resources, Graham Allison, questioned the scientific data used to determine water allocations that would only allow farmers to access 25 per cent of runoff water.

It appears that the data used for the models to arrive at this amount was actually taken from the Mount Lofty Ranges and the Barossa Valley. The article quotes Dr Allison as stating:

> It is crucial the [Kangaroo Island Natural Resources Management] Board bases its plan on good scientific analysis... Unfortunately [he says] that does not appear to be the case here—

and there has to be good baseline data. More concerning was that Jeanette Gellard, who is the CEO of the Natural Resources Management Board on Kangaroo Island, is quoted as saying:

> The board has recognised that we don't have good data about local water resources so it was difficult to develop figures based on what has happened locally.

She went on to say:

> ...collecting local data was a high priority for the NRM Board but there would not be enough time to do so before [the natural resources management plan] was adopted.

My question is: will the minister reject the draft natural resources management plan and extend the time for sufficient data to be collected so that an accurate assessment of Kangaroo Island water resources needs and uses can be achieved?

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) (15:18): I thank the honourable member for her important question and will refer it to the appropriate minister in another place and bring back a response.

INTERNATIONAL WOMEN'S DAY

The Hon. R.P. WORTLEY (15:19): My question is to the Minister for the Status of Women. Will the minister provide more information on events to be held in honour of this year's International Women's Day?

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) (15:19): I thank the honourable member for his most important question and his ongoing interest in this very important policy area. International Women's Day is held on 8 March every year to celebrate the amazing contribution of women to our communities, and a diverse range of organisations and individuals across metropolitan and regional South Australia develop a range of different events to acknowledge the achievements of women in their local community.

A number of events have been successfully built up and developed over many years and are now recognised as important and popular, if not iconic, events on the International Women's Day calendar. Every year the International Women's Day Committee SA Inc. organises the very popular International Women's Day luncheon. The committee has been involved in International Women's Day for over 70 years, and I had the pleasure of attending this year's luncheon, along with the Hon. Michelle Lensink and Francis Bedford MP, at the Adelaide Convention Centre on Wednesday 4 March.

An honourable member interjecting:

The Hon. G.E. GAGO: Don't worry; I'll get to Gawler. There's lots to be said about Gawler. The luncheon included the presentation of the winners of several awards that celebrate the contribution of South Australian women, including the Irene Bell Award, the Irene Krastev Award, the Gladys Elphick Award and the Barbara Polkinghorne Award. I would like to take this opportunity to congratulate all of the finalists and winners and seek leave to have that list incorporated in *Hansard* without my reading it.

Leave granted.

> The Irene Bell Awards for community service were this year awarded to Branka King, Anezoula Karpathakis, Erica Jolly, Sue Gilbey, Katherine Leane, Gwyneth Regione and Margie Berlemon.

> The 2009 finalists of the Irene Krastev Award are Desi Alexandridis, Milenka Vasekova-Safrillidis and Elizabeth Georgokopoulos.

I am pleased to announce that Elizabeth Georgokopoulos was the winner of the Irene Krastev Award.

The Gladys Elphick Award for services to Aboriginal women was this year awarded to a group of seven Senior Aboriginal elderly women. The Kupa Piti Kungka Tjuta women from Coober Pedy are from the Yankuntajatjara, Antikarinya and Kokatha region. The women are Eileen Brown, Eileen Crombie, Emily Austin, Ivy Stewart, Eileen Wingfield, Angelina Wonga and Martha Edwards.

The Barbara Polkinghorne Award for service by a woman writer was awarded to Clementine Ford.

The Hon. G.E. GAGO: I look forward to their continued contribution in the South Australian community. Organisations in regional areas have become increasingly involved with International Women's Day, and a number of events have successfully increased the participation of women through providing accessible events that are appropriate and popular with women in the community, including breakfasts with guest speakers organised by Zonta Club in many regions and an afternoon tea held at Gawler Zonta, Country Women's Association, Guides and others with guest speaker Anne Beadell. A debate was also held entitled 'Gawler embraces diversity', which included a wonderful debate of year 12 students from three of the local high schools who were debating against three very prominent community women. I was very pleased to have been joined at that event by the Hon. John Dawkins and the local member Tony Piccolo.

There have also been a celebration of 20 years of the Women's Health Policy with guest speakers at Noarlunga Women's Health; a morning tea at Murray Bridge hosted by the South Australian Murray-Darling Basin Natural Resources Management Board with guest speakers discussing sustainability and strengthening cultural ties by working with Aboriginal people in the management of natural resources; and a walk through Port Adelaide organised by Dale Street Women's Health Centre to celebrate the achievements of Anna Rennie, the first woman mayor, and Annie Ross, the first woman police officer.

I have been pleased to attend many of these events, and there are others. There is a march this evening and the iconic UNIFEM breakfast tomorrow morning. I have been pleased to attend as many of these events as I possibly can and enjoy continuing to celebrate the achievements and contributions of South Australia's most remarkable women.

ANSWERS TO QUESTIONS

CHILD PROTECTION

In reply to the **Hon. A. BRESSINGTON** (29 July 2008).

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

All public servants including school staff are required to comply with the standards issued by the Commissioner for Public Employment. Standard 4—Managed Performance, Appendix A, states:

This standard provides guidance for situations where Members of Parliament request information that is not publicly available from public servants, officers of statutory authorities and other public employees.

All requests by Members of Parliament for detailed information from public officials must be submitted to the appropriate Minister, who if in agreement with the request, will initiate the necessary arrangements…If an employee is approached directly by a Member of Parliament for information, the Member is to be referred to the Minister responsible and the Minister informed through the chief executive of the agency that the request has been made.

The release of personal information is subject to Cabinet Administrative Instruction No 1 of 1989, Information Privacy Principles Instruction. Paragraph 4(10) states:

An agency should not disclose personal information about some other person to a third person unless:

(a) the record-subject has expressly or impliedly consented to the disclosure;

Teachers are mandatory notifiers under the provisions of the Children's Protection Act 1993 and are required to make appropriate reports to the Department of Families and Communities as required by the Act.

DEVELOPMENT SITES

In reply to the **Hon. J.M.A. LENSINK** (24 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 Environment and Conservation has provided the following information:

An assessment on the risk posed by landfill gas (LFG) to residential areas is currently being undertaken for all EPA known closed landfills located in South Australia.

The EPA is actively engaged with the relevant local councils in managing closed landfill sites where landfill gas has been identified as a potential issue.

Landfill gas management is one of a number of environmental risks that is required to be managed under South Australia's Environment Protection Act 1993 and the Development Act 1993. Operational issues of this nature are a responsibility of State Authorities.

DEBT COLLECTORS

In reply to the **Hon. J.M.A. LENSINK** (25 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):

1. In 2007-08 the Office of Consumer and Business Affairs (OCBA) received five complaints concerning debt collectors. Similar low numbers have also been recorded in the past few years.

2. No.

3. OCBA has a variety of publications and information on its website that explores both consumer and trader's rights and obligations under consumer law.

The *Fair Trading Act 1987* (the Act), that is under my administration provides penalties for debt collectors or their agents who engage in conduct that is contrary to the provisions under the Act. Such misconduct could include harassment for payment of a debt that is not owed or even where a debt collector falsely represents that criminal or other proceedings will apply for non payment of a debt.

MEMBER'S REMARKS

The PRESIDENT (15:24): I feel impelled to refer to a contravention of standing orders which occurred yesterday in this chamber. The Hon. D.G.E. Hood moved the following motion:

That this council notes that fair and accurate debate is important to the parliamentary process.

The subsequent debate by Mr Hood was a subterfuge in that it was turned into additional debate on a matter before this council, that is, the Statutes Amendment (Prohibition of Human Cloning for Reproduction and Regulation of Research Involving Human Embryos) Bill, on which the honourable member had already spoken.

The motion which the Hon. D.G.E. Hood moved yesterday became a mechanism for him to decry what the Hon. I.K. Hunter had said previously in debate on the bill.

Standing order 174 does not allow members to speak more than once during the debate, and standing order 177 gives a right of reply to a minister or member who moves the original substantive motion. I also remind members of standing order 187, which prohibits members from alluding to any debate of the same session upon a question or bill not being then under discussion. This rule is to secure finality; otherwise, a debate might be interminable, and the standing order which prevents the same question being twice offered would be rendered nugatory.

CHILD SEX OFFENDERS REGISTRATION (REGISTRATION OF INTERNET ACTIVITIES) AMENDMENT BILL

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. B.V. FINNIGAN: I move:

Page 2, line 22 [clause 3, inserted paragraph(p)]—After 'email addresses,' insert:

passwords,

As I indicated in my second reading contribution last evening, this is a fairly simple amendment which I do not think can be considered too controversial. It inserts the word 'passwords' after 'email addresses' so that registrable offenders under this bill will be required amongst the other information they must provide to include passwords that access their email accounts, internet accounts and so on.

The Hon. R.D. LAWSON: I support the amendment. Strictly speaking, it is unnecessary because the bill itself does not descend into particulars such as passwords and the like; however, paragraph (q) provides for the prescription of other information that is required to be provided by regulation.

It is undoubtedly true that this area of technology is constantly moving and changing, and that is why we have included in the provision the possibility of further definition by regulation. That said, things such as passwords, in this case, and access codes, in the next, are clearly of use to investigators. The mover of the original bill (Hon. Iain Evans) is happy to accept this and the following amendment proposed by the government.

Amendment carried.

The Hon. B.V. FINNIGAN: I move:

Page 2, line 23—After 'or any other' insert:

access code.

The rationale behind this amendment is pretty clear.

The Hon. R.D. LAWSON: Again, we will agree with the amendment proposed by the honourable member.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

REPRODUCTIVE TECHNOLOGY (CLINICAL PRACTICES) (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:32): On behalf of my colleague the Hon. Gail Gago, I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend and update the *Reproductive Technology (Clinical Practices) Act 1998* to ensure it meets the needs of South Australians requiring assisted reproductive treatment into the 21st century.

The *Reproductive Technology Act 1988* (RT Act) was drafted in the late 1980s when in vitro fertilisation (IVF) was a very new area of biomedical science. At that time it was a conscience vote for all Members of Parliament and it will be again this time.

The current Act prescribes the welfare of the child born as the guiding principle, established the SA Council on Reproductive Technology (the Council) to advise the Minister, sets limited eligibility criteria for treatment, provides for clinics to be licensed, and prescribes confidentiality requirements. Assisted reproductive medicine was in its infancy when this Act was promulgated. It set a framework for the practice of assisted reproductive medicine and at that time was considered revolutionary. However some aspects are now past their 'use by' date.

The Act required the Council to develop detailed regulations for ethical clinical practice. The Code of Ethical Clinical Practice (the Code) was developed in the early 1990s by the Council and established as a regulation under the Act in 1995.

The detailed and highly prescriptive Code of Ethical Clinical Practice regulates and details requirements for: eligibility for treatment and for donation of reproductive material; specific prohibited practices; made provisions for consent and record-keeping—most of which is now duplicated by the NHMRC ethical guidelines and the

Reproductive Technology Accreditation Committee (RTAC) national standards. This robust national regulatory scheme allows South Australia's legislation to be simplified, thereby reducing unnecessary duplication.

Assisted reproductive treatment (ART) is no longer considered novel. It is now an accepted means of family formation. South Australia's legislation does not accommodate or respond to advances in infertility treatment, emerging public health challenges or shifts in social attitudes. The Act has constrained assisted reproductive medicine services and the Code has further complicated practice. Advances and discoveries in assisted reproductive treatment since the 1980s have made the present legislative scheme difficult to interpret and apply.

National regulation of assisted reproductive treatment

ART is now highly regulated through a strict national accreditation and licensing scheme and comprehensive ethical guidelines, which have both evolved since the passage of the RT Act in 1988 and the Code in 1995. The Department of Health has contributed significantly to the regular review and revision of these national guidelines and standards over the years.

This national framework includes the Reproductive Technology Accreditation Committee (RTAC) Code of Practice and accreditation standards and the extensive and recently revised NHMRC *Ethical guidelines on the use of assisted reproductive technology in clinical practice and research 2007*. Clinics must comply with these national standards, are inspected annually, and must maintain their accreditation to access Medicare funding.

The current South Australian legislation requires clinics to maintain their national accreditation and comply with the NHMRC ethical guidelines which will continue under the proposed amendments. There is now significant duplication and direct conflict in some areas between the South Australian legislation and the NHMRC ethical guidelines, and this currently poses problems for clinical practice and the provision of ART. If these amendments are passed, the legislation would be consistent with the national regulatory scheme.

Other states

South Australia, Victoria, Western Australia and recently New South Wales have legislation regulating assisted reproductive treatment to varying extents. Assisted reproductive treatment in the jurisdictions without specific legislation is regulated solely by the national accreditation and licensing scheme and the NHMRC ethical guidelines ie. reproductive treatment in those states is not subject to additional prescriptive legislation that is not imposed on other medical specialities.

Legislation and practice in other states allow access to new treatments, introduced since the 1980s, which the current Act does not permit South Australian clinics to provide to their clients.

The current Act's shortcomings

The shortcomings of the current Act and the Code include:

- inconsistency with national standards and guidelines
- non-compliance with National Competition Policy principles
- eligibility requirements that are more limited than other jurisdictions and so drive 'reproductive tourism'
- an inability to accommodate new treatments and emerging issues
- legal barriers to donor registration schemes.

The Amendment Bill

The proposed Bill will amend the *Reproductive Technology (Clinical Practices) Act 1988* by:

- renaming the Reproductive Technology (Clinical Practices) Act 1988 as the Assisted Reproductive Treatment Act 1988
- ensuring that the welfare of any person to whom treatment is provided and the 'best interests of the child' are of fundamental importance in the application of the Act and in the provision of assisted reproductive treatment
- requiring clinics to continue to comply with the national accreditation and licensing scheme and the NHMRC Ethical Guidelines
- removing anti-competitive licensing conditions
- replacing the current licensing scheme with a registration scheme
- dissolving the SA Council on Reproductive Technology
- deleting the marital requirement for access to ART, to ensure consistency with the Pearce Judgement in 1996
- continuing to allow medical practitioners to provide assisted insemination, but extending ability to provide assisted insemination to other defined health professionals provided they are authorised by the Minister to do so
- extending access to ART to those at risk of transmitting serious infective conditions such as HIV
- providing for the posthumous use of sperm under limited prescribed circumstances

- allowing for the establishment of a donor conception register
- providing for a review of the Act after 5 years.

Renaming the Act

The Amendment Bill proposes to rename the *Reproductive Technology (Clinical Practices) Act 1988* as the *Assisted Reproductive Treatment Act 1988*. This change is to differentiate assisted reproductive treatment from reproductive technology, which is the focus of the *Research Involving Human Embryos Act 2003*. It will also make terminology consistent with other jurisdictions.

Updating the terms

The Amendment Bill proposes to change the term 'artificial fertilisation procedures' to 'assisted reproductive treatment', but retain the current definition. It also proposes to change 'artificial insemination' to 'assisted insemination', but retain the current definition. This would ensure terminology is consistent with clinical practice and with other jurisdictions.

Best interests of the child

Currently the Functions of the SA Council of Reproductive Technology include a clause which requires the Council to keep the welfare of the child as paramount when developing the Code of Ethical Clinical Practice. This Bill proposes to dissolve Parts 2 & 3 of the RT Act, which contains this provision.

Therefore it is proposed to retain and strengthen the 'best interests of the child' principle and extend it to include both the child to be born and the welfare of any person to whom treatment is provided as of fundamental importance in the application of the Act and the provision of ART. This would mean that clinics must ensure that the welfare of the person receiving treatment and the best interests of the child to be born are fundamental when providing assisted reproductive treatment.

Compliance with the National regulatory scheme

Current legislation requires reproductive medicine clinics to comply with the NHMRC ethical guidelines. These undergo extensive consultation, are reviewed every five years and are regularly updated. They recognise the respect due to human embryos, the welfare of the child born from ART and the interests of donors of gametes.

The NHMRC ethical guidelines provide a national ethical framework for clinical practice including details regarding:

- unacceptable and prohibited practices
- use and storage of gametes and embryos
- posthumous use of gametes and embryos
- consent and counselling
- preimplantation genetic diagnosis and sex selection
- donor conception and surrogacy
- innovations, training and quality assurance and
- record keeping.

It is proposed that the new South Australian legislation continue to require clinics to comply with national NHMRC ethical guidelines, enabling duplication between legislation and national guidelines to be reduced

Replacing state licensing with state registration

South Australia introduced licensing in the 1980s to protect emerging innovative enterprises before national regulatory and oversight mechanisms were developed. It was intended to limit the number of providers in a new area, rather than control their activities. As a result, South Australia is now served by only by two providers, Repromed, which accounts for the majority of activity, and a smaller facility, Flinders Reproductive Medicine. Assisted reproductive treatment is now considered mainstream and such restrictions are no longer justified.

Under the current Act new providers wanting to establish clinics in SA must demonstrate that there is an unmet social need which cannot be met by existing licensees, as well as establishing their practice—even before they apply for a licence. The current licensing scheme and its provisions have resulted in a duopoly of service provision in this state. There are other providers wishing to enter the SA market, but currently the law constrains them from doing so.

RTAC issues a licence to reproductive medicine clinics that achieve accreditation, and it is this RTAC licence that permits clients to access Medicare funding. This national system makes the South Australian licensing provisions under the Reproductive Technology Act redundant. In its place, to monitor activity in this area, the Bill requires that established clinics register with the Minister for Health. This Bill provides for a registration scheme which will impose conditions on registrants seeking to practice ART in South Australia, in addition to the national scheme.

This will provide accountability and transparency for those providing assisted reproductive treatment services in South Australia. Compliance will be managed by Regulations.

This Bill also provides for a once off registration fee to be set. Currently clinics, when applying for a licence do not have to pay any fees for a licence to practice in SA. Initially it is proposed that the fee will be set at zero, but be assessed if, down the track, more providers enter the market, which would result in an increase in workload to manage the register of clinics.

Clinics would be able to be deregistered, and therefore unable to practice in SA, for breach of any conditions of their registration, or for non-compliance with the Act or its regulations. The Bill also includes appeals and reinstatement provisions which uphold the principles of natural justice.

Rather than duplicate existing comprehensive national data reporting systems it is proposed to require clinics to provide copies of their annual national data reports to the Minister for Health and the Department, the requirements of which will be detailed in the regulations.

I will outline the conditions which will be required for registrants in SA further on in my speech. I will now turn to the SA Council on Reproductive Technology.

Dissolve the SA Council on Reproductive Technology

The SA Council on Reproductive Technology was given the task, under the newly established Reproductive Technology Act in 1988, to develop a Code of Ethical Clinical Practice and Research. The Council also had a number of other statutory functions under the Act, some of which are duplicated in South Australia's embryo research legislation and so are no longer relevant.

Since its inception, the Council has played an important role in developing the Code, advising various Ministers of Health on issues that relate to ART as they arise, mediating between clinics and negotiating a consensus on policies to guide the practice of ART in South Australia. The Council fulfilled a much needed role at that time. I would like to take this opportunity to thank the Council, its current and previous members for their dedication and hard work in laying important foundations for a well functioning, cohesive and ethical ART sector in SA. If the proposed amendments are successful, many of the Council's functions will no longer be necessary.

The *Health Care Act 2008* makes provision for the establishment of Health Advisory Councils (HACs) to advise the Minister for Health. An Ethics HAC will be able to provide the type of advice currently provided by the Council. The Ethics HAC will also be supported by a number of Expert Advisory Panels, and it is envisaged that one specifically for ART will be established to provide expert advice on ART to the Ethics HAC when needed. The ART Expert Advisory Panel will consist of experts across a range of areas including research, clinical practice, welfare of children born through ART, infertility counselling, ethics, law, and child development and so the list goes on. The number of experts on this Panel would not be limited.

If extra advice is needed additional expert advice could be sought from the assisted reproductive treatment sector itself.

Marital requirement

The current Act restricts access to ART to married couples. However, this clause is in direct contravention of the *Commonwealth Sex Discrimination Act 1984*. Furthermore, it has not been applied since 1996 when the South Australian Supreme Court determined that the marital provisions in the Act should be read down in accordance with the Sex Discrimination Act. The marital requirements have not been applied since that decision, and the Bill includes provisions to remove this redundant criterion. In other words, clinics have since 1996, been providing treatment to infertile women, regardless of marital status or sexuality.

Access to assisted reproductive treatment

Currently, people may only access ART at a licensed clinic in SA if they appear to be infertile or if there is a risk of passing on a serious genetic defect to a child born naturally. These criterion for access to ART will be retained as a condition of registration. However, I propose to extend access to ART for other conditions which I will now outline.

For several years assisted reproductive medicine clinics in South Australia have been seeking legislative change to permit them to offer sperm washing to fertile men at risk of passing on a serious infection such as HIV to their partner and offspring. This can be (and is) available to infertile couples in South Australia, but currently fertile couples have to travel interstate to access such procedures.

The Bill therefore extends eligibility to include cases where there is a risk of transmitting serious infective conditions to a child conceived naturally eg HIV. This will permit access where there is a risk of transmission of serious infective conditions to a child or mother as well as the risk of a genetic defect which is currently contained in the Act.

Post Humus Use of Sperm

Most recently in a widely publicised case a young widow, Ms Sheree Blake, was denied access to sperm stored prior to her husband's death. Both the husband and wife had received expert counselling through a reproductive medicine clinic and Mr Blake had provided specific written consent for his wife to use his sperm to achieve a pregnancy after his death. The couple had met all the criteria specified in the national NHMRC ethical guidelines (once subsequent counselling ensured that an adequate time had passed for her to recover from her bereavement and she was making a considered decision).

However the widow was distressed to discover after her husband's death that South Australian clinics cannot assist her to become pregnant, despite the consent from her husband.

She may legally inseminate herself with her husband's sperm at home, and she could take the sperm interstate to be inseminated by a clinic, but she cannot be medically-assisted in her home state because she is fertile.

This Bill makes provision for this scenario, but subject to strict controls. For example, the ART must be performed on the deceased person's partner, provided he had given an express direction to that effect. The sperm must have been collected prior to the man's death and they must meet the criteria set out in the NHMRC Ethical Guidelines on the posthumous use of gametes which recognise the profound significance for the person born. These include that:

- a deceased person has left clearly expressed and witnessed directions consenting to the use of his sperm by his partner after his death
- the prospective parent receives counselling about the consequences of such use
- the use does not diminish the fulfilment of the right of any child born to knowledge of his or her biological parents
- advice is sought from a clinical ethics committee on the ethical issues raised in these circumstances and
- an appropriate period of time has passed before attempting conception and that counselling is available to work through these issues.

Clinics must comply with these guidelines as part of their registration, under this Bill, and also as part of their national accreditation. It is a condition of their licence issued under the national regulatory scheme.

Access to ART for future infertility

The Amendment Bill provides for other conditions of registration regarding access to treatment to be included in the regulations. One such issue under consideration is the ability to access treatment in the case of future infertility. For example, there have been cases where, a serious medical condition such as cancer may render a person infertile in the future, either due to the treatment for the disease or the cancer itself. There are other medical conditions or diseases which also could affect a person's future fertility. To be clear, this does not mean age, where reduced fertility is a natural part of the ageing process, but would be limited specifically to a medical condition, disease (or medical treatment), as defined or described in the regulations.

However as the current Act limits access to either infertility or risk of passing on a genetic defect—this has limited clinical practice to providing treatment only in these circumstances. This in effect has meant that for a person who may become infertile in the future due to a medical condition or treatment, clinics are not even allowed to harvest eggs or create embryos before that person becomes infertile. So not only do they have to face the seriousness of their illness, but they also have to deal with the potential that they may never be able to have children as well.

As a result it is proposed that the regulations allow for other conditions to be prescribed. Further consideration will be given on the details regarding the types of medical conditions, treatments etc which may render a person infertile in the future. Consultation with the sector will be useful in determining these details.

Donor conception register

In 2005, the Social Development Committee (SDC) and the Council raised concerns about the current lack of access to identifying information about gamete or embryo donors and recommended that donor registration be addressed. In 2007, the SDC again recommended that the legislation be amended to ensure that people conceived through donor conception have access to information about their genetic parentage should they request it.

Currently the Act's confidentiality provisions restrict the provision of information by clinics to a third party, a donor conception register or Births Deaths and Marriages for example. In addition expectations have been raised about a national donor register, which is being considered by the Standing Committee of Attorney's General (SCAG) in the context of a nationally consistent policy framework.

The Bill proposes to remove any impediments and allow South Australia to participate in a donor registration program approved by the Minister for Health. This could be set up as a state register or a national register.

The details of such a register such as how it would work, the information to be kept on the register and who would have access would be detailed in regulations and developed in conjunction with the stakeholders. This would ensure that consideration has been given to the model for such a register, and if a national register is established in the meantime, that there would be no regulatory impediments for SA to participate in a national scheme.

Regulations

There are a number of areas which necessitate the development of regulations. The Reproductive Technology (Code of Ethical Clinical Practice) Regulations (the Code) will expire in September 2009 and cannot be extended. This will provide an excellent opportunity to update the current Code which is outdated and constrains clinical practice to include corresponding regulations for any changes to the current Act, supported by the Parliament and in line with national guidelines.

Regulations and/or guidelines would be required for successful amendments to the RT Act including:

- continue to require clinics to comply with the RTAC accreditation and licensing scheme and NHMRC ethical guidelines on the use of ART in clinical practice

- outlining conditions under which registration or authorisation to carry out assisted reproductive treatments can be granted
- providing for registration of new clinics with provisional accreditation
- setting registration fees
- detailing the access requirements for those at risk of transmitting serious infective conditions such as HIV and persons who are likely, for medical reasons, such as chemotherapy for cancer, to become infertile in the future
- allowing for administrative aspects such as provision for records when a clinic closes and for other emerging issues
- detailing the requirements for the posthumous use of sperm and embryos, under limited circumstance
- detailing requirements for the donor conception register including information required and access provisions.

Records

Currently, there are only limited protections for patients 'and donors' records when clinics are closed or a licence is cancelled. The Bill allows for other conditions to be set on registrants, therefore I am proposing that the regulations set procedures to be followed to ensure that records are safely and appropriately stored, transferred and/or destroyed when clinics or other providers of ART cease to practice.

Penalties

The Bill also increases penalties for breaches of the Act. Penalties set twenty years ago are outdated and have been increased to reflect the nature of the industry and current expectations.

Conclusion

I urge members to support the Bill, to ensure that ART meets the needs of the South Australian community now and into the 21st century. I believe that the Amendments proposed here are not radical shifts in policy, but reflect nationally accepted clinical practice. Access to treatment is still restricted to people who appear to be infertile or at risk of transmitting a genetic defect, but now includes those at risk of passing on a serious condition, such as HIV to a child conceived naturally and to those who, for medical reasons, are likely to become infertile in the future.

The Bill will ensure that the regulation of ART in SA is responsive to emerging issues and improved treatments, thereby benefiting those in need of ART for safe family formation.

I appreciate that these matters raise many ethical questions for some members, which is why the Government has agreed that Labor Party members can vote according to their conscience.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Reproductive Technology (Clinical Practices) Act 1988*

4—Amendment of long title

This clause amends the long title of the principal Act to reflect the amendments made by this measure.

5—Amendment of section 1—Short title

This clause amends the short title of the principal Act so that it becomes the *Assisted Reproductive Treatment Act 1988*.

6—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act, changing current terms 'artificial fertilisation procedure' and 'artificial insemination' to 'assisted reproductive treatment' and 'assisted insemination' respectively. These changes reflect current national terminology and better reflect the scope of the procedures.

The clause also makes further amendments consequential upon the amendments made by this measure.

7—Insertion of section 4A

This clause inserts new section 4A into the principal Act, a section that provides that the welfare of a person to whom assisted reproductive treatment is provided in accordance with this Act, and that of any child to be born in consequence of such treatment, must be treated as being of fundamental importance in respect of the operation of this Act, and in assisted reproductive treatment provided in accordance with this Act.

8—Repeal of Parts 2 and 3

This clause repeals Parts 2 and 3 of the current Act. The effect of the substitution is the abolition of the current South Australian Council on Reproductive Technology (current Part 2) and the licensing scheme for providers of artificial fertilisation procedures (current Part 3), and the institution of a system of registration for providers of assisted reproductive technology. The new Parts 2 and 3 are as follows:

Part 2—Registration

5—Authorisation and registration required to provide assisted reproductive treatment

This clause creates an offence if a person provides assisted reproductive treatment and the person is not authorised to do so in accordance with the regulations or is not registered under this proposed Part.

The penalty for an offence is a maximum fine of $120,000.

The clause sets out an exemption to proposed subsection (1), in that assisted insemination provided by a health professional (a term defined in proposed subsection (6)) approved by the Minister, or assisted insemination provided at no cost, may be provided without such authorisation or registration. An offence is also created in respect of an approved health professional contravening or failing to comply with a condition of his or her approval.

The clause also makes procedural provision in respect of approvals.

6—Eligibility for registration

This clause sets out when a person is eligible for registration under the proposed Part.

7—Application for registration

This clause sets out how an application for registration under the proposed Part must be made.

8—Registration

This clause provides for the registration of persons who are authorised to provide assisted reproductive treatment. Registration is required before the person can actually provide such treatment in this State.

Subclause (2) sets out the information that must be included on the Register, which is to be kept by the Minister.

9—Conditions of registration

This clause provides that the Minister must impose certain conditions on a person's registration under this Part. The kind of conditions that must be so imposed are as follows:

(a) a condition requiring the person to hold, while the person is registered under this Part, a specified licence, accreditation or other qualification that is in force;

(b) a condition setting out the kinds of assisted reproductive treatment the person may provide and any requirements that must be complied with in the provision of such treatment;

(c) a condition preventing the provision of assisted reproductive treatment except in the specified circumstances, those circumstances being—

(i) if a woman who would be the mother of any child born as a consequence of the assisted reproductive treatment is, or appears to be, infertile;

(ii) if a man who is living with a woman (on a genuine domestic basis as her husband) who would be the mother of any child born as a consequence of the assisted reproductive treatment is, or appears to be, infertile;

(iii) if there appears to be a risk that a serious genetic defect, serious disease or serious illness would be transmitted to a child conceived naturally;

(iv) if—

(A) the donor of the relevant human semen has died; and

(B) before the donor died, either—

- the donor's semen was collected; or
- a human ovum (being the ovum of a woman who, immediately before the death of the deceased, was living with the donor on a genuine domestic basis) was fertilised by means of assisted reproductive treatment using the donor's semen; or
- an embryo had been created as a consequence of such assisted reproductive treatment; and

(C) before the donor died, the donor consented to the use of the semen, fertilised ovum or embryo (as the case requires) after his death in the provision of the proposed assisted reproductive treatment; and

(D) if the donor gave any directions in relation to the use of the semen, ovum or embryo (as the case requires)—the directions have, as far as is reasonably practicable, been complied with; and

(E) the assisted reproductive treatment is provided for the benefit of a woman who, immediately before the death of the donor, was living with the donor on a genuine domestic basis;

(v) in any other circumstances prescribed by the regulations;

(d) a condition requiring the person to ensure that the regulations are complied with;

(e) any other condition required by the regulations.

The clause provides for the variation of a person's conditions by the Minister, and creates an offence for a person who contravenes or fails to comply with a condition of the person's registration, with a maximum fine of $120,000.

10—Suspension or cancellation of registration

This clause provides that, if the Minister is satisfied that a person has contravened, or failed to comply with, a condition of the person's registration, the Minister may suspend or cancel the person's registration. In such a case though, the person must first be given a reasonable opportunity to make submissions in relation to the matter.

11—Removal from Register

This clause provides that the Minister must remove a person from the Register in the specified circumstances.

12—Reinstatement on register

This clause provides that a person who has been removed from the Register under proposed section 11 can be reinstated to the Register on application, and makes procedural provision in relation to such reinstatement.

13—Appeals

This clause provides that a person can appeal to the Supreme Court against certain decisions made under the proposed Part.

14—Related matters

This clause makes procedural provision relating to access to, and evidentiary matters arising from, the Register.

Part 3—Donor conception register

15—Donor conception register

This clause enables the Minister to keep a register that identifies the donor of human reproductive material used in assisted reproductive treatment, where the treatment results in the birth of a child.

The clause sets out the information required to be kept if the donor conception register is, in fact, kept, and also provides that the register may only be accessed in accordance with the regulations.

The clause also empowers the Minister to require a person to provide the Minister with specified information, where the Minister requires that information for the purpose of preparing and maintaining the donor conception register. A person who, without having a reasonable excuse, refuses or fails to comply with such a requirement is guilty of an offence.

The clause also provides that the proposed section does not apply to assisted reproductive treatment provided before the commencement of this section.

9—Insertion of section 16

This clause inserts a new section 16, providing that specified persons must keep the records etc required by the regulations, and must retain them in accordance with the regulations.

10—Amendment of section 17—Powers of authorised persons

This clause makes consequential amendments, and increases the penalty for an offence against subsection (2) to a maximum fine of $10,000.

11—Amendment of section 18—Confidentiality

This clause makes consequential amendments, and increases the penalties for an offence against the section to a maximum fine of $10,000 or imprisonment for 6 months.

12—Amendment of section 20—Regulations

This clause makes consequential amendments, and increases the maximum penalty for an offence against the regulations to a fine of $10,000.

13—Insertion of section 21

This clause requires the Minister to conduct a review of the operation and effectiveness of the principal Act as amended by this measure. The review must be conducted as soon as is practicable after the fifth anniversary of the commencement of this proposed section, and a report laid before each House of Parliament.

14—Repeal of Schedule

This clause repeals the spent Schedule to the principal Act.

Schedule 1—Transitional provisions

1—Existing licensees

This clause provides that a person who is licensed to provide artificial fertilisation procedures under the current Act will be taken to be registered under Part 2 of that Act, as enacted by this measure.

2—Record keeping

This clause requires a person licensed to provide artificial fertilisation procedures under the current Act to continue to keep records etc that they are currently required to keep, despite the amendments enacted by this measure.

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

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March 2009. Page 1524.)

The Hon. DAVID WINDERLICH (15:33): I speak in support of this bill. The Equal Opportunity Act 1984 is outdated. No longer does it reflect the community standard. It is time for South Australia to move forward in line with other states and the commonwealth to ensure that South Australians are protected from discrimination. The Equal Opportunity Act 1984 as amended will now recognise carers. It will now be unlawful to treat someone less favourably because of their caring responsibilities. Carers contribute more than $2 billion to the state's economy. It has taken far too long for these changes to be made and for their contribution to be recognised.

Breastfeeding mothers, the mentally ill and HIV patients will at last be protected from discrimination. The bill will amend the definition of 'disability' to include those living with mental illness, those who have learning difficulties and those who are infected with HIV, hepatitis C or other diseases. The term 'HIV' can easily create alarm. It is important to remind the community that protecting HIV patients from discrimination does not stop the implementation of reasonable measures to prevent the spread of HIV. This bill simply makes it illegal for an employer to refuse to employ a person just because they are infected with HIV.

As I interpret the bill, this would mean, for example, that, in an occupation where there is a high risk of transmission of the disease or exposure to body fluids, it may be reasonable to refuse employment to a person with HIV. However, in an office environment, where employees sit at a computer, it would be unreasonable to deny a person employment just because they have HIV. While some of these areas are already covered by the commonwealth law, this has forced complainants to lodge their complaints with the Australian Human Rights Commission based in Sydney. This is another barrier for the poor or people who lack the confidence to negotiate bureaucratic systems. This bill will enable all South Australians to have their complaints heard by the Equal Opportunity Commission in Adelaide.

This bill has been the subject of some criticism—quite a lot. I acknowledge emails from people who are concerned about what they see as the negative effects of the bill. Their concerns appear to revolve around several key issues including, first, sexuality. The biggest concern for quite a number of the people who have emailed me is that the bill will remove the blanket exemption that allows all religious institutions to discriminate on the basis of sexuality. Only religious schools will be able to continue to discriminate on the basis of sexuality, and only if they publicise their intention to do so on their website.

No one should be exempt from discrimination laws. Freedom from discrimination on the basis of a person's sexuality is a basic human right, in my view. A person does not choose their sexuality, and they should not be subjected to unfavourable treatment because of something they

cannot control. Many of the complaints in this regard have come from Christian schools and people associated with such schools. However, I have also received emails from Christian schools that support the bill.

While it appears that some people believe that strong anti-discrimination laws are incompatible with the practice and celebration of Christianity, other Christians disagree. Christianity, like most religions, they argue, is based on love of God and love for each other, and it is from this, as former High Court justice Michael Kirby says, that religious tolerance derives. Ultimately, though, if preventing homosexuals from teaching children is a priority for these schools, because their religion compels it, they should not take issue with publicising this policy on their website. This will allow parents to choose to send their children to a school which conforms to their own beliefs.

Parents can choose to send their children to schools that actively oppose alternative sexualities and discriminate against fellow human beings. Equally, parents will be able to choose to send their children to schools in which tolerance and acceptance of others are valued, if they desire. This is not just a theoretical argument. I have spoken to Christian parents who choose to send their children to Christian schools and who are incensed at the thought that their schools might actually be homophobic.

I also find the opposition of some correspondents to being required to publicise their 'no jobs for gays' policy difficult to understand. Members may not be aware, but I have a reasonable idea about Christian fundamentalists: I was raised as one. I was not raised to hide my beliefs; we were suppose to be proud of them. We were not to be deterred by the threat of persecution. The history of Christianity as I absorbed it was a history of persecution. The Romans oppressed the Christians: they crucified them and fed them to lions. The Catholics in Papua New Guinea (they were known as popies; while in South Australia, I understand, they are known as shoppies) persecuted the Protestants.

Communist regimes oppressed Christians—I read American comics about courageous Christians smuggling Bibles behind the iron curtain. Secularism and consumerism were a constant threat. Our faith in God, as I recall, was supposed to make us strong enough to withstand such persecution. So, I respect the right of those people writing to me to oppose this legislation. I would just encourage them to have the courage of their convictions. What are they afraid of, anyway?

The suggestion that forcing schools to disclose hiring practices on the web will expose them to violent protests is ridiculous. Members may recall a number of cases in the early 1980s where several gay people were bashed with iron bars. I do not recall any similar reports of gays hunting and bashing Christians, heterosexuals or anyone else. The changes will not mean that schools will be forced to hire homosexuals. While many complaints allege that changing the law will flood schools with homosexuals, the practical reality is that most of the time people will not want to work where they are not welcome. Retaining the right to discriminate is, however, offensive and it is necessary to ensure that people who wish to enforce their rights can do so.

Another criticism of the bill is that it gives the commissioner the ability to instigate investigations on her own initiative, and that this will allow the commissioner to push an agenda. I do not believe this is correct because there is a check built into the system. The commissioner can refer a complaint to the tribunal but will have no power to make a finding that a person has discriminated against another. This decision will be left with the tribunal. This power is a necessary change to the law because people who have been discriminated against often feel powerless to do anything about it. Often such people are not aware of their rights or how to enforce them.

There are also complaints about the new power of the commission to compel witnesses to appear before the commission and to provide any information or documents that the commissioner deems relevant. Again, introducing provisions that provide the commissioner with such powers brings South Australia into line with other states.

This type of power is also given to courts, tribunals and other commissioners in other areas to ensure that they have all the available information before them to enable them to make the correct decision. This power also facilitates the ability to investigate where no complaint has been made and to identify whether the matter should be brought before the tribunal.

Remember that we are talking about potentially serious issues. You can be denied or lose your job because of discrimination. There is a lot at stake, so it seems reasonable to have the power to compel witnesses to appear and to provide documents.

The Hon. Dennis Hood mentioned that he was concerned because he believed people may be exposed to costs by vexatious litigation. Indeed, many opponents of the bill fear that small business may be in trouble on this ground. This criticism is ill-informed. The fact is that the tribunal has always had, and will continue to have, the power to order that complainants pay the cost of proceedings before the tribunal where the claim is truly baseless and vexatious.

The Hon. Dennis Hood also expressed concern that giving the Equal Opportunity Commission the ability to initiate proceedings against children might result in a child who jokingly said something in a classroom ending up before the commission. I assume that this provision in the bill is designed for cases of serious, sustained discrimination. That happens, and it can make the lives of children or teachers an absolute hell.

It is reasonable that we have the tools to deal with such cases while retaining the wisdom to use them judiciously and to develop a society in which people have the skills, confidence and goodwill to sort things out themselves without dragging everything and everyone into formal complaint systems.

There is also some concern about the burden that this bill will impose on employers, especially in small businesses, but this bill is not about giving anyone special treatment. Employers only need to ensure that they treat everyone equally and reasonably. For instance, the new protection to carers does not mean that employers cannot require carers to work shiftwork but, rather, all conditions need to be just and reasonable in the circumstances.

It may not be obvious to members, but religious fundamentalists and the gay, lesbian, transsexual and intergender communities actually have something in common. They are all minority groups that need to be protected from the prejudices of the majority and, possibly, each other.

The only way to protect diversity is to encourage non-discriminatory practices. The only way to protect the freedoms of minorities like fundamentalist Christians is to protect the freedoms of all other minorities including homosexuals and Muslims. That is what the bill does: it ensures that everyone is free from discrimination.

I suggest that the Christians consider getting together with the gays to lobby for the bill, and not against it. To paraphrase John Howard, the things that unite, at least in this case, are greater than the things that divide you.

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

MENTAL HEALTH BILL

Adjourned debate on second reading.

(Continued from 3 March 2009. Page 1462.)

The Hon. J.M.A. LENSINK (15:43): I thank the council for its indulgence in allowing me to conclude my remarks as, inevitably, with a bill that has this much depth to it and has had so much input from various stakeholders, I would forget details. I regret to say that I did forget certain details about which I have questions. For the benefit of the drafters of the answers, I will place those on the record this afternoon and add a few other comments.

I would also like to note the pivotal role that the Guardianship Board plays in administering the various provisions of the Mental Health Act which, I think in this bill before us, will be of even more importance to people who are detained or who are subject to orders in the future.

I would like to place on the record the concern I have that the board be adequately resourced to fulfil that role. I did ask in my previous contribution about the status of the revision to that act and whether the government has any plans to provide more resources or alter the administration of the Guardianship Board in any way.

I would also like to know the status of the review of the memorandum of understanding between various agencies, which, in the House of Assembly version, was on page 9 of the report. At the bottom of page 9, it states that it is planned that the memorandum of understanding between the Department of Health, Ambulance Services, the police and the Royal Flying Doctor Service will be updated prior to the new act coming into force. I would like to know the status of that MOU.

On page 13 of the same edition of that report, which was tabled in the House of Assembly on 7 November last year, there is reference to legal representation. In the second paragraph on that page, it states that patients can appeal at any time against any order and legal representation

for appeals will continue to be provided. I have made the notation 'More info please'. The second sentence begins with the words:

> A range of people may make an application to the Board for a variation or revocation of a long term Community Treatment Order or a Detention and Treatment Order, both of which are made by the Board.

I have made the notation 'Who?' in relation to 'A range of people'. On my reading of the matter, similar requirements exist that a psychiatrist must review a level 1 or, in the current act, an equivalent, within 24 hours. Does the minister have any data about the percentage of persons who are reviewed within the guidelines versus what percentage fail to meet the aspirational target?

I note the preference is within 24 hours in relation to the language 'as soon as practicable', but that is not always possible. As I mentioned in my previous contribution, the lack of staffing may contribute to these things, and I think we need to be very mindful that a lack of planning for additional needs does not lead to an inferior service. My alternative question is: what is the average number of hours before an order is reviewed? The only reason I ask that question is that the fallback position of 'as soon as practicable' may not alert anyone to when the system is under pressure; for instance, an average of two days would, in my view, be unacceptable.

The final issue I refer to is the matter of privacy. I do have reservations about the way in which the bill has been drafted in relation to information that may be provided to other people and so forth. My concern is with people I will call 'busybodies', for want of a better word, going to a hospital or asking a medical practitioner for information, without having a valid reason for so doing, in relation to a person who is subject to an order.

This is indeed a very vexed question because, on the other side of the ledger, I have spoken to many parents, particularly in relation to adult children, for whom they could not strictly be categorised as 'carers' in the strictest sense, as framed by the Carers Recognition Act. They say that they can call the hospital when their son or daughter is detained, but they are never told anything. They are certainly not telephoned in a proactive way, so as to include them as part of the treatment process. This is very frustrating, and I think it causes a parent a lot of distress. As they quite rightly say, they are the ones who are required to pick up the pieces when their son or daughter is discharged from hospital, and I think trying to find where the balance lies is quite tricky.

The Bidmeade report is the instructive means of determining this. Mr Bidmeade, in chapter 7 of his report entitled 'The confidentiality barrier to sharing of information', made the following recommendations:

> 7.1 Barriers to proper disclosure of information should be removed as a matter of urgency by legislative change.
>
> 7.2 There should also be professional development of mental health staff on mental health law, and duties of care and confidentiality.

In relation to the second recommendation, my questions for the government are: does it have any plans, and has it prepared a package of information to be distributed when this bill is passed to ensure that staff are aware of where the line is drawn in relation to that sharing of information? I think it is fair to say that stakeholders have varying views as to where the line should be drawn and, if the patient says no, whether or not that should be overridden. This relates to clause 96 in the new bill, which is quite different from the old act. I think it is better than the old act, which I think was a barrier to the sharing of information.

It is particularly vexed because, in the case of psychosis (and I have spoken to families where this is the case), the son or daughter's version of reality is quite different from that of their parents and it may, indeed, have been the parents who triggered the detention that was obviously required. However, the circumstances under which people have been detained, certainly in the past, might have been very traumatic for everyone involved—the police are called out, an ambulance may be called and the person is handcuffed or chemically restrained and taken to hospital.

In many cases, that has damaged the level of trust between parents and their children. The children can become quite suspicious of their parents and explicitly state to the hospital staff that they do not wish their parents to be informed of any aspect of their treatment, which may include when they are discharged from hospital, in which case, as I said, the parents may be required to pick up the pieces.

Subclause (4), which some people, in the legal profession in particular, have urged us to delete, basically means that, for any person who is subject to a community treatment order or a

detention and treatment order, any conditions attached to whether or not the person consents to provide that information do not apply. So, it is quite a different situation with respect to voluntary patients and involuntary patients. The people who may have information disclosed to them are covered under subclause (2)(c), which refers to 'disclosing information to a relative, carer of the friend or person'. So, that is fairly broad.

I accept that this clause is identical to the one contained in the Health Care Act. For that reason, it has been drafted to ensure that it is consistent. However, I have some reservations that this may have been drafted a little too broadly, notwithstanding the fact that my sympathies are with the families, and particularly with the parents of people who have a mental illness, those parents having been frustrated by their dealings with the system over many years. I look forward to the committee stage of the debate.

The Hon. J.S.L. DAWKINS (15:53): I rise to indicate my support for the bill. I also want to indicate my support for the very considered and detailed contribution made by the Hon. Michelle Lensink, as the lead speaker for the opposition. I think that most members in this chamber would recognise that the Hon. Ms Lensink's long commitment to mental health services in this state has been exemplary. I remember that last year, amid all the concerns about the government's development programs for the Glenside Hospital, it was the Hon. Michelle Lensink who initiated the select committee on that development, which I chaired. I will not go into detail about the bill because that has been covered very well by my colleague. I will quote from the honourable member where she said:

> There is also a section here about treatment centres, which includes 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) in 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 will be in other centres as well.

I would like to pick up on that point. Certainly, the opposition really does need to know whether the intention to provide further beds in regional areas goes beyond the four major hospitals, which I think the honourable member was referring to, because there are considerable distances between those four major hospitals of Port Lincoln, Whyalla, Berri and Mount Gambier.

Certainly, the select committee that looked at the Glenside issues responded to the evidence given to it about the need for additional rural and remote beds for mental health patients in that under the development Glenside is scheduled to incorporate 23 beds for rural and remote patients. The select committee recommended that that be doubled to 46. I am still of the view, however, that there should be more capacity in hospitals in regional areas—the Hon. Caroline Schaefer would well know that in the Upper Eyre Peninsula there are hospitals that are not close to either Port Lincoln or Whyalla and that there are many other examples around South Australia.

The reference to the inquiry into the Glenside Hospital redevelopment brings me to an interview I became aware of that was broadcast on FIVEaa on 26 February during the Matthew Pantelis program after 7 o'clock when the news events of the day are summarised. The Hon. Jane Lomax-Smith (the now Minister for Mental Health) was featuring in an interview that was part of that program. I will pick up on a couple of excerpts from her comments. First, she said:

> You know, I'm very keen to speak to everyone with ideas and every time we take suggestions we try to incorporate the views. And I know the nurses union have been working very closely with the consultation involved in developing models of care, involved in the process of the reform agenda.

Further in that recorded interview, the minister said:

> Having said that, of course, people have legitimate points of view and I speak very regularly not just to the local residents trying to take on board their issues and what they have concerns about but also the local government. I spoke to them only yesterday. I spoke to the union last week. We will continue to consult with them because it is important to have their points of view. I mean, I'm disappointed that people don't want to engage in consultation. I'm really disappointed that people would complain and not be part of the consultation process and I'm really very committed to making sure that everyone has their say and we can take on board a lot of those comments. In terms of the plans...the plans haven't been finalised yet and there's still a consultation process going on whereby the shape of a building, the form of the building, the way the buildings are designed is being worked upon now.

The members of the select committee, I have to say, are still waiting for the minister to respond to the interim report that we tabled in this parliament on 11 September last year. Surely that reflects some of the views and consultation the minister talks about. The select committee did a great deal of consultation and listening to evidence from a wide range of people who have a strong interest in the future of Glenside.

I would have to say that I am disappointed that we have not yet received a response to the interim report about the development of a training and research institute for mental health on the Glenside site. I am also disappointed that we have not yet got an indication of when we might receive a response to the final report, which was tabled earlier in the year. Some might say that we have not given the department enough time, but the issues have been there right throughout this proposed redevelopment for Glenside.

Certainly, if the minister is sincere in what she says, I would think she would look at not only the report handed down and the recommendations but also a lot of the sincerely held—in many cases, heartfelt—views of the people who gave evidence to that select committee. So, those of us who have been involved in that committee and many others who have an interest in the Glenside site are very keen to know when both those reports will be responded to.

The interview that I just quoted from was in response to the protest or action that was taken by mental health nurses on the Glenside Hospital land, and I think there is growing anxiety amongst those who work in the mental health fraternity about the changes that are being made and the central part in all of that which the Glenside redevelopment plays. Before concluding, I say once again that I do support a bill such as this which takes up the recommendations of a report that wants us to move on in the delivery of mental health services in this state, so I do support its passage.

I also want to make some comments in relation to the area of suicide prevention, and members in this place would know that it is a matter that I have been concerned about and have been following with keen interest for some time. It does disturb me that there is an increasing number of suicides reported and, unfortunately, a lot of others that are not recorded or registered as suicides are occurring not only in country areas but also in metropolitan areas.

I have for some time been advocating that the Community Response to Eliminate Suicide (CORES) program be implemented in this state, and I have been asking the government not to shell out huge amounts of money but to sponsor community groups who are very keen in many areas; and there are some in metropolitan Adelaide who would happily take up the role of coordinating a CORES program in the community if the government assisted them in the funding of such a program. To date, that has not happened. The previous minister refused to consider the CORES program whatsoever, for what reason I have no idea.

I give great credit to the current minister for listening to me in relation to the CORES program. Her staff have listened to the director of the CORES program in Tasmania whilst in Adelaide, and I have been promised that the program will be part of the minister's current review into mental health, particularly suicide prevention processes.

However, I must say that it is a little bit like the interim report from the select committee: it has been many months since those promises were made, and the silence is deafening. While there is silence, unfortunately that silence does not exist in the community anymore because people are increasingly concerned by the level of suicide.

I have seen evidence of the CORES program in Tasmania, and I have read and spoken to people about what is happening in Victoria and Queensland. Further advances are now being made into other parts of Tasmania, and certainly the Western Australian government is considering implementing a CORES program in that state. The people who have been involved in those programs are so emphatic about the fact that the involvement of people off the street from all walks of life in helping people to deal with the times of crisis is such an important factor in the community. For that reason, I continue to implore the government to think about at least allowing a pilot program to be established.

A number of local government bodies and regional development boards are keen to conduct a CORES program in their area. However, like many organisations in those communities, they do not have a lot of money lying around and they need some assistance. They do not need a large sum of money; in fact, the opposition's research allowed us to formulate a policy which, on coming to government, would establish 10 CORES programs across South Australia at a total cost of $35,000 each, and that amount includes training for a number of community people who would then go on to train up to 100 people in each community over a period of one year. We think that that is a very good bang for our buck.

I say to the minister: in reviewing the way in which mental health services are implemented in this state, give further consideration to those who sincerely seek help to deal with people who are suicidal or who are dealing with their own suicidal thoughts and, in some cases, actions. Once

again, I support the bill, and I thank the council for its time in listening to my sincere views about the enormous problems with mental health I think we have in this state, particularly in relation to those prone to suicidal thoughts.

Debate adjourned on motion of Hon. Carmel Zollo.

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

Adjourned debate on second reading.

(Continued from 4 March 2009. Page 1525.)

The Hon. DAVID WINDERLICH (16:10): I indicate my support for this bill. I am not supporting this bill because it is in line with current federal legislation and because most other states have supported it. They could all be wrong. In other cases, such as in some aspects of the terrorism laws of recent years, I believe that other jurisdictions were wrong. I am not supporting this bill because we can assume that we can trust our research and medical community—we cannot. Our research institutions and universities are awash with corporate money, and their priorities are increasingly driven by those of the corporations, not the public good.

History is full of atrocities and abuses conducted by the finest and most highly-trained professionals. The British Medical Association has even published a book, *Medicine Betrayed—The Participation of Doctors in Human Rights Abuses,* which documents the participation of doctors in withholding treatment in the torture of suspects or in conducting experiments without consent. Between 1963 and 1971, for example, the testicles of hundreds of prisoners in Washington State in Oregon were irradiated without their consent to see what dose would sterilise them. It is not that doctors or scientists are particularly immoral; it is that they are often in situations of great power or subject to the temptation of making a reputation (and increasingly these days a fortune) and therefore scrutiny and transparency are vital; and tighter regulation has grown over recent decades, as reflected in the National Health and Medical Research Council's guidelines.

I do not believe that the research will necessarily transform the health of millions of people. It might, but it is more likely to help a small number of lucky people in rich countries such as ours. Nonetheless, they are deserving of that help, and therefore we should facilitate research that will help that minority if we can.

I am supporting this bill for two reasons: first, when I think of this technology I think not just of Dolly, which, as the Hon. Ian Hunter has pointed out, was a different process—replication of an entire organism and not just a cell. I think also of Polly, the child whose diabetes or muscular dystrophy could be helped by the treatments that emerge from this research.

I am supporting this bill because I do not believe that human embryos generated in the way they will be under this research can reasonably be seen as human beings. The Hon. Ian Hunter cited Dr Lawrence Goldstein, Professor of Cellular and Molecular Medicine at the University of California. I will repeat that quote, as follows:

> The embryos in question are simple clusters or balls of cells that have been generated within a dish in a lab, have never before been in a woman's body and are thus not pregnancies or foetuses. Such embryos are at a developmental stage before any organs, such as the heart or nervous systems, are formed and are capable of being frozen or thawed—not typical attributes of people as most of us would define them.

There can be something disturbing about the idea of growing cells and replacement organs, but then some people are disturbed about the idea of having the organ of a dead person transplanted into their body or having the parts of a pig in a valve in their heart. There are many potentially disturbing things about medicine if we look into them all. There are valid moral issues to debate, there are sensible questions to ask and there are risks that unethical research will occur. But there is also the chance of giving chronically ill or severely disabled people a new lease on life, and that is why I will support this legislation.

The Hon. S.G. WADE (16:14): I indicate that, while I will support the second reading of the bill, I am not inclined to support the third reading at this stage. While I do not object to the main thrust of the bill, I do have specific concerns about the proposal for human animal hybrids. In addressing this bill I will make some introductory remarks on my understanding of our responsibilities in the face of assertions that we have a duty to legislate in accordance with the nationally consistent legislative regime. I indicate that, while I consider this parliament should give respectful consideration to the views of the commonwealth and other parliaments of Australia, it is

not appropriate that we effectively delegate our responsibilities for the law of South Australia to any parliament or group of parliaments.

Similarly, I am extremely uncomfortable delegating decision making to the Council of Australian Governments, especially on matters with a significant moral or value-based element. On the one hand, parliaments do not delegate law making to our local executive, so why would we delegate law making to a committee of executive members from across Australia? On the other hand, COAG is basically the pinnacle of the bureaucratic structures in Australia. We should be cautious in delegating our authority to unelected officials.

I appreciate that there is often value in consistency between the laws of jurisdictions. In this context I think it is noteworthy that pro-cloning jurisdictions were threatening to abandon national consistency in 2006 when the tide was against them in COAG but re affirmed national consistency in 2007 when the tide was with them. In summary, I consider that this parliament needs to look at this bill on its own merits and not feel bound by the decisions of other parliaments.

Continuing on the theme of the role of parliament, I turn now to the appropriate role of parliament in relation to overseeing and authorising scientific research. I am of the view that it is appropriate for parliamentarians, on behalf of the wider community, to legally prescribe the acceptable limits of scientific activity, taking into account what is morally acceptable. However, within that range it is not for parliamentarians to decide whether a particular area of scientific research is more promising than any other. Hence, I will not engage in a debate as to whether induced pluripotent stem cells offer greater scientific prospects than embryonic stem cell research, and that therefore embryonic stem cell research should be banned.

In terms of private funds, people should feel free to assess where they want to invest their research resources within the scope of legally permitted research. In terms of public funds, Australia has a set of independent advisory councils appointed by democratically elected governments to advise on the investment of public research funds, again within the scope of legally permitted research. The question for this parliament is whether embryonic stem cell and iPS research are within the scope of morally permissible research, and to legislate accordingly. Assessments of scientific worth, in my view, are not for us. It is not for parliament to pick winners in science.

I turn now to consider the limits of scientific research. South Australian law currently prohibits all forms of human cloning and the creation of a human embryo for purposes other than creating a pregnancy in a woman. It does, however, allow for certain types of research on embryos that are excess to the treatment of infertility, provided such practices are authorised under a licence.

This bill seeks to legalise some forms of human cloning, to lift some prohibitions on embryo research and to allow for practices that create and destroy human embryos. Central to this debate is the moral status of the human embryo. The scientific and religious communities have been the two most active elements of our community engaged in this debate. A significant proportion, although not all, of the religious communities of Australia, including the majority Christian community, are of the view that an embryo attains the moral state of a human from the moment of conception. However, this perspective remains contentious.

In the laws of this state, parliament has decided not to protect human embryos from conception. I consider that parliament is reflecting the consensus of the South Australian community in that approach. I note that the prohibition in this bill on the development in the laboratory of either research or reproductive embryos beyond 14 days will remain. In my view there is a community consensus to allow embryonic stem cell work in the early stages of cell development, and that consensus is consistent with the parliament and community's approach to similar issues.

In a pluralist community, and on an issue that does not lend itself to clear moral absolutes, I do not consider it appropriate to prohibit research cloning. The Lockhart committee considered that the higher the potential benefits of activity the greater the need for ethical objections to be of a high level and widely accepted in order to prevent that activity. Conversely, where benefits are not yet established, or where there is widespread and deeply-held community objection, prohibition through the legal system may be justified. I agree.

On the same basis, I am very uncomfortable with the proposal to create hybrid embryos by the fertilisation of an animal egg by human sperm. I appreciate that the use of such embryos under this bill is proposed to be limited, but I am concerned about even this limited use. Creating

human/animal hybrids may diminish human dignity and blur the moral boundaries and the distinction between humans and hybrids. To use the converse of the Lockhart review general argument, I suggest that the greater the potential risks of an activity, such as hybrid embryos, the greater the need for ethical clarity to be of a high level and that that view be widely accepted in the community in order to prevent that activity. I do not think that we have the ethical clarity in relation to hybrid embryos for that practice to proceed.

In conclusion, I want to celebrate hope. Scientific advances in biotechnology research have raised hopes that it may be possible to cure numerous conditions and diseases which involve tissue degeneration—conditions such as Parkinson's, Alzheimer's, spinal cord injury, stroke, burns, heart disease, type 1 diabetes, osteoarthritis, rheumatoid arthritis, muscular dystrophy and liver disease.

As shadow minister for disability, I am excited about the prospects of reducing disability in our community. I think that it is important for the scientific community to be careful not to overstate the benefits of therapeutic cloning so as not to create disappointment for those who are not able to benefit from it, just as the opponents of cloning need to avoid overstating what iPS technology can offer.

I indicate that I look forward to the committee stage of the bill, and I would indicate my thanks to the Parliament Research Library, in particular, for its publications on this matter. I appreciate that we are not likely to finish the second reading debate tonight, and I look forward to the continuation of the debate in due course.

The Hon. R.D. LAWSON (16:21): Consideration of this bill would, in my conscience, have been a relatively easy matter prior to the announcement, in November 2007, that Professors Yamanaka and Thomson had devised a method of turning human skin cells into embryonic stem cells without having to make or destroy an embryo.

Prior to this widely-acclaimed discovery, I would have been prepared to support the use of embryonic stem cells for medical research subject to the safeguards which are included in the regime which currently applies under commonwealth laws—or laws which have been adopted in the ACT and all states excepting as yet this state and Western Australia—and these safeguards are contained in this bill.

Two personal experiences contributed to that decision. First, I remember attending a celebration at the Adelaide Zoo on 25 July 1999 as an official guest. It was the 21st anniversary of the birth of Louise Brown, the first child who was born by in vitro fertilisation. As I was preparing to go to the function, I wondered to myself how many people would actually attend such an event. I suspected that there would be only a few.

I thought that people might be embarrassed to publicly proclaim their recourse to treatment. I suppose I thought that parents might not want to burden their children with knowledge that their conception was not effected in the natural manner. However, that was not so; there were hundreds of people in attendance. It was a wonderful occasion: so many happy children, so many happy parents. Professor Rob Norman was given a hero's welcome.

This event reinforced for me an understanding of the great joy of parenthood, especially for those who previously experienced the agony of believing that they were unable to have children. I remember wondering at the time why it was that some Christian doctrine was opposed to IVF (as it was then called), and I will return to that subject a little later in this contribution.

I think we ought to remember for the purposes of today's debate that all those children at the celebration at the zoo and hundreds and, indeed, thousands of other children in Australia were born as a result of artificially-created embryos. They are all the result of a process by which embryos are created. Some are implanted, and some develop to full term and result in a birth. Many more do not come to term. Many are surplus to requirements and are destroyed.

I do not agree with the notion that those who are unable to have children should accept that this is God's will and they should accept their lot. I do not agree with that view just as I do not agree that a medical intervention such as a blood transfusion should be refused because it could or might alter the natural course of events ordained by God. I do believe in medical intervention.

My conscience does not lead me to support conclusions to the contrary, but I accept that the conscience of many others may lead them to different conclusions. Others are entitled to their belief, and I respect them. However, I do believe that no legislation should be enacted that has the effect of requiring—and I emphasise requiring—people to act against their conscience. I endorse

the sentiment attributed to Voltaire, namely, that, whilst I may not agree with the views of others, I will defend their right to hold and express those views.

In relation to that last point, I should say in passing that this law (the bill presently before us) does not require any research or anyone else to act against their conscience. The effect of this law, if passed, is that South Australian scientists cannot exercise options they might have in accordance with their conscience.

The second personal experience that influenced my approach to the issue of the current bill occurred when the Legislative Review Committee undertook an inquiry into the code of research practice, which was made under the Reproductive Technology Act 1988. This is a matter with some considerable background history and does require some explanation, so I seek the council's indulgence while I outline that history very briefly. The purpose of the Reproductive Technology Act 1988 was expressed in its long title, as follows:

> An act to regulate the use of reproductive technology and research involving experimentation with human reproductive material.

That act was extensively amended in 2003, and it is now called the Reproductive Technology (Clinical Practices) Act. Other provisions are found now in the Research Involving Human Embryos Act 2003. The 1988 act established the South Australian Council of Reproductive Technology, which still exists, although I see the government has before the house currently a bill to abolish it. One of the functions of that council is to formulate and keep under review a code of ethical practice to govern, amongst other things, research involving experimentation with human reproductive material.

The act required that a code of ethical practice should be promulgated in the form of regulations. Unlike most regulations, these regulations could not be disallowed by parliament after they came into operation. They could not even come into operation until after parliament had an opportunity to disallow them. Section 20(4) of the 1988 act provided that the code of practice would take effect at the expiration of a period when the regulations were laid before both houses and no notice of disallowance had been given in either house.

Formulating a code of ethical practice took the council a long time. The act came into operation in two stages, the last of which was 31 July 1989, but the regulations containing the codes of practices (there were two actually, one a clinical code and one a research code) were not promulgated until October 1995, more than six years later.

The Legislative Review Committee undertook an inquiry into the regulations, and it heard evidence. I then occupied the seat now occupied in that committee with great distinction by the Hon. John Gazzola. The Hon. Paul Holloway was a member of the committee and will remember these events. The member for Torrens, Robyn Geraghty, was also a member. I think that we are the only current members who were also members at that time.

One difficulty the regulations had to confront, and the council had to confront, in order to have its code of practice passed was a provision that had been inserted into the act during parliamentary debate. Section 14(2)(b) provided that any research involving experimentation with human reproductive material must be subject to the condition that prohibits any research that may 'be detrimental to the embryo'. The principal opponent of the regulations was Dr John Fleming, a Roman Catholic priest, who was also at that stage the director of the Southern Cross Bioethics Institute. He argued that various procedures that were authorised in the research code—including, for example, carrying out an embryo biopsy—may be detrimental to the embryo.

The contrary point of view was put by Father Laurence McNamara of the St Francis Xavier Seminary. Father McNamara was a Catholic priest who had been nominated to the Council of Reproductive Technology by the heads of churches in South Australia. As anyone who knows Dr Fleming will confirm, he pressed his case with great determination. Father McNamara, on the other hand, said that Dr Fleming took what he described as an integralist view. I will quote a passage of what Father McNamara said, which I think encapsulates what he was saying. He said:

> Here is a physical embryo in its genetically unique state, and if you want to do anything that in some way alters its constitution—in other words, is invasive of its integrity—then you could say that the procedure is detrimental. That's a fairly conservative...view.

On Father McNamara's view:

> ...apart from observational research, you could do nothing to an embryo. You thereby exclude whole lots of what we would call basically invasive research.

Father McNamara said he preferred the developmental approach, as follows:

> ...shifted the focus from physical integrity to developmental integrity. I think that gives the rationale of why a person such as John Fleming or those who might be more conservative in the pro-life position would take an integralist view.

In the event, the committee accepted Father McNamara's view and suggested that the code be agreed to, and it was.

The Legislative Review Committee inquiry was, to me, an introduction to some of the intricacies in this area. The difference between the views of the two Catholic priests suggested that these issues are not black and white, even amongst those who are members of the same faith tradition. As a result of that inquiry, I became more keenly aware of the hostility of some members of the Catholic Church to reproductive technology, which was then called in vitro fertilisation and which now comes under the general rubric of assisted reproductive technology (ART). I was referred to the Roman Catholic catechism, some paragraphs of which I think ought be put on the record. Paragraph 2376 states:

> Techniques that entail the dissociation of husband and wife, by the intrusion of a person other than the couple (donation of sperm or ovum, surrogate uterus), are gravely immoral. These techniques (heterologous artificial insemination and fertilisation) infringe the child's right to be born of a father and mother known to him and bound to each other by marriage.

That paragraph deals with donor sperm or ovum. Paragraph 2377 deals with techniques involving only the married couple, and it states:

> Techniques involving only the married couple...are perhaps less reprehensible, yet remain morally unacceptable. They disassociate the sexual act from the procreative act. The act which brings the child into existence is no longer an act by which two persons give themselves to one another, but one that 'entrusts the life and identity of the embryo into the power of doctors and biologists and establishes the domination of technology over the origin and destiny of the human person. Such a relationship of domination is in itself contrary to the dignity and equality that must be common to parents and children'.

So IVF is, in the language of the catechism, reprehensible—not as reprehensible as donor techniques, but morally unacceptable. Paragraph 2379 of the catechism states:

> The Gospel shows that physical sterility is not an absolute evil. Spouses who still suffer from infertility after exhausting legitimate medical procedures should unite themselves with the Lord's Cross, the source of all spiritual fecundity. They can give expression to their generosity by adopting abandoned children or performing demanding services for others.

In order to ascertain the meaning of the expression 'morally unacceptable' in paragraph 277, I had to consult other material, in particular, an article 'IVF and Catholic Teaching' by Father Vincent Twomey of the Society of the Divine Word. Father Twomey is Emeritus Professor of Moral Theology at the Pontifical University Saint Patrick's College in Maynooth in Ireland. Father Twomey is a highly respected theologian. He undertook his doctorate under the supervision of Professor Joseph Ratzinger (now Pope Benedict XVI). Twomey is the author of a number of books, the most recent of which is the acclaimed study of Benedict XVI entitled *The Conscience of our Age, A Theological Portrait* published in 2007. So, when it comes to Catholic theology, Father Twomey knows what he is talking about. He writes:

> Every step of [IVF] procedure has moral implications. Sperm, though it can be got by morally licit means, is usually got by masturbation, which is immoral. Because of the low success rate, the medical technicians seek to harvest a large number of ova or eggs through the dangerous procedure of super-ovulation, a hormonal treatment to make the woman produce more than one ovum in the cycle. Placing a woman in such a dangerous situation (some have died) is, itself, morally questionable and can only be justified by proportionate reason...Even if only one ovum were fertilised, it only has, at best, a 20 per cent chance of coming to term but in practice, with super-ovulation and the production of multiple embryos, less than 5 per cent of IVF embryos come to full term...In the [United Kingdom], only 35,000 children have been born despite producing 750,000 embryos.

Father Twomey continues:

> Apart from these moral difficulties, the main moral objection is summed up in the title of a book by an Anglican theologian, Oliver O'Donovan, [entitled] Begotten or Made? Are children to be begotten by a married couple as a result of their mutual self-giving or are they to be made by technicians in a laboratory? If you examine the way God the Creator has designed our humanity, it becomes obvious that the only way a child should be conceived that is in keeping with its dignity is through the conjugal act of love.

So, that is the argument. In conscience, I do not agree with it. I do not agree with the proposition that 35,000 children born of IVF in the United Kingdom and the tens of thousands of others who are the products of these activities can be described as morally unacceptable or reprehensible.

I appreciate in this bill that we are dealing with issues that go well beyond simple assisted reproductive technology: we are now in the realm of using embryos for other research. However, when I read the speeches of those who opposed the commonwealth legislation, and some who have opposed this legislation in other states and here, it seems to me that their moral position is based upon a fundamental objection to human reproductive technology. In other words, most of those who opposed the commonwealth legislation were opposed to it even before they heard the name Yamanaka. The effect of his discovery is that opponents of this bill are now presented with what appears to be a more scientific justification of their position, so their opposition is really that there is another way to conduct this research and therefore the door to embryonic stem cell research should be closed.

This leads to the important question of the status of an embryo. If passed, this bill will allow what is called therapeutic cloning. That is, it will allow the creation of an embryo through somatic cell nuclear techniques, and it will allow embryonic stem cells to be obtained from these research embryos. The process of removing stem cells from the embryo destroys the embryo, and the main argument against allowing therapeutic cloning or embryonic stem cell research is based on the moral status of the embryo.

Dr Zoe Gill of our Parliament Research Library produced a research paper in September last year which was distributed to members, and I thank her for the efficient manner in which she assembled the material. The report refers extensively to the Lockhart report of 2005. The full title of that report is the Commonwealth Legislative Review Committee Report on the Prohibition of Human Cloning Act 2002 and the Research into Human Embryos Act 2002. Taken from the Lockhart report, Dr Gill's paper conveniently summarises the different forms of that argument concerning the embryo:

1. An embryo has the status of a human being or person.
2. An embryo has the status of a potential person.
3. An embryo has the status of a divine creation.
4. An embryo is a form of human life with intrinsic value.

As Dr Gill points out, one's understanding of the quality of an embryo would depend on one's religious or personal beliefs. She points out that 'allowing embryos to be the subject of research reduces them to a unit of commerce which is contrary to their moral status'. That is one argument. Dr Gill further points out that the Lockhart review argued that:

> ...research embryos are created without any expectation of becoming a human life and hence their destruction is no less justifiable than the destruction of embryos created for reproductive purposes, which is already allowed in regulated circumstances.

That is an important point to understand. Embryos are currently being created for reproductive purposes, they are used in regulated circumstances, they can be stored in particular circumstances and they can be destroyed in certain circumstances. The Lockhart report stated:

> A further argument was that it is wrong to create human embryos to destroy them and extract stem cells. Human embryo clones are human embryos and, given the right environment for development, could develop into a human being. Furthermore, if such an embryo were implanted in the uterus of a woman to achieve a pregnancy, the individual so formed would certainly have the same status and rights as any other human being. However, the human embryo clone created to extract stem cells is not intended to be implanted, but is created as a cellular extension of the original subject. The [Lockhart] Committee therefore agreed with the many respondents who thought that the moral significance of such a cloned embryo is linked more closely to its potential for research to develop treatments for serious medical conditions, than its potential for human life.

The Lockhart review argued that it would be inconsistent to prohibit the production and destruction of research embryos when the production and destruction of excess ART embryos is already permissible. That follows from the following passage:

> ...to permit one (production and destruction of ART embryos) but not the other (production and destruction of nuclear transfer and other bioengineered embryos) would be inconsistent and appear to attach more importance to the treatment of infertility than to the treatment of other diseases and conditions that could be helped as a result of this activity.

I find these arguments compelling. Those who seek to prevent embryonic stem cell research but who are prepared to accept the use of embryos for reproductive medicine are, with the greatest respect, being inconsistent.

In short, my reason for supporting the Lockhart recommendations in the commonwealth act is simply that I have no conscientious objection to the current assisted reproductive technology regime that applies in South Australia. That regime already allows for the creation, storage and destruction of embryos. The production and destruction of a research embryo are not, in my view, dissimilar in the moral sense from the production and destruction of excess ART embryos, which are already permitted by legislation and widely accepted in our society.

I ought mention a couple of other points. Firstly, it has been urged upon us that we should pass this bill in order to ensure that we have national consistency. I do not agree that we must have uniform legislation in this or any other area, as a matter of fact. However, I believe that we have to consider the subject matter and, when it relates to medical research and where medical researchers and medical information pass across state and international boundaries (it is highly transmissible and researchers can easily move), it does seem to me to be rather futile to say that in South Australia we will not allow our researchers to undertake certain work but that they can do it over the border at Nelson, Portland, Mildura or anywhere east of there. Clearly, to a researcher who is interested in conducting this research, the effect of not passing this measure would be simply for them to move across the border and there, notwithstanding its immorality, as some see it, the research would go on.

The second point is that, whilst Professor Yamanaka's discoveries have been internationally acclaimed, the fact that a breakthrough has been made in one direction does not, it seems to me, mean that one must close the door on medical research along other lines. Members will forgive the pun in this context, but I do not believe that medical research should put all its eggs in one basket, nor do I believe that politicians, members of parliament, should close one door and force all researchers down one particular line.

I think it should not be forgotten that medical research in this area is still in its very early days, and Professor Yamanaka's research and techniques may not ultimately prove to be the panacea many of his supporters say they will be. Certainly, last year there was concern about the fact that the manipulation and stimulation of adult stem cells might cause tumours, and that is obviously a serious issue. However, as I will mention a little later, some are now saying that, as a result of more recent studies, that difficulty has been overcome.

I note from a submission made by the South Australian Department of Health that the *New Scientist* described embryonic stem cells, at that stage, as the gold standard against which induced pluripotent stem cells needed to be compared. I think that we are in the stage still of medical uncertainty. Perhaps I should summarise the Department of Health's argument, as follows:

> iPSCs are at an early stage and their usefulness and safety is as yet unproven...Embryonic stem cell research is more advanced as recently achieved cures in animal models and human trials have been approved to commence in the United States...Thirdly, scientists advise that no avenue of research should be closed off at this early stage so SCNTs [that is, somatic cell nuclear techniques] should be legally permitted...amendments to the laws are required for infertility research which requires excess assisted reproductive medicine embryos...iPSCs cannot be used for this...Fifthly, a second national review of the laws will commence in December of 2009 at which time there may be greater clarity about the relative benefits of the different techniques.

I consider that those arguments, or certainly the substance of them, namely, that we are still in a state of uncertainty, have validity. I also ought to say that even if all the claims made by the opponents of this bill—namely, that Professor Yamanaka's new method is so demonstrably and provably superior—are supported, this legislation is really redundant. If Yamanaka's techniques are as good as they say, clearly, researchers will not bother going down the route they are permitted to go down under this legislation. This legislation does not actually open the door to create research embryos, but it leaves open the passage. This legislation does not open one door and close another: it leaves both doors open.

Professor Yamanaka has opened one door, and clearly we should leave that open, but I do not believe we should close the other. I have received communications from a great number of South Australian organisations and individuals, as have other members, I am sure. I received material from Family Voice Australia, and members will be familiar with the active interest that organisation takes in issues of this kind. I am certainly appreciative of that organisation's material, which is always presented in a way that is useful to members of parliament and which outlines clearly its position.

I do not agree with its position on this bill, but the latest letter I received from its state officer, David d'Lima, mentions the issue of cancer risk, which I mentioned a moment ago. He refers to a couple of recent reports which suggest that the cancer risk is no longer a problem for

induced pluripotent stem cells. Again, with the greatest respect to Mr d'Lima, we are still in early stages, and a couple of articles published which indicate one way and which refute earlier research is hardly sufficient to enable legislators to act. The issue I want to extract from the letter is, I think, encapsulated in the following passage:

> A vote against this bill would ensure that the current ban on human embryo cloning in South Australia remains in place to protect women from the risks of induced ovulation in the course of speculative research and to prevent human embryos being created only to be destroyed. Such a ban will not retard stem cell science, which is moving ahead rapidly without recourse to cloning. Human cloning is now a redundant technology that has been overtaken by events.

Those points effectively summarise in short-term the case against this bill. It is worth placing on record in apposition to those points about protecting women from the risks of induced ovulation in the course of speculative research, the women who are prepared to participate in these programs are, under our codes of practice, required to be volunteers. No-one is forced against their will to allow harvesting to take place within them. 'In the course of speculative research': most research is speculative, especially at the frontiers of medicine. The letter says, 'to prevent human embryos being created, only to be destroyed'. So many embryos now are being created and are being destroyed in the interests of reproductive health.

Reproductive health is important, but so too is advancing medical knowledge. I do not believe we can say, as is suggested in the letter, that human cloning is a redundant technology. If indeed it is a redundant technology, it will not be used and this legislation will have done no ill. However, all information I have been provided with suggests that it is far too soon to say that human cloning is a redundant technology. I believe it ought to be permitted to continue, and I will support the bill.

The Hon. B.V. FINNIGAN (16:57): We face a very important debate in considering this bill and whether or not the parliament ought to pass a bill which, for the first time, would allow the creation of human embryos for the purpose of destroying them and to do that through a process of cloning. Quite a few issues need to be considered by members in deciding whether or not to support the legislation. Some of the debate and discussion that have occurred about this bill have attempted to characterise the debate in terms which are perhaps a little too simple or which ignore some of the complex, ethical and scientific questions involved.

To my mind this is not a question of the merits of induced pluripotent stem cells and adult stem cells versus human embryonic stem cells. I do not see it purely as a debate about when human life begins or the status of the human embryo and I do not believe that is the key factor that will help most people make a decision in this debate. I do not see that this is a debate about whether South Australia should or should not be in step with a national regulatory regime. I do not see that as being the critical question at hand, although it is a factor we need to consider and I will address that, but most members have acknowledged that they do not consider it to be one of the principal factors that will determine how they will vote on this measure.

There are a lot of factors to consider in this debate and a lot of questions we as legislators need to address in coming to a position on this bill. We need to consider whether it is necessary scientifically and whether the potential research that is permitted under this bill is necessary, is likely to produce valuable results and is something we should sanction. We need to consider whether it is wise, ethical and the right thing to do to allow this sort of research and these ethical barriers to be crossed by introducing for the first time certain practices in relation to this sort of research.

Although I think it is a relatively secondary matter, we do need to consider whether we wish to be out of step with what most jurisdictions in Australia have done, and that is to pass legislation of this kind—noting, of course, that the Western Australian parliament elected to reject the bill and has not, to my knowledge, passed any legislation since.

So there are a lot of factors to consider and I think, to a large degree, there are a couple of central questions that we need to think about. To help frame what those questions ought to be and what we need to consider, I would like to refer to an interesting interview on the ABC's *World Today* on Tuesday 8 August 2006—so 2½ years ago now—which was in reference to the federal legislation that passed the federal parliament narrowly at that time and has been the basis of the legislation that has passed in other jurisdictions and is the basis of the legislation before us.

The interview was between the reporter, Eleanor Hall, and Professor Loane Skene. I am sure that many members will be aware from their research on this matter that Professor Skene was

the chairperson of the Lockhart committee. The Lockhart review was chaired by the late John Lockhart AO QC. When, regrettably, Mr Lockhart passed away, Professor Skene became chairperson of the Lockhart committee and was playing a pretty pivotal role when the bill was considered in the federal parliament.

This interview took place quite early on—even, I think, before the major political parties had decided that they would afford their members a conscience vote on the matter. There are a couple of things that I think came out of this interview which, to me, characterise the central questions that we need to consider in this debate when we make a determination as to how we are going to vote on what is certainly important legislation.

The first question that I am drawing from this interview is, when it comes to the permitting of scientific research, whether we are obliged to consider it from a permissive point of view. Is it incumbent upon those who would wish to see this sort of research or these initiatives permitted to prove that those measures are required, or is it for those who oppose such a measure to indicate or to establish why it should not happen? Professor Loane Skene, in this interview in August 2006, said:

> Genetic conditions are gradually becoming more understood and that's one of the advantages of this early research. So, the government is saying to the scientists—

that is, the scientists involved in the Lockhart review—

> show us any evidence that you have, that you've actually achieved something. Our committee says, on the other hand, that it's for those who oppose the changes to the legislation to allow more scientific research on embryos, to show why it shouldn't be done.

Those are the words of Professor Loane Skene in this interview some 2½ years ago. To me, that is an interesting proposition: to suggest that it is up to those who oppose a particular field of scientific endeavour, a particular expansion of scientific processes and a particular broadening of ethical frameworks, to establish why it should not be done rather than for those who advocate such a thing to establish why it should be done.

I am not sure that that is a proposition that I wholeheartedly support: to say that it is for those who oppose changes to allow more research on embryos to show why it should not be done rather than the case being one where those who advocate such research need to establish why it is necessary.

One of the critical issues we need to face here in considering this measure is that, when it comes to expansion of scientific and ethical boundaries in this regard, should it be for those who might oppose it to establish why they oppose it or why it should not happen, rather than for those who advocate it to show why it should happen? I would think that, in the normal course of events, it is normally for those advocating for change and advocating for a measure to establish why it is necessary more than it is typical to expect those who oppose a measure to prove why it is not necessary.

The other issue, which is a fundamental ethical question, was brought out, in my view, in the interview with Loane Skene, that is, to look at the ethical question about whether it is justified to expand ethical boundaries across certain lines and to allow certain research we have not allowed before because of the potential promise for potential cures and the potential benefit to other human beings is so great, and that is certainly a fundamental ethical question we all face in this debate.

We are certainly able to talk a lot about the science, and I certainly will be talking quite a bit in my contribution about the various scientific approaches; in particular, I will argue the benefits of other fields of research, including induced pluripotent stem cells that do not involve the use of human embryos. That is certainly an important thing to consider.

However, ultimately, it is not simply about science. As some honourable members have said, we are not scientists, by and large; although some of us have scientific training. I frankly would not know an induced pluripotent stem cell or a human embryonic stem cell if I fell across one. If you sent me out to a laboratory to find out what they were doing, I would not have any idea, and I think most of us are probably in that position. Nonetheless, we are charged with the responsibility of making a judgment about whether this research should be permitted, whether it is in the state's interests, and whether it is not only in the interests of the current inhabitants of the state but future inhabitants as well.

In considering that question, we really do have to make some considerable ethical and moral judgments about where we find a balance between the potential achievements in advancing

down the track of this sort of research against the potential harm; and the different ethical framework, the expansion of our understanding of what should be permitted in the name of allowing some progress in potential treatments. That is a very difficult question.

None of us want to see human suffering. We do not want to see children suffering from type 1 diabetes, and we do not want to see people suffering from Parkinson's disease, spinal cord injury and the things that are often mentioned in relation to the embryonic stem cell debate. However, at some point we do need to make a judgment about ends and means and at what point we find the balance.

As legislators and as guardians of the public good and, indeed, as the wider community, where do we find that balance between achieving good things and progressing medical science and potential treatment? What will be the cost to our ethical understanding and to the bedrock of what we consider to be fundamental rights and fundamental responsibilities to ourselves, to the future and, I guess, to humanity as a concept? Again, I want to draw on what Professor Loane Skene said in this interview. The interviewer said:

> But the Health Minister Tony Abbott has said that there are some things that scientists should not do and that therapeutic cloning is one of them. Isn't his moral objection valid?

This, of course, was at a time when the Hon. Tony Abbott was the health minister and there was a lot of discussion about the Lockhart review and what that would result in, in terms of legislation, and whether it would be government bills or conscience bills, and so on. So, here Eleanor Hall said to Professor Loane Skene that some have said that there are some things that scientists should not do and that therapeutic cloning is one of them, and she asked whether that moral objection was valid. Professor Loane Skene said:

> Yes, this is the sort of objection that we're getting from some people and my view on this is that if there were a cure, this objection would immediately be overwritten. You can imagine that if it were possible for us to treat spinal injuries and somebody is saying, I have a moral objection to you using this embryo, and we've got to remember that this is the science of the pin prick, so they are talking about the embryo in a way that they are saying this is a potential person. Can you imagine that somebody would be arguing that sort of moral right against the right of somebody else to get up and walk?

I think that, to some degree, that sums up the issues we have to consider here, because if we apply the principle that a cure to a debilitating disease and alleviating human suffering has to be our principal consideration—perhaps our only consideration—I think we ultimately come to the view that there is very little that cannot be permitted; there is very little that we do not or cannot consider ethical in that pursuit. I will address that matter at some length later in my contribution, or on the next occasion after I have sought leave to conclude.

It is often suggested that those who are opposing this legislation are conjuring up the spectre of mad scientists and half-breed hybrids running around, and all that sort of thing. However, I do not think that is the case. It is certainly not something that I have talked about. I can see the Hon. Mr Ridgway laughing; he is probably thinking that he thought I was already one of those.

To merely raise as an argument that we must consider the final ethical boundaries and we cannot take the view that anything ought to be permitted provided the outcome is good enough and is desirable and worthy is not to throw rationality out the window or to try to distort the debate; it is simply to accept that that is a fundamental question and issue here. That is something that I will address in my contribution, because I am certainly not suggesting that this legislation will throw open the floodgates to chimeras running around or that sort of thing, but it does for the first time allow the crossing of some very important ethical boundaries that we have not allowed before because we consider that the potential promise of what may result from that research is worth it.

That is ultimately a difficult question to answer, and I do not pretend that it is easy. I certainly do not pretend in any measure that it is easy for me to weigh up, with respect to scientists in a laboratory doing things about which I have almost no understanding, in terms of their scientific work, whether by stopping that I am preventing other people necessarily benefiting from a cure. That, of course, is a weighty decision to make. However, ultimately, we have to decide. We have to make an ethical judgment about where we find that balance and where we draw that line and, if we decide that the final outcome is desirable and worthy and a good thing, if we can see that people will be alleviated from suffering a debilitating disease, and that is the only consideration that we must ultimately take into account, I believe that takes us down a very dangerous road indeed.

I do not suggest that this legislation purely on its own takes us all the way down that road, but it does take us down to the first signpost. There can be no clearer indication to me of that than, when the parliament first passed the bill, I think, five years ago or six years ago to allow embryonic stem cell research, the very prohibition on human cloning was put into the title of the bill, so unanimous was the view that that was off the table.

No-one wanted cloning, no-one was talking about cloning, and I do not recall that there was really anyone advocating that it was something we needed to do. Here we are, a very few short years later, already trying to push that envelope to extend that boundary, and that is something we have to consider. That can be called the slippery slope argument, and that is often dismissed as scaremongering, but it is important that we are here already in a very short time, with the lure of miracle cures—which are enticing and desirable, and which all of us as human beings must want to see.

However, the lure of that can allow us to make ethical decisions and cross boundaries that we otherwise would not. We have to consider that very carefully because, having already taken some steps down that track, in a very short period of time, we are now being asked to take more. Personally, I would be quite astounded if there are not further requests and a move to further broaden the scientific boundaries in this area within a short period of time, whether or not this bill actually gets through.

I have quoted a couple of things from Professor Loane Skene in that interview which I think frame the debate for us in an important way, and that is: when we consider questions of science, where does the responsibility lie to establish whether or not it is in our best interests? Secondly, how do we consider that difficult dilemma of allowing things about which we might have reservations and about which we might have concerns because we believe that the ultimate objective and the ultimate potential is so promising? I would argue that, when we weigh up those questions of whether the bill is necessary and whether it is wise, we have to conclude that the cloning of human embryos is not necessary scientifically to advance this research and it is not wise. It is not ethical to allow that boundary to be crossed, whatever we hope may eventuate.

I think it would be helpful to begin with something of an overview of what this bill does. I know honourable members have considered it and I am sure all of us have a reasonable understanding of what we are being asked to vote for, but I think it is important when people are looking at these debates to be able to get a fairly clear and simple view of what we are being asked to do; and that can be difficult to discern, sometimes, when we have some very technical language. What this bill would do is allow the creation of embryos for research by means other than fertilisation. The bill would prohibit implantation or development of any embryo created in a laboratory for more than 14 days. This bill is a mirror of legislation that has passed in the federal jurisdiction and in all states except South Australia. There is an issue at hand—

The Hon. D.G.E. Hood: Not Western Australia.

The Hon. B.V. FINNIGAN: Not Western Australian; no, sorry—as to the fact that the South Australian act is no longer a corresponding act to the federal legislation, and that is a difficulty because it means we are out of step, and that does have potential consequences for those engaged in research pursuant to the existing legislation. So, I acknowledge that is a problem.

If we reject this bill, that is something that has to be addressed, but I certainly do not see that that is insurmountable. There are no South Australian licences to undertake human embryonic stem cell research, but this bill is intended to address some legal uncertainty for those who are not covered by the federal act. Many organisations and corporations, of course, are covered by the federal legislation and are not in need of anything we might do here, but there are some probably relatively limited examples where there seems to be some legal uncertainty which this legislation seeks to address.

Importantly, this legislation does retain the prohibition on human reproductive cloning, in the sense that you cannot create an embryo with a human egg and human sperm for the purposes of research, but using surplus assisted reproductive technology embryos remains permissible, as it was by the previous legislation. That is an important point to note: if we do not pass this bill it does not mean that if you are in favour of embryonic stem cell research you are bringing that to a halt, because that would continue.

This bill allows the creation of embryos for the purposes of research, even though it does prohibit implantation. Whether it is using a surplus assisted reproductive technology embryo or a created embryo, in both cases research is permitted only up to a 14 day point, but what this

legislation does do (and this is an important point) is that for the first time it allows for the creation of embryos for research purposes, particularly through the process known as somatic cell nuclear transfer.

The purpose of creating embryos is to create human embryonic stem cells, not to create a human being who will be brought to full term, and that is why it is called therapeutic cloning, but it is important that that is still possible with a human embryo that has been generated by somatic cell nuclear transfer. That is something that I will wish to address in my contribution.

When it comes to the question of hybrid embryos, it remains prohibited under this legislation for a human embryo to be implanted in an animal, and the legislation does not allow chimeras, or hybrid embryos. However, there is one exception, which is to allow diagnostic tests for sperm quality, where human sperm can be combined with an animal egg and brought up to the second day, so basically it can exist for one day purely for the purposes of testing sperm quality.

Those are two very important points. I think the principal one is that this legislation allows the creation of somatic cell nuclear transfer embryos. They are human embryos; they do have the capacity to be brought to the fullness of life as we know it. This bill does not allow that, but it is important that we recognise that we are talking about human embryos, and we should not make too artificial a distinction between research embryos that are created not by combining an egg and sperm and human embryos which are the result of the combination of egg and sperm and which have become surplus after an IVF or assisted reproduction process.

There is a distinction to be made—an important one—but fundamentally we should not say that one has the potential to go on to become a human being and the other is a bunch of cells that some scientist is working on in a laboratory, because that too has the capacity to be brought to full term. It is important to note and consider that in weighing up our decision.

Also, hybrid embryos would be allowed under very limited circumstances for a very specific purpose, and it is important to note that. As I said earlier, I am not trying to raise the spectre of something that is not permitted by this legislation, but it is allowing an ethical boundary to be crossed that is important. They are two things that I will certainly be focusing on in my further contribution, because I think they are fundamental to what we have to consider in this debate.

Should we allow the creation of human embryos for the first time solely for the purpose of research and with the sole intention of their being destroyed? We have been allowed to use embryos for research that are surplus from assisted reproduction, but we have not been able to create human embryos for the sole purpose of research: those embryos created with the intent—indeed, the requirement—that they be destroyed. That is not something we have allowed for, and that is at the heart of this legislation, and it is something we need to weigh up very carefully.

Similarly, with the creation of hybrid embryos, I acknowledge that that is a relatively small step in this legislation. However, it again allows that ethical barrier to be crossed in the pursuit of a noble goal. I think that a fundamental question we need to weigh up when looking at this bill is: is the potential outcome and the potential good of cures and treatments for debilitating human diseases so important to us that we are prepared to cross ethical boundaries we have not before to create human embryos solely for research with the intention of destroying them? Will we allow human sperm and animal eggs to be combined if that will enable us to test the quality of that human sperm?

In one case, those things are about 14 days and the other only one day, so we are not suggesting that it is possible for those embryos to be implanted or brought to term in a woman. However, once we accept the principle that if the potential good is enough and that we ought to allow those things to happen, we place ourselves in a very invidious position where, in the future, we will struggle to find why we should stop somewhere else. If we allow ourselves to cross this line, what will be the rationale in the future not to cross a future line?

I indicate that I will be opposing the bill. I do not believe it is necessary, and I do not believe that it is the right thing to do. However, I wish to contribute further on some scientific matters and address some of the arguments that have been put by advocates of the bill. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

MEMBER'S REMARKS

The Hon. R.D. LAWSON (17:26): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.D. LAWSON: I claim to have been misrepresented by the Attorney-General who, earlier today in the other place, complained of remarks made by me in this chamber yesterday. The substance of my remarks yesterday was that the Attorney-General had been guilty of discreditable conduct when, in 2004, he attempted to have a report tabled in parliament for an ulterior purpose.

The Attorney accused me of deliberately misleading the council, not because I accused him of discreditable conduct but because I described his remarks in the house on Tuesday as gratuitously insulting the executive producer of *Today Tonight*. What the Attorney-General said earlier this week was:

> In the three weeks that have passed since the sentencing of Terry Norman Stephens, I have not noticed *Today Tonight* tell its audience the outcome of the Terry Norman Stephens' prosecution, which I would have thought was a necessary coda to its 2002 series of sensational claims.

The clear implication of the Attorney's statement was that *Today Tonight* was under an obligation to inform its audience of certain matters but that it failed to do so. That is clearly a reflection on Channel 7 and its executive producer, who happens to be Graham Archer. Far from me misrepresenting the Attorney, he has misrepresented me.

At 17:28 the council adjourned until Tuesday 24 March 2009 at 14:15.