LEGISLATIVE COUNCIL

Thursday 26 March 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, and question time to be taken into consideration at 2.15pm.

Motion carried.

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

In committee.

(Continued from 25 March 2009. Page 1769.)

Clause 7.

The Hon. R.L. BROKENSHIRE: I move:

Page 9, lines 7 to 10 [inserted section 19]—Delete 'and' and paragraph (b).

This is the second clause upon which it is important to focus and vote. It is about the precursor egg issue debated at length so far. I will be brief with my remarks due to the pressures of the parliament and will keep to the essential elements of the amendment, which removes the opportunity to license the use of precursor eggs. I ask members to consider this. My concerns are around the minister's answers in the summing up of the second reading on how these eggs are sourced. To me, to Family First and probably to many others the answers are a real concern. My second concern is around the gestation of the baby that is the source of those eggs and the lack of departmental oversight and investigation of abortion practices.

I also have a query that ties in with this amendment. With clause 8(3) on page 10, the federal legislation as I understand it requires consent from the mother. Scientifically speaking the mother giving the egg in the precursor cell scenario is the aborted girl and not the mother. There is nothing in the federal legislation referred to in the new definition that could be construed as meaning that the mother of the aborted girl is the donor. How can legitimate consent be obtained?

The Hon. G.E. GAGO: I did not understand the second part of the question.

The Hon. R.L. BROKENSHIRE: I will go through it again as the minister was busy. Clause 8(3) on page 10 refers to the federal legislation, which I understand requires consent from the mother. Scientifically speaking, the mother giving the egg in the precursor cell scenario is the aborted girl and not the mother. There is nothing in the federal legislation, referred to in that new definition, that could be construed as meaning the mother of the aborted girl is the donor. How then can legitimate consent be obtained?

The Hon. G.E. GAGO: The advice I have received is that consent is consistent in the same way that parents are able to sign an informed consent for the donation of organs or tissues from their deceased children. Children are unable to give consent, in the same way as a foetus is not able to give consent, so it is consistent within the legal framework.

The Hon. R.L. BROKENSHIRE: I have another question for the minister regarding precursor cells. Will the minister point out where there is a prohibition on fertilising the foetal egg itself? I understand that you can mature the eggs and they can, indeed, be fertilised.

The Hon. G.E. GAGO: While we are finding that information, I will indulge, in the committee stage, to clarify some information I gave last night in relation to a matter that the Hon. Rob Lucas and the Hon. Stephen Wade raised. In terms of clarification, I have since been advised that commonwealth and state laws set criteria that limit how the NHMRC Embryo Research Licensing Committee can make decisions about licensing research projects that use human embryos.

I advised yesterday evening that the commonwealth Research Involving Human Embryos Act 2002 establishes the NHMRC Embryo Research Licensing Committee and sets the rules for its operation and decision-making. I can confirm that, although the state laws do not replicate the sections that establish the licensing committee, the decision-making criteria that I read out yesterday evening is, in fact, replicated in the South Australian Research Involving Human Embryos Act 2003, in sections 10 and 11. These are legislative requirements not guidelines, so just that section alone is replicated in the state legislation.

Could I ask the Hon. Mr Brokenshire to repeat his question? We are having trouble understanding it.

The Hon. R.L. BROKENSHIRE: Regarding precursor cells, can the minister point to where there is a prohibition on fertilising the foetal egg itself? I understand that you can mature the eggs and they can, indeed, be fertilised. Will the minister indicate to the committee where the prohibition is in the act regarding fertilising the foetal egg itself?

The Hon. G.E. GAGO: I have had section 13 drawn to my attention, as follows:

Offence—using precursor cells from a human embryo or human foetus to create a human embryo or developing such an embryo. A person commits an offence if a person uses precursor cells, taken from a human embryo or human foetus, intending to create a human embryo or intentionally developing an embryo so created.

The maximum penalty is imprisonment for 10 years.

The Hon. R.L. BROKENSHIRE: Will the minister explain to the chamber, given the penalties and the offence, what mechanisms there will be with respect to checks and balances, and policing?

The Hon. G.E. GAGO: The commonwealth law sets up a monitoring and inspection service which regularly checks on embryo researchers to make sure that they are meeting their licence requirements. Inspectors can enter and inspect premises where they believe someone is creating or using embryos illegally. I think that covers it.

The Hon. R.L. BROKENSHIRE: Based on that, will the minister explain how many inspectors we have in South Australia or how many inspectors the government intends to have in South Australia; where will they be working from, and who will be overseeing those inspectors?

The Hon. G.E. GAGO: The advice I have received is that here in South Australia we use the expert inspectors appointed by the NHMRC who make regular visits to all states including South Australia. We do not have the figures in terms of exactly how many there are or how regular those visits are, but I am advised that they do visit here in South Australia regularly.

The Hon. R.L. BROKENSHIRE: What transparent reporting processes will be available to the community, to the parliament and to the government? Will there be the tabling of an annual report with respect to inspections? How will we know that this is occurring and that we can be comfortable that there is some sort of paper trail to this process?

The Hon. G.E. GAGO: I have been advised that six-monthly reports are provided. They are tabled in federal parliament, and they are also available on the website.

The Hon. R.D. LAWSON: I am seeking clarification. A few minutes ago, the minister responded to a question from the Hon. Rob Brokenshire about the use of precursor cells taken from a human embryo. The member was actually asking whether there is any prohibition against that.

I thought I heard the minister mention section 13, although my understanding from reading section 19 to be inserted in this bill is that that section provides that a person who uses precursor cells taken from a human embryo or a human foetus intending to create a human embryo or intentionally developing an embryo will commit the offence for which the maximum penalty is imprisonment for 10 years if that activity is engaged in without authorisation from an NHMRC licence.

The minister suggested that there was a prohibition, not that it was an activity that was capable of being licensed. Could the minister confirm what is the true position?

The Hon. G.E. GAGO: If I could beg the indulgence of the committee, I ask that we just be given some time to work through that, and we will get back to you with that answer.

The Hon. B.V. FINNIGAN: Just to clarify, are we continuing the deliberations at this stage?

The CHAIRMAN: We are on the Hon. Mr Brokenshire's amendment to clause 7.

The Hon. B.V. FINNIGAN: I appreciate that that is where we are, but I am just not sure, from what the minister said, whether we are proposing to continue. Looking at the response that the minister made last evening to my question regarding the use of precursor cells from aborted foetuses, I am a bit unclear as to her response in relation to consent procedures.

The minister informed the committee that researchers could not initiate seeking precursor cells from aborted foetuses and that that would be done by medical practitioners or clinicians. I was asking about the procedures in relation to that, and whether it would be the medical practitioner who would be saying, 'Now that you have taken this decision to terminate a pregnancy in a late period of gestation, there is this possibility of using the ova for research purposes, etc.' and obtaining the consent from the mother.

I want to know whether procedures are in place or will be put in place, or was the minister indicating that it is not intended at this stage that that provision would be utilised?

The Hon. G.E. GAGO: I only have the information that I gave yesterday evening, and that is that there are provisions or guidelines that require the decisions to be separate. That is a clinically assessed decision, but they must be separate decisions. I do not have any further detail on that.

The Hon. S.G. WADE: I wonder whether the minister might be able to clarify how soon the committee can expect a response to the Hon. Robert Lawson's question, because that question, clarifying a question and answer to the Hon. Robert Brokenshire, to my mind goes to the nub of the difference between the government's current clause and the Hon. Robert Brokenshire's amendment. If it is not possible to provide an answer soon, it might assist the committee to report progress and resume on motion, or whatever the appropriate course would be.

The Hon. R.I. LUCAS: I am happy to fill in time and filibuster while the minister answers the Hon. Mr Lawson's—

The Hon. S.G. Wade: Always happy to help!

The Hon. R.I. LUCAS: Always happy to assist. My contribution on this issue will be relatively brief. I came into the committee when the minister was clarifying the position she had indicated last evening in relation to licensing questions that had been raised, so I missed the first part of what the minister said. I am not asking the minister to repeat it on the record, but I wonder whether it would be possible for the minister to provide me with a copy of what it is she read, so that I can read it and compare it with what was said last night. If the minister was clarifying advice from last evening, I might want to pursue that by way of a question in the committee stage. I am wondering whether it is in a form capable of being provided to me.

The Hon. G.E. GAGO: I am happy to repeat the most important point, and that is that I confirm that, although the state laws do not replicate the sections that establish the licensing committee, the decision-making criteria that I read out yesterday evening are, in fact, replicated in the South Australian Research Involving Human Embryos Act 2003, sections 10 and 11. I believe that last evening I indicated that they were not replicated and that they did not need to be. I am just clarifying that they are, in fact, replicated in state legislation.

The Hon. R.I. LUCAS: I do not have that act in front of me, although I can get it in a moment. I recall that last night the minister indicated that there were these guidelines that govern federal licensing. Is the minister saying that those guidelines she put on the record last night are actually in the state act?

The Hon. G.E. GAGO: I am advised that, yes, they are.

The Hon. S.G. WADE: Would the minister like to reflect on that answer? My understanding is that, even in relation to the commonwealth act, the guidelines are not in the act. The criteria are in the act; the guidelines are not. Can the minister reassure me that the answer given to the Hon. Mr Lucas is, in fact, the case?

The Hon. G.E. GAGO: I am advised that they are not guidelines that are in the act: they are decision-making criteria that are outlined or prescribed in the act.

The Hon. B.V. FINNIGAN: If I can assist the committee. I will be supporting the Hon. Mr Brokenshire's amendment on this occasion. I am not satisfied from the responses we have had that the necessary protections and procedures are in place in relation to the use of precursor cells, from aborted foetuses in particular. It seems that we are leaving some of the detail to be determined, and I do not think that is a satisfactory situation. So, I will be supporting this amendment.

The Hon. G.E. GAGO: In response to the Hon. Robert Lawson's question, I have been advised that the implication is that precursor cells could be matured and then fertilised by sperm. However, it is unlikely that an egg so matured could be successfully fertilised by sperm. The intent is that precursor cells could be matured and used for therapeutic cloning, but only under a licence. Of course, they are not able to be implanted; that would be a breach of the provisions.

The Hon. B.V. FINNIGAN: I would like to clarify the point made by the minister. I assume when the minister says 'therapeutic cloning', she is talking about somatic cell nuclear transfer, in accordance with the provisions of this bill.

The Hon. R.I. LUCAS: Just to clarify the response to the Hon. Mr Lawson's question, is the minister, in essence, indicating that her previous advice was not correct? In response to the earlier question, the minister was talking about prohibition, and the Hon. Mr Lawson said, 'Hold on, it looks like it could be licensed.' Is the minister clarifying that the earlier response was inaccurate: that it could be licensed, even though the minister is arguing it is unlikely, or something along those lines? Is the minister now clarifying the earlier advice as being incorrect?

The Hon. G.E. GAGO: What I have attempted to do is elaborate and provide further detail on the information I gave yesterday and just to draw attention to the fact that these cells can only be matured for 14 days and that they are not able to be implanted.

The Hon. R.I. LUCAS: Without retracing the events, the Hon. Mr Brokenshire asked a question. My understanding of the minister's response was that she said no, and that she was quite unequivocal. The Hon. Mr Lawson then said, 'Hold on, maybe that's not right.' What I am trying to clarify is whether the minister is now saying that her original response was not correct.

The Hon. G.E. GAGO: I am not exactly sure what question the honourable member is referring to.

The Hon. R.I. LUCAS: The question asked by the Hon. Mr Brokenshire.

The Hon. G.E. GAGO: If we can just clarify that, because I think we are talking at cross purposes here. I think I am responding to a different question to the one the honourable member might be asking.

The Hon. R.I. LUCAS: To be frank, I cannot remember all the details of the Hon. Mr Brokenshire's question but—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: Well, the Hon. Mr Brokenshire asked you a question and I was just listening to the conversation going on between the two of you. I then picked up that the Hon. Mr Lawson said, 'Hold on, your answer might not be entirely accurate; have a look at section 19.' My understanding of the Hon. Mr Brokenshire's question (and perhaps I should invite him to further explain it) was that he was asking where in the legislation this was prohibited, or words to that effect. Perhaps Mr Brokenshire could clarify the question exactly.

The CHAIRMAN: The Hon. Mr Brokenshire might remember the actual question.

The Hon. R.L. BROKENSHIRE: For the sake of this important debate, and for the benefit of members, I will repeat the question on precursor cells. Can the minister point to where there is a prohibition on fertilising the feeder egg itself, as I understand that you can mature those eggs and that they can indeed be fertilised? We need to know exactly where the prohibition is within the act.

The CHAIRMAN: Was that the question, Mr Lucas?

The Hon. R.I. LUCAS: It was indeed, Mr Chairman. The minister then responded, and the Hon. Mr Lawson thought she said there was a prohibition in clause 13. The minister read out a particular response and the Hon. Mr Lawson then said, 'Well hold on, have a look at clause 19; it does not actually talk about a prohibition. It says that if you are licensed you can do things and if you are not licensed you can't.' The minister came back with a response in relation to that.

What I am seeking is clarification regarding whether the minister's original response was inaccurate, and whether the latter position from the minister is now the accurate response.

The Hon. G.E. GAGO: I read from a version of clause 13. I believe that the Hon. Robert Lawson read out an amended clause 13 which has not yet been voted on and which is to be in clause 19. It includes paragraph (a), which is what I read out in the chamber. The proposed amendment, which is yet to be voted on, reads:

> (b) the person engages in activities mentioned in paragraph (a) without being authorised by a licence, and the person knows or is reckless as to that fact.

That is an amendment we have not yet dealt with, so I read out the original clause 13 as it stands —which will, perhaps, depending on the will of this chamber, become an amended clause 19 that will include a paragraph (b).

The committee divided on the amendment:

AYES (8)

Bressington, A.	Brokenshire, R.L. (teller)	Finnigan, B.V.
Hood, D.G.E.	Lucas, R.I.	Schaefer, C.V.
Stephens, T.J.	Zollo, C.	

NOES (12)

Darley, J.A.	Dawkins, J.S.L.	Gago, G.E. (teller)
Holloway, P.	Hunter, I.K.	Lawson, R.D.
Lensink, J.M.A.	Parnell, M.	Ridgway, D.W.
Wade, S.G.	Winderlich, D.N.	Wortley, R.P.

Majority of 4 for the noes.

Amendment thus negatived.

The Hon. R.L. BROKENSHIRE: I move:

Page 9, lines 19 to 31 [inserted section 19A(3) and note]—Delete subsection (3) and the note appearing at the foot of that subsection

This is a consequential amendment on the hybrid embryo amendment last night, and this takes us back to the hybrid embryo issue. Whereas amendment No. 1 was about prohibiting the creation of hybrids at all, which the bill allows to go to the first mitotic division, this amendment is about stopping the licensing of those hybrid embryos for research.

The CHAIRMAN: You say that it is consequential, but are you still moving it?

The Hon. R.L. BROKENSHIRE: I am. It is consequential, but it is slightly different, and I still move it.

The Hon. S.G. WADE: I would like to continue the discussion we have been having in relation to the interaction of the commonwealth and state acts and the criteria and guidelines under those. My current state of understanding, informed by the minister's responses, is that the criteria under the commonwealth act are repeated under the state act and that the guidelines that inform the NHMRC committee are made by commonwealth regulation. Let us pause and consider that point. Section 21(4)(c) of the commonwealth research act provides:

> (c) any relevant guidelines, or relevant parts of guidelines, issued by the CEO of the NHMRC under the *National Health and Medical Research Council Act 1992* and prescribed by the regulations for the purposes of this paragraph.

The corresponding element in the state act provides:

> (c) any relevant guidelines, or relevant parts of guidelines, issued by the NHMRC under the *National Health and Medical Research Council Act 1992* and prescribed by the regulations for the purposes of the corresponding provision under the *Research Involving Embryos Act 2002* of the Commonwealth.

Presumably, that is a commonwealth regulation, because this state parliament cannot make regulations under commonwealth acts. This was the point of the discussion last night. As a state

parliamentarian, I want to know whether an activity I am being asked to approve in this state is to be governed by regulations that this parliament does not have the opportunity to review. Does the minister have a point that would help me understand that issue better?

The Hon. G.E. GAGO: I believe that the honourable member is referring to the NHMRC guidelines, which are not currently under amendment. In addition to the licensing constraints within the commonwealth and state acts, there are also national ethical guidelines. Researchers and clinicians are required under commonwealth and state law to abide by the National Statement and Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research, issued by the NHMRC.

A clause was added to the bill for the SA Research Involving Human Embryos Act 2003 during its passage requiring that any NHMRC guideline or policy reference in the legislation be tabled in parliament, within three sitting days from changes taking effect, and referred to the parliamentary Social Development Committee, both initially and each time it was changed. This requirement is unique to South Australia.

The NHMRC routinely reviews and revises its guidelines every five years in South Australia and keenly engages in national consultation. The NHMRC revised and reissued its ethical guidelines in 2005, and the Social Development Committee considered these in 2006. In 2007, the Social Development Committee considered further revisions to both the NHMRC ethical guidelines and the national statement made in light of the changes to the commonwealth law. However, neither the Social Development Committee nor the South Australian parliament can change nationally agreed guidelines issued under the commonwealth NHMRC act.

The bill retains the requirement for relevant new or revised NHMRC guidelines to be tabled in parliament and referred to the Social Development Committee for inquiry and report to parliament. However, it extends the time period from three to six sitting days, which is the usual period in South Australian legislation, from commencement of their operation to allow for final printed copies to be procured for tabling in parliament.

The Hon. S.G. WADE: In amongst that answer was the confirmation that clinical practices rely on regulations that this parliament can review, and it will do so through the Social Development Committee, but it cannot disallow. I am happy to proceed on that understanding. On to the next point on the same issue, I would now like to address the issue of the criteria. As I understand it, the minister advised the Hon. Rob Lucas and, perhaps, also the Hon. Robert Brokenshire that, whilst the guidelines were not replicated in the state act, the criteria were. On that issue, I am surprised to see that the state legislation and the federal legislation seem to have different criteria and that this amendment bill does not have any proposal to change the state act. Presumably, the commonwealth chose to change its act at the time that, if you like, the complementary piece of commonwealth legislation was considered by the commonwealth parliament.

Let me use just one example. As I understand it, we are talking about section 21 of the commonwealth act and section 11 in the state act, which both contain subsection (4)(a). Paragraph (a) in the commonwealth act provides:

> (a) restrict the number of excess ART embryos, other embryos or human eggs to that likely to be necessary to achieve the goals of the activity or project proposed in the application;

The state act currently provides:

> (a) restrict the number of excess ART embryos to that likely to be necessary to achieve the goals of the activity or project proposed in the application;

In other words, the commonwealth act inserts after the words 'excess ART embryos' the words 'other embryos or human eggs'. I then looked to the bill to see whether our state criteria are being updated by this bill before us. I notice that the clause updating section 11 is clause 14, and those words are inserted. Can I have an assurance that the criteria under the state act are identical to those under the federal act as a result of this bill?

The Hon. G.E. GAGO: We just need some time to find the details. However, I hope that you might be reassured by the fact that the licensing committee is, in fact, constrained by the criteria in both state and commonwealth legislation and would apply the strictest of the criteria. I have just been advised that our amendments bring them into line.

Amendment negatived; clause passed.

Clauses 8 and 9 passed.

Clause 10.

The Hon. R.L. BROKENSHIRE: I move:

Page 12, line 4 [inserted section 5A]—Before 'A' insert: (1)

Amendment negatived.

The Hon. R.L. BROKENSHIRE: I move:

Page 12—

Line 12 [inserted section 5A(b)(ii)]—Delete 'or' and substitute: and

Lines 13 to 15 [inserted section 5A(b)(iii) and (iv)]—Delete subparagraphs (iii) and (iv)

I advise that I will not be speaking to the amendments. My amendments are all consequential.

Amendments negatived.

The Hon. R.L. BROKENSHIRE: I move:

Page 12, after line 21 [inserted section 5A]—After note insert:

(2) A person commits an offence if—

(a) the person intentionally uses an embryo; and

(b) the embryo is—

(i) a human embryo created using precursor cells taken from a human embryo or a human fetus; or

(ii) a hybrid embryo.

Maximum penalty: imprisonment for 5 years.

Note—

The creation or development of embryos mentioned in this subsection is prohibited under Part 2 of the Prohibition of Human Cloning for Reproduction Act 2003.

Amendment negatived; clause passed.

Clauses 11 and 12 passed.

Clause 13.

The Hon. R.L. BROKENSHIRE: I move:

Page 13—

Lines 25 and 26 [substituted section 10(1)(d)]—Delete paragraph (d)

Lines 31 to 37 [substituted section 10(1)(f)]—Delete paragraph (f)

The first amendment makes it absolutely clear that there can be no licensing regime for harvesting eggs from aborted baby girls by deleting paragraph (d). I am also moving the deletion of paragraph (f) to make it clear that there can be no licensing regime for creating hybrids.

Amendments negatived; clause passed.

Remaining clauses (14 to 22) and title passed.

Bill reported without amendment.

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) (11:55): I move:

That this bill be now read a third time.

The council divided on the third reading:

AYES (12)

Darley, J.A.	Dawkins, J.S.L.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Lawson, R.D.	Lensink, J.M.A.	Parnell, M.
Ridgway, D.W.	Winderlich, D.N.	Wortley, R.P.

NOES (9)

Bressington, A.	Brokenshire, R.L. (teller)	Finnigan, B.V.
Hood, D.G.E.	Lucas, R.I.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Zollo, C.

Majority of 3 for the ayes.

Third reading thus carried.

Bill passed.

MENTAL HEALTH BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1642.)

The Hon. CARMEL ZOLLO (12:02): I rise to make a short contribution on this bill. As the first minister for mental health and substance abuse in South Australia, albeit for a short time before the last election, I rise to congratulate the minister in another place on introducing this very important piece of legislation. When one considers that one in five, or 20 per cent, of Australian adults will be affected by mental illness at some time in their lives, one can see the importance of having a dedicated portfolio in this respect. The legislation before us concerns itself with the 3 per cent who are seriously affected by their mental illness.

Members would be aware that a thorough review of the act was undertaken and chaired by Mr Ian Bidmeade, a legal policy officer and solicitor. At the time I became minister for the portfolio in late 2005, the government had recently released the report of the review, 'Paving the way', of the mental health legislation in South Australia. The report was distributed to some 500 stakeholders and was well received. It proposed a number of changes to modernise the legislation and improve responses to people with mental illness. The majority of the changes recommended in the report were supported by the government and have been adopted in this legislation.

At the same time, the government has complemented this legislation with a number of other important provisions for the delivery of services for those mentally ill, ranging from significant infrastructure construction for both primary and step-down centres and funding for NGOs involved in service delivery to the release of the master plan for the Glenside site. The recommendations of the Social Inclusion Board are to be commended. The reform package announced by the government is in the order of $107.9 million. I also congratulate my colleague in this place, the then minister (Hon. Gail Gago), for her work in furthering this legislation and other initiatives during her time as the minister responsible for mental health and substance abuse.

The aim of this bill is to provide that contemporary framework for the provision of services to people with serious mental illness who are either unwilling or unable to consent to their own treatment. Because this bill is primarily about the use of powers to treat people with serious mental illness against their will, it does provide for the checks, balances and protections necessary for the transparent and accountable exercise of these powers.

The minister has already placed on record that the objects of the bill were refined following consultation and included to ensure that people with serious mental illness retained their freedom, rights, dignity and self-respect as far as is consistent with their protection and the proper delivery of mental health services designed to bring about recovery as far as is possible. It is also noted that the protection of the public is addressed in this legislation as well.

Like all members, I was pleased to receive a letter from Carers SA in support of the legislation. We all recognise that it has been a strong advocate for changes to this legislation for some years. We all agree that it is the carers who frequently take responsibility for the care of the consumer in the community, including medication, medical appointments, social and living arrangements, pre and post acute care in the community, and emergency assistance. When I was the minister responsible, Carers SA provided strong advocacy on behalf of carers.

The bill recognises the role of family carers as partners in the care by the provision of relevant information to them and includes them in the development of ongoing treatment plans and discharge planning. I have had brought to my attention, not only at ministerial level when minister but also at the constituency level on a number of occasions, the importance of including carers in the development of ongoing treatment plans and discharge planning. When they are not included it

is they who are left to pick up the pieces and restart the merry-go-round of medical visits and assessments, ensuring medication is complied with, meeting accommodation requirements and ensuring that income support is in place. A recent constituent case comes to mind where, inadvertently, the family was not aware of the discharge plans and it was necessary to take urgent action to rectify the situation.

As has already been placed on the record, patients and their carers have welcomed the requirement for treatment and the care plans in this bill and their involvement in the development of the plans. Those who love and support the consumer also find themselves needing to make life-changing decisions, so it is timely that their role is recognised in this legislation.

I again concur with the minister's comment that it is important for families to have their role as informal, unpaid family carers, as partners with service providers in providing the care and treatment of their loved ones, to be recognised. The appropriateness of sharing of information with carers who care for a person with a mental illness, who is subject to an order, cannot be emphasised enough.

I also place on record the commitment of all advocacy mental health groups and NGOs in the provision of mental health services in our community. Yesterday morning, I am certain along with everybody else, I received a copy of the latest newsletter from the Mental Health Coalition of South Australia. I was pleased to see on the front page the following:

> The state government has invested in mental health policy, strategic direction and infrastructure. The Social Inclusion Board's Stepping Up Report and the South Australian government's responses identify new models of care to drive change in the system to a more recovery-oriented focus. New models of care are being developed and implemented across the mental health system with more emphasis on community based support services. State government initiated amendments to the Equal Opportunity Act are proposed to include protection of people with mental illness from discrimination.

The concluding comments are that we are moving in the right direction but there is still more to be done. I would respond that the mental health area is one that this government has demonstrated its strong commitment to and, of course, I would always recognise and respect the role of the Mental Health Coalition in advocating for more. This legislation also deals with the monitoring and strengthening of ECT as well as the strengthening and protection of neurosurgery procedures, and updating the legislation as required.

As one would expect, and as outlined by the minister, the criteria for compulsory intervention for the purpose of mental health care and treatment are critical components of any mental health legislation as they determine when an individual's wishes can be overridden and assessment and treatment provided compulsorily. These are matters that have required close consideration by all the parties involved.

The bill sets out the new criteria for a community treatment order or detention and treatment order. We see a changed threshold for intervention orders to better manage risk for the affected person and the community, with the intention of facilitating early access to care and treatment if appropriate. It is hoped that enabling people to obtain early assessment and treatment, if required, will assist to reduce the risk of both suicide and homicide arising from illness that is untreated. The Guardianship Board will continue its important role in that in most cases community treatment orders will result from applications made to the Guardianship Board.

Another area that is to be improved is that of responsibility for the transport of those who suffer with a mental illness. It also deals with changes as to who can transport those who appear to be suffering a crisis with their mental illness by defining which officers can provide that transport when the use of police is not required. A memorandum of understanding has also been further strengthened between parties involved in the transport of people with mental illness. The partnership between health professionals and the SA Ambulance Service is particularly recognised when early access to care and treatment is required by the setting up of the new Mental Health Triage Service.

Whether it is this government's capital works program that is replacing old facilities, the furthering of important partnerships, the support for the delivery of high-quality services in the community or this important piece of legislation before us which provides a strengthened framework for those who are seriously mentally ill and need intervention, this government has demonstrated its strong commitment to those who suffer from mental illness.

Obviously, I am very pleased to support this legislation and have this opportunity to make a brief contribution. In particular, I would like to acknowledge the work and interest of all those who have had an input into this very important bill.

The Hon. R.D. LAWSON (12:13): I take up the last comment made by the former minister; namely, as she said, 'This government has demonstrated its commitment to people with mental illness.' The Attorney-General exposed the hypocrisy of that claim last week when he publicly admitted that mental health is not a priority of this government. He said he receives 50 submissions every day and that this is certainly not a priority of the government.

It is clear that, from the whole of the record of this government, it is not committed to providing adequate assistance to people with mental health issues in our community. One only has to see its appalling record in relation to the suggested redevelopment of Glenside Hospital; one only has to see the fact that James Nash House has been under-resourced; and one only has to read the comments of the Chair of the Parole Board (Frances Nelson QC) when she says that she has been batting her head against a brick wall in relation to the inadequate facilities for the supervision and care of those who are under licence, having been found not guilty by reason of mental incompetence. One only has to note that the Bidmeade report was delivered to this government in April 2005, and yet here we are in 2009, finally considering legislation.

I think it ought to be exposed right at the very beginning that this government does not have a proud record in relation to mental health issues; it has an appalling record. It has been more interested in headline chasing, in scapegoating criminal groups and the like and chasing votes rather than improving services.

The objects of the Mental Health Act, when this bill comes into operation, will be as follows: to ensure that persons with serious mental illness receive a comprehensive range of services of the highest standard for their treatment, care and rehabilitation with the goal of bringing about their recovery as far as possible.

That is the first object of this act: a noble sentiment, with which no one would disagree. However, the fact is that simply passing laws of this kind, without supporting them with appropriate resources and effective administration, is just idle hyperbole. This is a motherhood statement of no real significance, especially when you have a government that is not seriously committed to addressing those aims.

The second object of the act is to ensure that persons with serious mental illness retain their freedom and legal rights and can enjoy the ordinary patterns of life as far as is consistent with the proper delivery of services and the protection of the public.

Once again, a noble objective with which we would agree; in fact, nobody would disagree with a proposition of that kind. However, once again, if people with serious mental illness are to enjoy ordinary patterns of life whilst at the same time the public is being protected, there is a requirement for appropriate supervision and resources to ensure that that objective is met.

Whilst I support the principles of this bill and many of the changes that are made, I think it is important to place on record this government's abysmal record. The only other matter that I would raise in my second reading contribution—others will be raised during the committee stage—is the question of the community visitor scheme. I remember a university intern, Judy Clisby, writing a paper suggesting—and I think her paper was the first in South Australia in a formal sense to suggest it—that we adopt a community visitor scheme, and I made some mention of Judy's report at the time in parliament.

Bidmeade suggested, once again, as I remind the council, in April 2005 that all states apart from South Australia do have community visitor schemes to provide external monitoring of mental health and disability services. Bidmeade drew attention to the Victorian Mental Health Act, which empowers community visitors to inquire into the adequacy of services for assessment and treatment, for facilities, opportunities for recreation and training, etc., for the best possible care with the least possible restrictive environment, and to inquire into complaints made by consumers to the community visitor scheme.

In that state, the scheme is administered by the Public Advocate. Bidmeade noted that a similar scheme applied in New South Wales, where it was administered by the New South Wales community services division ombudsman. Bidmeade recommended the introduction of a community visitor scheme in this state. I believe that it is important that we do have this form of external scrutiny. For a government that claims to be open and accountable, it is amazing how

often it objects to any proposed reform that will bring openness and will bring mechanisms for accountability. It has been vehement in its opposition to the establishment of an independent commission against corruption. It maintains its opposition at every opportunity.

The Attorney-General berates those who are propounding the establishment of such a commission. Likewise, in relation to our mental health system, where a simple mechanism that has been adopted elsewhere for encouraging openness and accountability is proposed, it is rejected. I am delighted that the Liberal Party will be supporting an amendment to this bill that will introduce a community visitor scheme in this state, and I look forward to the debate on that. I think that is one important measure that ought to have been included, but this government has not done so. One can only again ask why it has not. What does it have to hide? Why does it not want the probing eyes of community visitors in our mental health system? I look forward to the committee stage of the bill.

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

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. D.G.E. HOOD: I rise to respond to several comments made by the Minister for State/Local Government Relations during her reply to the second reading debate on Tuesday night. The minister said a number of things that I want to clarify. For example, the minister said that I was incorrect in saying that school-age children could be brought before the tribunal without complaint. However, the minister later said during the same speech that although school-age children could be brought before the commission that would only happen on rare occasions. So, clearly, what I said was correct, because the very fact that children can be brought before the commission on rare occasions implies that it actually can happen.

Putting that aside, I have had extensive correspondence from many schools expressing concern about the wording of clause 6, which I also find concerning. Clause 62 provides:

> It is unlawful for a student of or over 16 years of age, while in attendance at a place in connection with his or her education, to subject a person who works at the educational institution at which the student is enrolled or a fellow student to sexual harassment.

Whilst I am sure that none of us support sexual harassment in any way whatsoever, I find this provision, in itself, somewhat concerning.

As a state, long ago we decided that the general age for legal responsibility was 18 years. Universally, as I understand it, courts and other tribunals within South Australia will not entertain actions or prosecutions against children under the age of 18. To my knowledge, the sole exception is the Youth Court. On rare occasions applications are successfully brought to the Youth Court for a child to be tried as an adult for what I understand to be most heinous and very serious crimes. One can imagine a 16 year old making a stupid sexually offensive comment, and I feel very strongly that that should not be tolerated. Nevertheless, comments made by children and younger teenagers should not be subjected, in my view, to full adult legal responsibility, except in absolutely exceptional circumstances.

More concerning are the collateral legal implications of a child being brought before the tribunal. There is an overarching provision in clause 67 that allows the commissioner to investigate matters and, in the subsequent clauses, to initiate complaints, notwithstanding that no complaints have been lodged. It seems to me that clause 67 would override the provisions in clause 66, meaning that it would be at least theoretically possible that a child could be the subject of a complaint by the commissioner, even if the minister maintains that it would not happen, or at least happen only rarely.

More concerning to me are the cost implications. According to new section 95B(2), the complainant will receive free legal advice and assistance, while the student (who may be only 16 years of age, remember) would be given no legal support. I ask members to put themselves in the shoes of a 16 year old student who has made a stupid comment in the schoolyard, which they no doubt regret, and then found themselves standing alone against the full weight of the commissioner's funded lawyers. Even if such a scenario was rare, as stated by the minister, it simply goes too far, and for that reason I have suggested increasing the age from 16 to 18 years as the legally accepted definition of 'adult' in the bill, as per my amendment.

The CHAIRMAN: Order! The Hon. Mr Hood is repeating his second reading speech. He made a long second reading speech, and he is making his second reading speech in another form and seems to be covering the whole of the bill. He has moved on to section 92 something or other. We are on clause 1. I am not going to allow members to jump up and have another crack at a second reading speech. Does the honourable member have any questions on clause 1 for the minister?

The Hon. D.G.E. HOOD: I will be very careful, sir, but may I address some of the comments the minister made in her summing up?

The CHAIRMAN: The honourable member started off doing that and then he started waddling all over the place.

The Hon. D.G.E. HOOD: I will be careful to maintain that path, sir, with your permission.

The CHAIRMAN: The Hon. Mr Hood.

The Hon. D.G.E. HOOD: Thank you, sir. Also, during her summing up on Tuesday night, the minister referred to the comments I had made in my second reading about the religious dress discrimination provisions, which would require many employers to accept a religious dress code no matter how outlandish they considered it. In my speech I used what I considered to be a deliberately extreme example of Jedi, because it was highly unlikely, and I said that this person demanded the right to wear what they considered to be the appropriate clothing.

The Hon. G.E. GAGO: The member is actually addressing issues that are dealt with in clauses later on in this bill. So, there will be ample opportunity for him to address these matters at the appropriate time.

The CHAIRMAN: I agree. I also heard the honourable member mention what he had already said in his second reading speech. I am not going to allow the honourable member to repeat his second reading speech. I know that members in this place are sometimes aggrieved at what is said after they have had an opportunity and then realise that they need another crack at it. There are other opportunities, such as Matters of Interest, where members can get another crack at it.

The Hon. R.I. Lucas: Notices of motion.

The CHAIRMAN: Notices of motion; that's right.

The Hon. G.E. Gago: Another select committee.

The CHAIRMAN: Yes, select committees. Are there any further contributions to clause 1?

The Hon. R.I. LUCAS: We had a debate last evening—and, indeed, today—about the inconsistencies between state and federal legislation. I want to raise that issue in relation to this bill. At the moment we have legislation covering the same area of equal opportunity—and will have even if this legislation is passed as the government wishes—where there are inconsistencies between federal and state legislation. Given the government's position, which the minister put last night, on the desirability of that situation, can the minister indicate what her position is now on that same question—that is, on the desirability or undesirability of inconsistencies between federal and state legislation? In the event that there is an inconsistency, what is her advice regarding which provision applies?

The Hon. G.E. GAGO: First, this government does seek to avoid inconsistencies between state and commonwealth legislation wherever possible. Within equal opportunity there is currently a range of quite significant differences between the two jurisdictions and this bill predominantly seeks to reduce those.

The other point is that commonwealth law on these matters is designed to operate concurrently, where possible. I guess there are some areas within the bill—such as religious dress—which are not addressed in the commonwealth legislation because they are outside the scope of that legislation, and it is appropriate that we, as a state, put forward those provisions that we see as being responsible and reasonable for this state.

The Hon. R.I. LUCAS: Given that the minister acknowledges there are significant differences in aspects of coverage of federal and state legislation in terms of equal opportunity, in the event that there is an inconsistency between federal and state legislation is it her advice that the federal legislation takes precedence?

The Hon. G.E. GAGO: My advice is yes, to the extent of the inconsistency.

The Hon. R.I. LUCAS: I thank the minister for that advice, because that was the point I was making to the committee last night in regard to those inconsistencies. Can I clarify that the minister has indicated that in this legislation the government is reducing the extent of the inconsistency between federal and state legislation rather than adding to the extent of any such inconsistency?

The Hon. G.E. GAGO: I have been advised that we believe that the bill reduces some of the differences between state and commonwealth provisions. For example, it seeks to adopt the wording of the commonwealth law on sexual harassment and, as far as we are aware, it does not produce inconsistency; however, one cannot be absolutely sure until the law is in operation. To the best of our knowledge, and to the best of our advice, we believe that it does not create inconsistency.

The Hon. S.G. WADE: How can that be, minister, when we are introducing shall we say 'novel' provisions, for the sake of moderate language, such as religious appearance?

The Hon. G.E. GAGO: Inconsistency is not the same as difference. Religious dress is outside the scope of commonwealth legislation. It does not deal with that and, therefore, the provision we propose does not develop an inconsistency between jurisdictions; it will be different. It is appropriate for states to develop the legislation for their own jurisdictions that they believe is appropriate and proper for their state.

The Hon. R.I. LUCAS: Further to that, as I understand it, in relation to provisions we will come to later involving carers (I will not go into the detail until we get to that clause), is it not correct that the government is introducing significant differences in terms of coverage with respect to carers?

The Hon. G.E. GAGO: My advice is that yes, it is broader.

The Hon. R.D. LAWSON: Does the minister agree with the proposition that as this act binds the Crown in right of the state of South Australia, it has significant application in relation to discriminatory practices with respect to employment, education and housing, which apply to the state government but which do not apply to the state government under the relevant commonwealth legislation?

The Hon. G.E. GAGO: I am advised that we need to take that question on notice, as I do not have the answer here.

The Hon. D.G.E. HOOD: Will the minister outline the consultation process in the drafting of the bill? Who was consulted, over what period and what was put to them?

The Hon. G.E. GAGO: It has indeed been extensive, and that is an understatement. Work towards this bill has been taking place for almost 15 years. However, rather than spend a lot of time going back and outlining in detail the present government's efforts, I point out that a framework paper was published in 2003 and public submissions were invited. There was the Martin report in 1994, which was a process that also involved quite intensive public consultation.

The Hon. D.G.E. HOOD: The minister mentioned consultation being sought in 2003, and there were a number of submissions. Can she indicate who made those submissions?

The Hon. G.E. GAGO: That information is available, but we do not have it here. I am happy to take that on notice and provide the information to the member.

Clause passed.

Clause 2.

The Hon. S.G. WADE: When will the act be proclaimed?

The Hon. G.E. GAGO: There is no reason for proclamation to be delayed once the bill has been passed in both houses.

The Hon. S.G. WADE: What is the anticipated net impact of the bill on the workload of the commissioners and the funding of the operations of the act?

The Hon. G.E. GAGO: My advice is that it is expected that there will be some new complaints if the new provisions are passed; however, the advice is that they can be managed within current resources.

The Hon. R.D. LAWSON: Is it envisaged that any new regulations will be required upon the passage of this bill?

The Hon. G.E. GAGO: My advice is that we do not foresee any at this stage.

The Hon. R.I. LUCAS: Is it the government's intention to proclaim all of the act as soon as possible, or is the government reserving the position that perhaps some sections of the act might not be proclaimed?

The Hon. G.E. GAGO: The advice is that the government has not formulated any intention in relation to that at this point in time.

The Hon. R.I. LUCAS: Can I clarify that it is possible, then, that the government might, as early as possible, proclaim some sections of the legislation and not proclaim other sections until a later period?

The Hon. G.E. GAGO: I am not aware of any intention to delay any aspect of the bill but, at this point in time, I cannot give any guarantees other than that. There is no known intention at this point to delay any aspect of it that I am aware of.

Clause passed.

Clauses 3 and 4 passed.

Clause 5.

The Hon. S.G. WADE: In relation to the definition of 'act', does the current act provide for omissions to come under the scope of the act?

The Hon. G.E. GAGO: I do not understand the question.

The Hon. S.G. WADE: Under this bill, clause 5(1), the word 'act' is given a definition, which it did not have before. In other words, 'act' now includes 'an omission'. Were omissions covered by the previous act?

The Hon. G.E. GAGO: My advice is that as far as we know they would be. The advice is that it now reflects common drafting practice.

The Hon. S.G. WADE: If it was included and covered by the act in the past, why is it necessary to define it? If a piece of legislation is in plain English and I am reading it—an act is something positive and pro-active—I can do a lot of things by omission and, if you like, it puts an onus on me to be more active in avoiding discrimination. I think the inclusion of the word 'omission' would significantly increase the scope of the act.

The Hon. G.E. GAGO: My advice is that it does not increase the scope of that provision but simply provides greater clarification.

The Hon. S.G. WADE: Does the commonwealth bill include a similar definition of 'act' and was it recommended by Martin or included in the 2000 bill?

The Hon. G.E. GAGO: Are you asking about all commonwealth acts?

The Hon. S.G. WADE: The commonwealth equal opportunities legislation.

The Hon. G.E. GAGO: There are several commonwealth acts involved, so it will take some time.

The Hon. S.G. WADE: Perhaps the minister can advise the committee later.

The Hon. G.E. GAGO: We will take it on notice and provide that information later in the proceedings.

The Hon. S.G. WADE: In relation to the next definition, 'assistance animal', why was it decided to define an animal by class rather than by function?

The Hon. G.E. GAGO: The advice is that the animal is an assistance animal if it meets certain criteria, and therefore using class as a definition is a more suitable way to do it.

The Hon. S.G. WADE: I think it is sensible to define an assistance animal by criteria, but the act does not do that; it defines it by class. You have to be a guide dog or an accredited disability dog under a certain act, or a particular animal of a class, not an animal that meets certain criteria. I would prefer to see a definition which says that an assistance animal is an animal that

assists a person with a disability to perform the functions of daily life, but that is not what we have. We have animals being defined by class, and that does not reflect the diversity of the disabilities with which South Australians live.

The Hon. G.E. GAGO: We have defined it in this way to give us a firm marker so that we can tell when, in fact, the law has been broken. For example, any person could say, 'My dog (or cat or whatever) has been trained to assist me.' However, unless they have achieved some recognised accredited standard, it would be very difficult for us to distinguish between those animals that have really been trained to be of assistance and those that have not.

The Hon. S.G. WADE: The alternative is in the act itself; in relation to therapeutic animals, it is done by the certification of a medical practitioner. I think we are getting to the point where I do understand the government's approach and we can debate it at the substantive clause. On that same definition, I presume (from the minister's answer to an earlier question from the Hon. Robert Lucas) that the government does not currently have any intention of prescribing an animal of a class under clause 5(1)(b).

The Hon. G.E. GAGO: I have been advised that we presently do not have any intention to do so.

The Hon. S.G. WADE: In relation to 'close personal relationship' in paragraph (b) it states:

... relationship where one of the persons provides the other with domestic support or care or both for fee or reward.

My concern is about what happens if a member of a couple is remunerated for domestic support or personal care: does the fact that you receive remuneration to provide support to your partner disqualify you from having a close personal relationship?

The Hon. G.E. GAGO: I have been advised that this definition has been taken directly from the Family Relationships Act, so there are other provisions for it. The advice is that if the person is receiving a wage for caring then that would not qualify them to be regarded as having a close personal relationship.

The Hon. R.D. LAWSON: Whilst on the definitions and close personal relationship, will the minister advise whether the provisions of Part 3 Division 6, dealing with discrimination in relation to superannuation, have yet come into operation? Certainly the copies of the legislation that I have indicate that it has not yet come into operation. Will the minister say why that division has not yet come into operation and indicate when it is envisaged that it will?

The Hon. G.E. GAGO: This provision has never come into operation in South Australia. This bill proposes to repeal that particular provision because, in general, superannuation is regulated by commonwealth provisions.

The Hon. S.G. WADE: On the definition of 'disability', I wonder whether the minister will advise whether this definition is drawn from another act—state or federal.

The Hon. G.E. GAGO: Yes; it is from the commonwealth Disability Discrimination Act.

The Hon. S.G. WADE: I am interested in subclause (2)(d): 'the presence in the body of organisms capable of causing disease or illness'. To me, that is so expansive that it would not exclude any of us. I appreciate that this act is about discrimination, and you would need to be discriminated against on the basis of the disability. It may be a common situation, but it is not beyond the imagination of a parliamentarian to muse on that. For example, if you were excluded from a shop because you had a cold, you would qualify, as I understand it, as a person with a disability being discriminated against, and so on.

The Hon. G.E. GAGO: I have been advised that, yes, the commonwealth definition is broad, and that is why, later in this bill, there is a provision to provide an exemption for reasonable measures to stop the spread of disease and infection.

The Hon. S.G. WADE: As I understand it, this provision will, for the first time, bring psychiatric disability within the scope of this act. That is an area where, shall we say, there is often negative interaction within the community. That would seem to me to be a provision that is likely to increase the workload of the commissioner quite significantly.

Could the minister clarify whether other jurisdictions cover psychiatric disability and what might be the workload implications of that expansion? I should say that I welcome it, but I think we should be mindful of the impact that it might well have.

The Hon. G.E. GAGO: I have been advised that this definition is in the commonwealth provisions and that the aim of this bill is to try to be as consistent as possible, where possible. I have already indicated that the advice is that, although this bill is likely to result in an increase in the number of complaints being processed, it is believed that they will be able to manage that workload with current resources.

The Hon. S.G. WADE: Moving on to the definition in subclause (8) of 'medical practitioner', I wonder whether the minister could advise how the definition of 'medical practitioner' as 'a person who is registered in the state as a medical practitioner' will be impacted by national registration. If a person is a medical practitioner in another state, will they come under that clause?

The Hon. G.E. GAGO: It would be appropriate to recognise interstate practitioners if they are authorised by law to practise here, and I will need to clarify whether or not they are authorised. I am not sure whether that is the case, but we can get that information.

The Hon. S.G. WADE: Is the minister clarifying that this provision would cover them if they are recognised to practise in South Australia?

The Hon. G.E. GAGO: No; it does not cover them at the moment.

The Hon. S.G. WADE: I now turn to the definition of 'race'. The minister made comments in relation to the benefit of consistency with the state and federal legislation. I wonder whether the inclusion of nationality (current, past or proposed) is a provision in the commonwealth act.

Progress reported; committee to sit again.

[Sitting suspended from 13:02 to 14:17]

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

The Hon. D.G.E. HOOD (14:18): Presented a petition signed by 939 residents of South Australia, requesting the council to urge the government to support the amending of the Equal Opportunity (Miscellaneous) Amendment Bill to ensure that those rights are protected.

VOLUNTARY EUTHANASIA

The Hon. DAVID WINDERLICH (14:20): Presented a petition signed by 21 residents of South Australia, requesting the council to urge the government to support a referendum on voluntary euthanasia at the next general election.

PAPERS

The following papers were laid on the table:

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

Adelaide Film Festival—Report, 2007-08

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

Natural Resources Management Council—Report, 2007-08
Measuring our Success—Progress Report, March 2009

STATE BORROWINGS

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:20): I table a copy of a ministerial statement relating to the commonwealth guarantee of state borrowings made earlier today in another place by my colleague the Treasurer.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:20): I bring up the report of the committee on water resources management in the Murray-Darling Basin, Volume 1, The Fellowship of the River.

Report received.

QUESTION TIME

SOUTH AUSTRALIA POLICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question about the new police headquarters.

Leave granted.

The Hon. D.W. RIDGWAY: In the last budget it was announced that money had been put aside for a new police headquarters, and today the government announced that the site at 100 Angus Street was a $100 million project and that it would spend $38 million to fit out the building. Upon becoming shadow minister for police I contacted a range of stakeholders to talk about the issues that I might confront. In fact, I spoke to a former police minister, who suggested that it was a long-term agenda of SAPOL to have a new building, and that it had been resisted while he was minister.

Today, the government indicated that one of the reasons it is building a new police station is that it has outgrown the existing premises. It is interesting to note that, while I have been learning from operational police, one operational officer in an LSA with significant crime issues said, 'Give me $38 million and I will clean up the suburbs in no time.' My questions to the minister are:

1. When will frontline police officers be given tasers, and not just as part of a trial?

2. When will frontline officers be given proper equipment? Members opposite often laugh when I talk about suitable operational uniforms, raincoats and kitbags—some simple pieces of equipment.

3. When will frontline officers get the resources to do the job properly?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:23): This is like a cracked record. The South Australian police force under the Rann government has been better resourced than at any time in its history, including the number of police officers—the most important increase of all. There has been a massive increase in the police budget. It is the one budget that has not been cut in any way since this government came to office to ensure that police have adequate resources.

Not only that, we have gone a lot further in terms of giving police the legislation that is necessary to clean up crime. The one thing they have not had is a decent headquarters. To go back to the preamble of the honourable member's question, the implication is that senior police should not be moving into proper new police headquarters but staying where they are, in spite of the fact that the building is some 40 years old or thereabouts and has long since passed its prime in terms of accommodation.

The opposition may believe that the South Australian police force's commissioner, his executive and those who work in the head office are not entitled to the best possible accommodation, but this government disagrees. That is why we are supplying not only the massive resources for police but also we bought them new boats and a new aircraft. They had second-hand boats before, and we bought new boats and new aircraft—a whole lot of resources for the police force in this state. We have given them the best legislation in the country and increased their numbers by literally hundreds of extra police officers.

Not only have we delivered that but we also believe that the senior police, the executive, should have a new office. Many other government departments, over the past 15 or 20 years, have moved into new offices. Why is it that the opposition believe that the police are not entitled to have a new office? Why should they have to be housed in a building that is now no longer adequate? I believe, and this government believes, that our police are entitled not only to the resources that they are getting—for example, at present new firearms are being introduced into the police force, along with other—

The Hon. D.W. Ridgway: What about tasers?

The Hon. P. HOLLOWAY: Well, the tasers: the honourable member well knows—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes; of course they should be trialled. You would just go and give it to them. Do you really think that is a sensible idea? How dopey are members opposite? They say, 'You don't bother about training; someone somewhere else in the world has this new bit of equipment, so just hand it out willy-nilly. Just go and get buckets of them and hand them out to the police force without proper training or guidelines.'

Tasers can be a useful adjunct to police operations but they also need to be used properly or they can be quite dangerous. This government will take the advice of the police commissioner, who is the expert in relation to what equipment and what facilities his police officers need. I find it absolutely extraordinary that the opposition should be effectively, through this question, criticising the government for providing new police headquarters in this state.

An honourable member: Funny priorities.

The Hon. P. HOLLOWAY: Funny priorities, they are saying—not giving the police new headquarters. It is extraordinary. What about all the new police stations we have provided? What about Berri, Mount Barker, Victor Harbor, Port Lincoln? They are all brand new police stations built under this government. There are some old police stations, but this government has provided these new stations through the PPP program, including a new police station at Aldinga, all in the past seven years. There have been massive increases in resources and yet, it spite of that, this opposition wants to deny the police new headquarters in this state. This government believes that the police, right down to the police on the beat, deserve the best, and we will do that.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —a question on the subject of the assessment report prepared by his department into the desalination plant.

Leave granted.

The Hon. J.M.A. LENSINK: On 3 March, in this place, the minister answered a question that one might assume was expected in relation to the assessment prepared by him as minister into the proposed Port Stanvac desalination project. This project has been the subject of much discussion on talkback radio and, in particular, I note an interview on the afternoon of 27 February with the new water security commissioner. A caller by the name of David phoned up to inquire as to the plant's carbon footprint. Commissioner Robyn McLeod said:

> My understanding is that the government has committed that it will be powered by renewable power...

David responded:

> What? Wind power?

And the commissioner replied:

> Well, some form of renewable power or some system like that ... my understanding is that is what the policy position is ...

Section 4.2 of the assessment report 'State Government Policy' refers to targets within the State Strategic Plan, the Planning Strategy for Metropolitan Adelaide and the Adelaide and Mount Lofty Ranges Natural Resources Management Plan. There is no reference in there to energy consumption or sources of energy; this is dealt with in a completely separate section on environmental assessment, which is part 6 where, on page 48, it states:

> The EIS is unclear as to how carbon neutrality will be achieved. As a result the EIS is unclear about the total greenhouse footprint for the plant.

My questions to the minister are:

1. Does he accept that the water security commissioner was incorrect or at least does not understand what the government policy is?

2. Given that the government could not reach any conclusion as to the plant's footprint, is it a credible claim that it will be carbon neutral?

3. At what level was that so-called policy decision made to describe the plant as carbon neutral; was it the Premier's office, was it the Minister for Urban Development and Planning, or was it one of minister Maywald's agencies?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:30): The Port Stanvac desalination plant is the responsibility of my colleague the Minister for Water Security. It is her office, of course, that put up the proposals for that desalination plant. It was put up, of course, as a major project and it was assessed through the Department of Urban Development and Planning as a major project. My job as the minister on that was to ensure that the desalination plant assessment was successfully undertaken and to ensure that it was a proper process.

The advice that I have is that the electricity to power the plant will be supplied from the grid but sourced from renewable energy sources. If the honourable member has any specific questions in relation to the specifics of the operation of that plant, I am happy to refer those through to the appropriate minister but, as far as my responsibilities go, I am satisfied that the environmental impact statement has met the appropriate standards to ensure that the Port Stanvac plant will not just adequately meet the needs of this state for water but it will do so in a way that has minimal impact upon the environment.

As I said, if the honourable member has particular questions, I am happy to refer the details but, in relation to her latter question, it is certainly not the Department of Urban Development and Planning that is responsible for the description of this plant. Clearly, my job as minister is simply to assess the environmental impact statement of that plant, but it is up to SA Water, as the proponent of the plant, to put the proposals up.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:32): I have a supplementary question. Is the minister stating that this policy decision was taken within SA Water and, if not, will he give a commitment to come back to this place and advise specifically which level of government and agency made that policy decision? Will he also bring back some verifications from the relevant minister as to the carbon neutrality claims?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:32): In an assessment of the desalination plant, certainly, one may wish to consider policy issues in relation to the energy. I would suggest that they are not necessarily relevant to the major concerns in relation to a desalination plant. The major issues in relation to that environmental impact statement, of course, relate to the discharge of brine into the marine environment. I think everyone would agree that that is an issue.

We all know that desalination plants consume large amounts of electricity and, clearly, we need broader policies in relation to reducing our carbon footprint in electricity generation. I am mindful of the fact that, as a state, we have a much lower footprint—I think it is about 4½ per cent (small relative to our population)—compared to other states. Because most of our electricity in the state is generated from gas and the very high level of wind power we have here, we do have a relatively low carbon footprint in relation to electricity generation.

We can argue about those issues in policy terms, but in relation to the environmental impact of the plant, as I said, the major issue in relation to that statement is of course the impact upon the marine environment. I think most people have been addressing those issues. It is interesting how members opposite, who like to claim credit for having thought of the idea of a desalination plant, now, like with everything else they do, appear to be backing away from support for it.

Members interjecting:

The Hon. P. HOLLOWAY: Well, of course. If you are powering a desalination plant, electricity will be supplied from the grid, but it is a matter of whether that is sourced from renewable energy sources. One of the initiatives of this government is to try to promote the take-up of renewable energy in this state. Yesterday, in answer to a question, I talked about the Panax development in the South-East, which is a very promising geothermal prospect. That development could be in operation within the next two or three years and, being on the main grid, it could produce significant power from geothermal sources.

That is the way we need to go forward. The fact is that we need water, and that water will require electricity. This state also needs a policy to increase the amount of renewable energy in this state. If you put those two things together, that is how we will get the good outcome. The honourable member may nit-pick all she likes in relation to—

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: Well, as I said, it will be sourced from—

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: Who says it's not true? What we know is that the desal plant will use electricity, and this state will generate sufficient renewable energy to cover that electricity requirement.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:37): I seek leave to make a brief explanation before asking the Minister for the Status of Women questions about domestic violence.

Leave granted.

The Hon. S.G. WADE: This morning, a commemoration was held outside parliament to mourn South Australian women and children who have died recently as a result of domestic and family violence, and the minister addressed the gathering. Speakers at the rally highlighted the need to identify and address systemic failures in the justice and human services systems. In all the recent South Australian cases, the families involved were known to the criminal justice, health, education or human services systems.

Dr Elspeth McInnes of the University of South Australia highlighted the value of the death review model, which brings together professional and community members to analyse deaths to identify ways to prevent such deaths in the future.

An examination of the outcomes of death reviews by the Santa Clara Domestic Violence Death Review Board in California shows a significant decrease in domestic/family homicides. In that jurisdiction, over a 10 year period (1997 to 2007), there has been a 94 per cent decrease in domestic homicides. My questions are:

1. Did the review of domestic violence laws by Maurine Pyke consider systemic reviews of domestic and family violence fatalities, in the form of either death reviews or an amendment to the Coroners Act, to allow the Coroner to consider and make recommendations in relation to systemic issues?

2. If these two options have not been considered, will the minister ensure that they are considered in the development of any reform of domestic violence law?

3. Has, or will, the Pyke review be made public?

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) (14:38): It was a great privilege to attend the domestic violence rally held this morning on the steps of Parliament House as a memorial to those women and children who have died as victims of domestic violence. In fact, a large number of my parliamentary colleagues were in attendance, which I was pleased to see.

A large number of strategies are in place and have been completed in terms of addressing the issue of domestic violence. I talked about some of those yesterday, so I do not need to go through them again. However, they certainly include the reform of our domestic violence legislation, amongst other things. One element is being addressed at the moment by a group, initiated, I think, by Flinders University. That group is looking at the homicide review processes for people who are victims of domestic violence. A group has recently formed here in South Australia and is putting together research that has been done and looking at proposals that might be suitable for this state. That would, no doubt, include systemic issues around the causes of domestic violence. I commend that group for its efforts

Parallel with that, death review processes have recently been put in place (if I have my facts right) in both New South Wales and Victoria. They are two different models: one is an annex to the Coroner's Court, so it is part of that court but is a separate panel, and the other, in Victoria, I

think has a council facility which is altogether quite separate from the Coroner's Court. So there are a number of ways that this sort of review can be structured, and we will be watching with great interest (as the Attorney-General also stated in his address at the rally today) to see the evaluations and outcomes from these interstate models.

As I said, they have only recently been introduced but, I have been advised that Victoria will be conducting evaluations. We look forward to considering the outcomes of those evaluations, as well as any considerations that may come out of the death review group that has recently formed here in South Australia. In terms of the Pyke report, I am not aware of its status at this point so I will have to bring back a response in relation to that part of the question.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:42): I would like to clarify the minister's answer. It suggests that, due to the consideration and evaluation that the government will need to give the Victorian and Flinders University work, such models will not be part of the upcoming domestic violence legislation.

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): The legislation is still being drafted and I have not yet seen any of the drafted details. I think the honourable member is asking whether the legislation is considering reference to the death review-type model. To the best of my knowledge it is not; but, as I said, it is still in the drafting stage and I will have to check the details.

Obviously, there is a Coroner's Court measure which provides some of those functions and we have the Health and Community Complaints Commissioner, who has powers to look at systemic issues, as well. So there are some other provisions within our health and community services that do provide some capacity to do that.

URBAN PLANNING PROGRAM

The Hon. R.P. WORTLEY (14:44): My question is to the Minister for Urban Development and Planning. Is the minister aware of the 60th anniversary of the University of South Australia's urban planning program, the first such course in Australia, and its contribution to standards of urban planning in this state?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:44): I thank the honourable member for his question. Indeed, I am aware of the 60th anniversary of planning, and I believe it is important that this council recognises such an important milestone. South Australia has a proud and distinguished history of planning beginning, of course, with the grand vision established by Colonel William Light.

The government recognises the importance of this legacy and the role of good planning and sustainable building design in promoting growth and development in South Australia. The necessity of good planning that at one level provides a strategic framework for all government decision making while at another level ensures simplicity for home owners and builders was one of the hallmarks of the recently conducted planning review. This government is currently in the process of rolling out many of the reforms suggested by that review, from the big picture 30 year plan for Greater Adelaide to the red tape cutting changes to the residential development assessment system.

Strategic planning requires high standards of its practitioners, and that is why I would like to acknowledge the 60th anniversary of the University of South Australia's planning program. Many of this state's planners in both state and local government are graduates of the University of South Australia's School of Natural and Built Environments.

Spanning six decades, today's program had its genesis as a town planners course in 1949. Fittingly, Adelaide, with its worldwide reputation as a well planned city, was ahead of Sydney and Melbourne in establishing such a course; I think it was later in that year that the other cities followed Adelaide.

The 60th anniversary of this program is being marked this year by a series of public lectures, which began in February with an international symposium on the future of planning

education. The commemoration has continued with a recent address by a University College London professor, Sir Peter Hall, which was attended by more than 400 people, including me.

Other lectures scheduled for later this year will feature Stephen Hains, City Manager of the City of Salisbury, a very well-known planner and a former head of planning, and Dr Ian McPhail, Sustainability Commissioner for Victoria and a former director-general of South Australia's department of environment and planning under then deputy premier, Don Hopgood.

This year also marks the 25th anniversary of the appointment of Professor Stephen Hamnett to the program as head of planning in 1984. Professor Hamnett, who was a member of the steering committee of the Bannon government's planning review, is a commissioner of the Environment, Resources and Development Court.

The UniSA program has produced more than 1,000 undergraduate and postgraduate planners since its formation, with 14 gaining a PhD in planning. Several alumni have moved interstate and overseas or have become current or past chief executive officers of councils in South Australia, including Stuart Moseley (former chief executive of the Adelaide City Council and a member of the recent planning review) and Mario Barone (Chief Executive Officer of the City of Norwood Payneham and St Peters). He also assists the state government in his current role as chair of the Development Policy Advisory Committee. I also point out that our colleague in this council, the Hon. Mark Parnell, is another old scholar, completing a Master of Regional and Urban Planning.

The program began at the former South Australian School of Mines and Industries in February 1949. As the Minister for Mineral Resources Development, I do not find that a strange birthplace for a planning course. Strategic planning, based on the economic growth generated by new mines, is an issue which I face today; and one just has to look at the growth of Roxby Downs and nearby Andamooka to realise how a mining project can provide challenges to town planning. The School of Mines later folded into the South Australian Institute of Technology which, along with colleges of advanced education, then merged to become UniSA.

I am pleased to inform the honourable member that the state government continues to focus on developing world's best practice in urban planning. The Department of Planning and Local Government works closely with local government, communities and experts in the field to provide strategic planning at every level, from residential development to South Australia's land use strategy. In order to ensure we can continue to do that, South Australia needs trained graduates who can assist in mapping out and implementing a vision. I congratulate UniSA and all those involved in the planning program on its first 60 years and wish them well in the remaining events to mark this milestone.

POLICE PROCEDURE

The Hon. A. BRESSINGTON (14:49): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question about police procedure.

Leave granted.

The Hon. A. BRESSINGTON: My questions are:

1. Under what circumstances would police refuse to take a police incident report when a serious assault has occurred?

2. If a person who is wrongfully arrested was the victim of a serious assault, can that person, once released, lodge a police incident report?

3. What powers do the police have to compel a suspect to participate in a line up?

4. Are the police required to give either their name or badge number when requested by a constituent who believes they have been harshly or unfairly treated?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): I believe in relation to the latter that there are legal requirements on police officers, and they are certainly covered by police operating procedures, but I will refer that question to the police minister, who can get that information from the police commissioner. In relation to the first question, clearly, I think to have a proper answer to that question one would need to know the context in which that question was asked; in other words, the circumstances of any particular situation. Obviously, when people sometimes make accusations against police their version of events may differ significantly from the

perspective that police officers would take. In relation to that latter question, I am happy to refer that to the police minister. To properly answer that, one would need to know the context in which the events occurred which have given rise to the question.

POLICE PROCEDURE

The Hon. A. BRESSINGTON (14:51): As a supplementary question: just to clarify, is the minister referring to the matter of whether a police officer would give his name or badge number to a constituent if that was requested?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:51): I was referring to the earlier part of the question. I thought I answered the second.

HOUSEBOAT STRATEGY

The Hon. C.V. SCHAEFER (14:51): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning questions on the houseboat mooring and marinas strategy.

Leave granted.

The Hon. C.V. SCHAEFER: I have the submission by Houseboat South Australia, which is the peak body for owners and users of houseboats in South Australia, commenting on the houseboat mooring and marinas strategy and guidelines for the River Murray in South Australia. Among other comments, that group states that it wishes to provide additional feedback on a number of things, including, to use its words:

- The flawed and blatantly inaccurately based data, lack of credible science and ridiculous assumptions on which the River Murray Marinas Strategy has been based;
- The inadequate and inept consultancy process employed by the Department in an effort to implement unwanted and unneeded regulation, simply 'for regulations sake'; and
- The apparent victimization of one small sector of the recreational boating users of the River Murray in South Australia.

The submission continues that the critical concerns include the government's:

- blinkered intent to 'regulate purely for regulations sake';
- apparent position against recreational houseboat use on the River Murray;
- reliance on incorrect information, reports and supporting science in the formation of the strategy; and
- ill informed development of the River Murray Marinas Strategy, which is seen as a major threat to the very existence of houseboating in South Australia.

It further criticises the economic data used, which states that $61.2 million is the amount put into the economy by houseboating. It argues that the figures taken in 2004 are out of date, that no multiplier effect was used and that a more accurate—and its lowest—assumption is $183.6 million. It further queries the use of data which, by the admission in the government's paper itself, notes that 'this document is not a formal research paper and has no formal status'. My questions are:

1. Does the minister agree that the economic model and the base data used for the development of this strategy are flawed and out of date?

2. With regard to permanent mooring sites in registered off-river marinas, how many such marinas are to be built, where are they to be built and will they result in increased mooring fees?

3. Will local councils have any meaningful input into planning and zoning, given that, as I understand it, this is to have major development status, or will this be completely in the hands of the state government for development?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:55): In October last year I released for public comment the Draft Houseboat Mooring and Marina Strategy for the River Murray. To put into context the comments that the honourable member just read out, it was a draft strategy for comment.

From the point of view of the urban development and planning department, our principal interest in this strategy is to ensure that we identify those sites along the river where it is most

appropriate to have permanent marinas. Obviously, other departments are involved in issues in terms of managing the Murray and issues associated with houseboats such as ensuring minimum environmental impact from the emptying of grey water, and the like. They are essentially the concern of other agencies.

As I said, I released the Draft Houseboat Mooring and Marina Strategy last year. A number of meetings have been held at Renmark, Waikerie and Murray Bridge, and there has been a lot of comment on that, and I have received a number of submissions. It was quite obvious early in the piece that people objected to some issues, for example, some of the discussion items about mooring on trees. I, along with my colleague the Minister for the River Murray, Karlene Maywald, have already announced that that particular proposal in the draft strategy has been rejected.

I will be separating from the strategy and dealing first with that part that relates specifically to any demand for those marinas to be taken up. In terms of some of the other issues, public discussions have raised some legitimate concerns, which I have discussed with my colleague the Minister for the River Murray, and I sense that we will not be proceeding with many of them. However, we need to deal with the issue of suitable sites for marinas, because there is a lot of pressure to have them. My intention at this stage is to proceed along those lines.

In relation to the honourable member's question about whether they are major projects, I am not quite sure where that comes from. The previous marina proposed for Mannum was undertaken as a major project and was subject to a full EIS. At that time we did not have a marina strategy to indicate the right places to consider. Once we have the marina strategy in place—and I think that work has been done—the appropriate sites can be identified. There are recommendations in the strategy indicating where these marinas would be best located, for instance, within a reasonable distance of a town, so that there are facilities for dealing with grey water and other issues. Once the marina strategy is in place, local government would be in a position to regulate them.

I take this opportunity to thank local government bodies along the river for their cooperation and for working with the strategy to help identify particular sites where marinas are best located. That is something that will be finalised when the development plan amendment comes out, which is really the next stage. Once we have this marina strategy in place, that should enable future marinas to be built. When these principles have been identified and the development plans amended, my understanding is that they would then be approved by the relevant councils, rather than having to be done as major projects, as has been the case in the past.

HOUSEBOAT STRATEGY

The Hon. C.V. SCHAEFER (15:00): By way of supplementary question, what time frame does the minister envisage before any developments are started or finished?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:00): I would hope that that process can start soon. Most of the negative comments the honourable member referred to and some of the other principles in relation to it were not so much issues in relation to marina location but rather more to do with issues such as where one could tie up houseboats and the like. I thank everyone who made a contribution because it has been most useful in helping us form the policy in that regard.

In relation to the actual locations, that can be done through a development plan amendment process, which will be underway very soon because we have now completed the discussions in relation to the strategy. We would have been announcing the outcome fairly soon, so I have given the honourable member advance notice about where the government's thinking is going in that regard, but I hope we will be able to provide that information fairly soon and we can go ahead if proponents are willing to build these marinas. If they are in the right locations and meet the requirements, they can proceed.

RESIDENTIAL TENANCIES

The Hon. I.K. HUNTER (15:02): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about tenancies.

Leave granted.

The Hon. I.K. HUNTER: There has been media commentary of recent times concerning issues with tenants and their rental properties. However, not much focus has been put on the

obverse of the situation, namely, the responsibilities of landlords to tenants. What is being done to ensure that landlords are fulfilling their obligations in relation to managing properties and allowing tenants to enjoy their peaceful occupancy?

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) (15:02): Record numbers of landlords and agents have received fines and warnings this financial year as the Office of Consumer and Business Affairs Tenancy Branch clamps down on breaches of the Residential Tenancies Act 1995. Warning and expiation figures to date have ballooned nearly 300 per cent since the 2006-07 financial year, during which there were 27 expiations and 168 warnings. This financial year so far there have been 124 expiations and 420 warnings. Agents and landlords should be warned that, if they fail to provide timely lodgments of tenants' bond money, or if they fail to do so, they can expect to hear from the tenancy regulator, OCBA.

OCBA is making a conscious effort to change the relaxed attitude of some agents and landlords about their legal responsibilities, while also sending them a message that late or non-lodgment of bond money is a serious breach. Failure to comply can sometimes indicate that agents are experiencing trust account and cash flow issues. Agents and landlords must lodge bond money with the Tenancy Branch within 30 days and seven days respectively. The Tenancy Branch will explore whether agents who have received multiple expiations are experiencing trust account or cash flow problems.

The use of illegal clauses in tenancy agreements by agents and landlords is also a focus of OCBA's crack down. Tenants can be unsure of their rights and can sign tenancy agreements that include unfair clauses or are contrary to the act. Agents and landlords often have the advantage of knowing more than the tenant about how rental agreements work. Sometimes they can take advantage of this by trying to slip in conditions and clauses that are inappropriate, and we are letting them know that this is just not on. For example, the tenancy agreement may have a clause specifying the tenant to have the carpets professionally steam cleaned at the end of a tenancy agreement or to regularly prune trees in the backyard, when the tenant is only required to ensure that the carpets are left in a reasonable state, allowing for wear and tear, and is not obliged to prune trees but is only required to reasonably maintain the gardens.

The tenant is not obliged to do either and, today, I am putting agents and landlords on notice that, if they are caught engaging in this sort of behaviour, they can be subjected to warnings, expiations and possibly even further investigation. The message to agents and landlords is: we are watching you; if you are a repeat offender, watch out, be afraid. For more information interested people can contact the Tenancy Branch of OCBA or visit the website.

ELECTORAL ACT

The Hon. DAVID WINDERLICH (15:06): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Attorney-General, a question about the Electoral Act.

Leave granted.

The Hon. DAVID WINDERLICH: On Friday 13 February, the public officer of the Australian Democrats received a request from the Electoral Commissioner to provide details of membership numbers by Friday 20 February. The public officer provided a statutory declaration to the Electoral Commissioner by Monday 16 February. Today, the Attorney-General introduced a bill for an act to amend the Electoral Act into the lower house. That bill has a new clause, section 43A, annual returns and other inquiries. Clause 4 of that new section reads:

> The Electoral Commissioner may, at any time, by notice in writing, require a registered officer of a registered political party to provide such information as is specified in the notice for the purpose of determining whether the party is still eligible to be registered under this part.

I think that is a very sensible clause and I will have no problem supporting it when it comes to this council. However, there is no such clause in the current act which gives rise to some interesting questions. My questions to the minister are:

1. Did the Electoral Commissioner have the power to request information about membership from the public officer of the Australian Democrats on 13 February 2009?

2. Did the Attorney-General initiate the request for information about the membership of the Australian Democrats?

3. Will the minister explain how the Attorney-General—

Members interjecting:

The PRESIDENT: Order!

The Hon. DAVID WINDERLICH: —the first law officer of the state, could have exceeded his authority in this way or have allowed the Electoral Commissioner to exceed her authority under the Electoral Act?

4. Given the range of other important laws for which the Attorney-General is responsible, what steps will the government take to ensure that he is not exceeding his authority in those areas?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:08): The first law officer of this state has an obligation to ensure that the law is upheld. The law in relation to the filling of casual vacancies for members that are members of parties contains certain provisions and, of course, there are provisions in relation to what is a registered party and that, in turn, relates to the number of members of that party.

If the Electoral Commissioner or the Attorney-General are seeking to get information as to the provisions of the constitution or of the Electoral Act, as they relate to casual vacancies, then I would have thought that was not only within the purview of their responsibilities but they would be derelict in their duty if they were not ensuring that the provisions of the act were upheld.

I am really not sure what point the honourable member is trying to make. Is he saying that the Attorney-General should ignore the provisions? There certainly has been some public comment as to whether the Democrats did have sufficient members at the time to be a political party. Is the honourable member really suggesting that the Attorney-General should ignore those accusations?

This is incredible hypocrisy from members opposite. They really do not understand the very basics of integrity; they just do not get it. Fancy asking the question: should the Attorney-General, as first law officer, ensure that the law is upheld? That was, essentially, the question.

SUPER SCHOOLS

The Hon. J.S.L. DAWKINS (15:10): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Treasurer, a question about super schools.

Leave granted.

The Hon. J.S.L. DAWKINS: On 6 February this year, the Treasurer issued a media release declaring that the government would push ahead with its six super schools. On Tuesday, he answered a question from his own side on the subject in the other place without mentioning when the new schools will open for students.

Last week, the *News Review Messenger* carried an article on its front page, entitled 'Schools in dark on new building', which outlined the anxiety of locals as to the proposed new super schools. Mr Paul Rayner, principal of Smith Creek Primary, one of the schools closing at the end of 2009, was quoted in the article as saying that there was:

> ...some feeling that our new schools won't be open in time...No-one has put a date on it...The people from the Education Department, when we met with them, are locked into saying the schools will open next year but whether it's day one of the school year...we don't know.

Is the Treasurer prepared to guarantee the communities of the seven northern suburbs schools closing to make way for the new super schools at Smithfield Plains and Munno Para West so that these super schools will be delivered on time, on budget, and will open for the start of the 2010 school year?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:11): I will have to get that information from either the Treasurer or the Minister for Education. Obviously, they have the detail in relation to those matters, and I am happy to refer it on.

MINERAL EXPLORATION

The Hon. J.M. GAZZOLA (15:11): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about innovations in mapping.

Leave granted.

The Hon. J.M. GAZZOLA: Will the minister provide details of any innovations in mapping that can assist prospectors in exploration for minerals and possibly indicate areas that have the potential to generate geothermal energy in this state?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:12): I thank the honourable member for his question. Recently, I attended the launch in Adelaide by my federal colleague Martin Ferguson, the federal resources minister, of a new radiometric map produced by Geoscience Australia. Geoscience Australia produced this important map in collaboration with the states and the Northern Territory to provide yet another tool for prospecting as they look to unearth this country's mineral wealth.

The radiometric map of Australia uses gamma ray technology to show the surface distribution of potassium, uranium and thorium across 80 per cent of the continent. That is 80 per cent to date; eventually, it will cover 100 per cent. Almost all the gamma rays detected near the earth's surface result from the natural radioactive decay of these three elements—that is, potassium, uranium and thorium.

Their distribution indicates a lot about the relative age, stability and composition of the land surface materials, as well as the processes that have helped to create the Australian landscape. The result is a very colourful representation of the country. The new radiometric map has been produced by combining into a single compilation more than 450 individual surveys collected during the past 40 years.

Low-flying aircraft and helicopters were used to measure the gamma radiation emitted from the rocks and soils below. Interpreters can use the new radiometric map to make comparisons between radiometric signatures at different locations around Australia. They can also recognise and appreciate the significance of broad scale and local features in the data. This radiometric map is particularly useful in South Australia, where we are a world leader in investment in hot rock geothermal energy projects.

Hot rocks have an enormous potential to generate baseload power using the renewable and emissions-free geothermal energy on offer in the state. South Australia has attracted about 97 per cent of the investment in geothermal projects in Australia to date, with more than $870 million of the expected $1.5 billion to be invested in geothermal licensed work programs in the term 2002 to 2013.

Geodynamics is currently working on the most advanced hot rock engineered geothermal system project in the world. That is, of course, in the Cooper Basin in the state's Far North. Origin Energy and Tata Power are cornerstone shareholders in Geodynamics, and Origin is also a joint venture partner in Geodynamics' Cooper Basin project.

AGL is also a cornerstone investor and a joint venture partner with Torrens Energy, which is working towards deep drilling and proof-of-concept projects in South Australia. Likewise, TruEnergy has joined Beach Petroleum as partners in Petratherm's Paralana project in South Australia. The Petratherm/Beach Petroleum joint venture hopes to supply power to Heathgate Resources' Beverley uranium mine in the second half of 2010.

South Australia is richly endowed with hot rocks, and this radiometric map provides a valuable tool in determining the level of radioactivity throughout the state, which no doubt will assist explorers to identify areas to tap for deep drilling for their geothermal projects. We hope the release of this map by the federal government will further enhance the exploration and, ultimately, the exploitation of our very important hot rock reserves.

LAND TAX

The Hon. D.G.E. HOOD (15:16): I seek leave to make a brief explanation before asking the Minister for Minister for Mineral Resources Development, representing the Treasurer, a question about land tax.

Leave granted.

The Hon. D.G.E. HOOD: I have been surprised and concerned in recent months to hear from a number of constituents regarding very large increases in taxes and levies; for example, the oyster levy (now withdrawn), and land tax.

Late last year, one constituent contacted me to complain about an outrageous land tax bill he had received. Last financial year, this businessman paid $44,938 in land tax. This year, given an increase in land value and the way in which the tax is calculated, the constituent was sent a land tax bill for $144,500. That is more than a 200 per cent increase in taxes in one year for the same property. He has told me that he cannot afford to pay this amount, and he has indicated that he is being forced to consider laying off staff specifically for the purpose of paying his land tax bill.

Businesses in South Australia will pay about $900,000 per year in land tax on property worth $25 million, which is approximately the price of a reasonable sized piece of commercial land near the city. This $900,000 is about $283,000 more than the same businesses would pay in Tasmania, which is the next highest taxing jurisdiction, for a similarly valued property. It is also about $435,000 more than they would pay in Western Australia, and around half a million dollars more than they would pay in Queensland. This outrageous tax is crippling business investment in this state, and it is stopping South Australian families from getting work. My questions are:

1. Will the Treasurer order an immediate freeze on land tax property valuations to provide relief for businesses and investors?

2. Will the Treasurer increase land tax thresholds and cut rates to bring South Australia's property tax regime at least into line with other states, specifically by immediately increasing the base threshold from $110,000 to $250,000, and the maximum threshold from $1 million to $2.5 million, at a rate of 2.5¢ per dollar?

3. Will the Treasurer abolish stamp duty on non-residential conveyances?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:18): Of course, every government would like to reduce taxes. As we have seen from members opposite, there are also plenty of demands for increased expenditure. However, we all know that the skill of government is in balancing the two. We are now in an election year, and we certainly look forward to seeing what the opposition will do. What the opposition has already done, of course, is put off any hard issues by saying, 'We need to have a look at the budget.'

So, on the one hand, opposition members pretend that somehow or other there is some solution where you can increase expenditure and increase taxes, while on the other hand they say they do not have the data.

The Treasurer has said that every government would like to reduce taxes if it had the capacity to do so. I remind the honourable member that this government has undertaken significant tax reform. In February 2005, there was an increase in the tax-free threshold from $50,000 to $100,000. There were adjustments to the land tax bracket and rate structure to provide broad-based relief, and there was also the introduction of specific land tax exemptions. The land tax reduction package also included land tax rebates in respect of the 2004-05 land tax assessment. In the 2005-06 budget, the tax-free threshold was raised to $110,000, and there was also the introduction of specific land tax exemptions for home-based businesses and residential parks, and also broader access to primary production exemptions in rural areas. So, in recent years, this government has increased thresholds in relation to land tax and provided some relief—indeed, as we have done in relation to payroll tax.

The Rann government has also introduced a range of tax release reforms in recent years that will total nearly $3 billion by the years 2011-12, including: the phased abolition of rental duty; the abolition of mortgage duty on owner-occupied residential loans and refinancing effective from 1 July 2005; first home owner stamp duty concessions totalling $55 million; cuts to mortgage duty at a cost of $415 million; the abolition of debits tax totalling $367 million; and payroll tax relief in that time of over $500 million. So, this government has significantly reduced taxes in this state.

Obviously, we would like to do more, but it is quite clear that, in the current environment with the global financial crisis, this state is being impacted heavily in relation to revenues. We have already seen other states that had far stronger financial positions than South Australia—I am talking about Queensland and Western Australia—moving into deficit and having significant problems in relation to their budgets. That is the environment in which this state government will be looking at issues with the forthcoming budget.

We would like to do as much as we can, and it is important that we keep our state competitive, but obviously we also have to ensure that we are fiscally responsible. If we are not, the cure for fiscal irresponsibility could be worse than the disease. However I am sure that, in his

consideration of the budget over the coming months, the Treasurer will be weighing up all these issues.

ANSWERS TO QUESTIONS

SA LOTTERIES

In reply to the **Hon. J.M.A. LENSINK** (27 November 2008).

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

1. The 2008-09 operating budget for SA Lotteries provides for gross sales of $356M. This is a decrease of $10.6M or 2.9 per cent on the 2007-08 sales of $366.6M. The 2007-08 record sales resulted from historically high jackpots for Oz Lotto and Powerball.

The 2008-09 budgeted return to government (excluding unclaimed prizes) is $82.3M, which is $7.1M less than the $91.7M distributed in 2007-08. This is primarily a result of a reduction in gambling tax returned to government due to lower forecast sales.

RESIDENTIAL TENANCIES

In reply to the **Hon. J.M.A. LENSINK** (27 November 2008).

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

Section 62(2) of the Residential Tenancies Act 1995 is quite clear in setting timeframes by Regulation that security bonds must be lodged with the Commissioner. The period allowed by Regulation is 7 days for landlords and 30 days for registered agents.

RESIDENTIAL TENANCIES

In reply to the **Hon. J.M.A. LENSINK** (27 November 2008).

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

The number of rented residential premises for which security bonds are held by the Residential Tenancies Fund increased from 105, 494 at 30 June 2007 to 111, 502 at 30 June 2008, an increase of 5.7 per cent.

The balance of the increase can be attributed to the higher rental amounts for bond lodgements for new tenancies, against the lower rental amounts for tenancies that are ended and the bonds paid out. This reflects an increase in weekly rents in South Australia.

SUNDRY TRADERS

In reply to the **Hon. R.D. LAWSON** (27 November 2008).

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

1. Assurances are one of the most flexible and effective remedies available to the Office of Consumer and Business Affairs (OCBA).

Under Section 79 of the Fair Trading Act 1987, the Commissioner for Consumer Affairs may accept an assurance from a trader. An assurance is a written undertaking that commits the trader to refrain from certain conduct.

OCBA uses a variety of tools including education and sanctions to enforce fair-trading legislation and standards. These tools include oral and written warnings, undertakings and assurances, public naming, expiation, disciplinary action and prosecution action.

OCBA takes many things into account before determining what action it will take. These things include, but are not limited to, the seriousness of the conduct, detriment, profit made, age, the attitude of the alleged offender and the need for deterrence.

If a trader is detected breaching an assurance they have provided, they can be prosecuted for breaching the assurance as well as for the conduct that gave rise to the breach of the assurance. OCBA can, and has, prosecuted traders for breaching assurances.

2. As required by Section 80 of the Fair Trading Act 1987, the Commissioner for Consumer Affairs maintains a public register of assurances. The purpose of the register is to let the public know about the outcome of investigations conducted by OCBA and the terms of assurances given by traders. Consumers can then be on guard when dealing with traders and report breaches of an assurance to the Commissioner. The Office of Consumer and Business Affairs also checks for breaches of assurances as part of its monitoring and compliance program.

OMBUDSMAN'S REPORT

The PRESIDENT (15:22): I lay upon the table a copy of the 36th Annual Report 2007-08 of the South Australian Ombudsman.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1628.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:23): I understand that everyone who wished to speak on this bill has done so, and I thank honourable members for their contribution to the debate.

The Hon. Mr Wade asked why the provision dealing with restraining orders to be made against offenders is confined, at least at this stage, to sexual offences. The answer is that the government was advised by the Commissioner for Victims' Rights that that was where the problem lay, in practice. Of course, nothing in the bill in any way operates to prevent a court making a restraining order against an offender in other appropriate cases.

However, I am sure that the honourable member will acknowledge that sexual offences are always special and different from other offences because of the sexual element. There are, for example, special rules of evidence, special rules of procedure, and special and particular rules of the criminal law generally that deal specifically with sexual offences. It is not so odd that this provision is confined, at least in the first instance, to sexual offences.

Both the Hon. Mr Wade and the Hon. Mr Parnell drew attention to the proposed amendments to the Freedom of Information Act. The government recognises the sensitivity of this subject. Of course, everyone has a natural interest in keeping FOI laws as open as possible and limiting prohibitions against disclosure; that is natural and to be expected. I recognise that both honourable members are taking a responsible position—as there are many things in the office of the commissioner that should not be subject to disclosure—and want to find a compromise position.

I will be interested to see any proposal. In the meantime, I point out that the proposal merely puts the commissioner on the same basis as, for example, the Parole Board, the Ombudsman and the Police Complaints Authority. One might equally say to the Hon. Mr Parnell that a submission to a law reform inquiry by the Ombudsman is similarly exempt; and that may be a good thing. The Commissioner for Victims' Rights may well use as examples information about victims that should not be made public, so there are arguments to be made here. We will proceed further with that in the committee stage. I commend the bill to members.

Bill read a second time.

GAMBLING MINISTER

The Hon. R.I. LUCAS (15:26): I seek leave to make a clarifying statement to correct the record.

Leave granted.

The Hon. R.I. LUCAS: On reading today my contribution yesterday in Notices of Motion: Private Business, I note that I am recorded as saying:

> …the new Minister for Gambling…and persons associated with him being asked to leave the Lion late in the evening—if the Hon. Mr Finnigan wants to go down that particular path—not because of wearing shorts but because of other issues.

If, indeed, that is a correct record of what I said yesterday that is certainly not the position I wanted to put on the public record. I intended to put on the public record that the Minister for Gambling had been involved in animated discussion with security staff at the Lion, and whether or not that involved his being asked to leave or not being allowed to enter, or, indeed, animated discussion on some other issue, I was not in a position to indicate. Certainly, information provided to me gave a view of a particular informant about the circumstances. However, I am not in a position to make a judgment as to its accuracy or otherwise. I want to place on the record a clarification of the statement I made about the minister.

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 1786.)

Clause 5.

The Hon. S.G. WADE: I understand that we are considering subclause (9). In relation to the definition of 'registered industrial association', will the minister advise where that term appears in either the bill or the act?

The Hon. G.E. GAGO: It appears in section 24(4)(b).

The Hon. S.G. WADE: In subclause (11), the bill inserts the words 'or facilities' after the word 'place' and 'or use' after the word 'enter'. Will the minister explain what will be the impact of those two expansions and where that change originated?

The Hon. G.E. GAGO: I have been advised that this terminology is to assist with consistency between state and commonwealth legislation so it matches the commonwealth legislation, and it is similar to those terms used in all four pieces of commonwealth legislation that are relevant. 'Facilities' refers to the amenities available to the public on the premises in a way so as not to exclude those people who would ordinarily be able to access the facility.

The Hon. S.G. WADE: I refer back to the minister's response on 'registered industrial association'. Considering that that reference is in the act and not in the bill, why was it considered necessary to define it when it has not been defined in the past, and are any organisations that would come under the term without definition excluded under the definition?

The Hon. G.E. GAGO: The reason that we have defined it is for the purposes of clarity. It simply extends the definition to both commonwealth and state registered authorities and makes that quite clear. In terms of the second part of the question, we do not believe that it would exclude anybody. We are not aware of anyone.

The Hon. S.G. WADE: I move on to subclause (14), which deals with caring responsibilities. In response to a question from the Hon. Robert Lucas earlier today, as I understand it, the minister indicated that the Aboriginal kinship elements of the caring responsibilities definition are an innovation in this bill and do not reflect the commonwealth legislation. Will the minister advise us whether there is any legislative precedent for this clause or other aspects for its origins?

The Hon. G.E. GAGO: I am advised that, no; we are not aware of any legal precedents. However, we have included this definition to ensure that we do include Aboriginal people or to make sure that Aboriginal people are protected in their caring relationships in the same way as non-Aboriginal people.

The Hon. S.G. WADE: I suspect that it is not in the same way in the sense that it reflects the fact that non-Aboriginal caring responsibilities are often not seen as broad as Aboriginal caring relationships, and it is that aspect that I would like to explore. I do not claim to be an expert on Aboriginal kinship relationships, but my understanding is that one would accept that one has caring responsibilities beyond one's immediate family, including one's network.

We have not one but a number of Aboriginal communities in South Australia. As I understand it, when an Aboriginal person marries an Aboriginal person from a community other than their own, they acquire caring responsibilities for not only their original Aboriginal community but also for the Aboriginal community to which they are now related.

From my very thin understanding, it seems to me that this could have the potential for establishing caring relationships within a network of Aboriginal and Torres Strait Islander people that can be quite extensive. In respect of the terms 'caring responsibilities' and 'Aboriginal kinship

rules', where does the commissioner or the tribunal go for guidance to make this anything other than an Aboriginal person having caring responsibilities for every other Aboriginal person in South Australia?

The Hon. G.E. GAGO: I am also not an expert on Aboriginal and Torres Strait Islander kinship. The Hon. Stephen Wade is quite right in that they are not the same caring relationships as those of non-Aboriginal people. I should have said 'equivalent to' so that they protect their relevant caring relationships.

In terms of guidance, again I am confident that there are groups or individuals who would have expertise in kinship rules and the obligations involved, and they could be used to give expert evidence. The bill provides that the person must be related and also responsible for caring; so, those criteria have to be met. We believe that guidance would likely be sought from experts with knowledge in that particular area.

The Hon. S.G. WADE: By way of clarification, the minister's last reply suggests that there are almost two criteria, that is, a person has to be related and they have to have responsibilities under Aboriginal kinship rules. My interpretation of that answer is that it suggests that they need to be related in a genetic sense, but that is not how I read the clause. I understand that the clause can be interpreted so that they can be related under Aboriginal kinship rules, which may be skin group, nation, community, or whatever. There may be no genetic connection between two people who, under Aboriginal kinship rules, may well have caring responsibilities.

The Hon. G.E. GAGO: Again, I am no expert in kinship rules; however, the bill states that the person is required to be related according to Aboriginal and Torres Strait Islander kinship rules.

Clause passed.

Clause 6.

The Hon. S.G. WADE: The government has withdrawn the provision in the 2006 bill at this point which required a substantial reason. We believe that was taking it too far.

Clause passed.

Clause 7.

The Hon. S.G. WADE: I move:

That consideration of clause 7 be postponed and taken into consideration after clause 69.

Motion carried.

Clauses 8 and 9 passed.

Clause 10.

The Hon. S.G. WADE: What is the source of the new provision?

The Hon. G.E. GAGO: This provision is the same or similar to provisions in other acts. It is an efficiency measure and is far more effective for the presiding member, who is legally qualified to make legal decisions. Assessors are not qualified to make legal decisions and cannot decide questions of law, so it is inappropriate and inefficient to bring them in to consider those matters on which they are not qualified.

Clause passed.

New clause 10A.

The CHAIRMAN: There are two amendments filed here—one in the name of the Hon. Mr Hood and I understand the other in the name of the Hon. Mr Wade—both moving to insert a new clause 10A. We can have only one new clause 10A so, given that the Hon. Mr Hood's amendment was filed first, I will put the Hon. Mr Hood's first; if that gets up, there will be no need to put the Hon. Mr Wade's. If the Hon. Mr Hood's amendment is lost, the Hon. Mr Wade will have the opportunity to move his, if he so wishes.

The Hon. D.G.E. HOOD: I am confused as to why the Hon. Mr Wade wants me to wait. I am sorry; I am not clear about that.

The CHAIRMAN: You can canvass both. Is the Hon. Mr Hood going to move his new clause 10A or not?

The Hon. D.G.E. HOOD: I will certainly move my amendment, but I understand that there is an agreement between the government and the opposition to postpone it.

The CHAIRMAN: Somebody should tell the Chairman about it. What do you want to do? The minister might explain it to me.

The Hon. G.E. GAGO: My understanding is that, in respect of the earlier postponement, we confused the clauses and we meant to postpone clause 10.

The CHAIRMAN: Clause 10 has already been passed. This is to insert a new clause 10A.

The Hon. G.E. GAGO: That is the one we want to postpone.

The CHAIRMAN: No, you simply do not move it.

The Hon. G.E. GAGO: That is what we are asking.

The CHAIRMAN: It can be reconsidered later.

Clause 11.

The Hon. S.G. WADE: What was the rationale for moving away from division-related fines, and what was the original fine level?

The Hon. G.E. GAGO: I have been advised that the original penalty was $2,000, which was introduced in 1984, and that has been increased to $5,000. The shift from divisional penalties to a monetary penalty is, I understand, a preference of the Attorney-General to have those penalties expressed in terms of monetary amounts.

Progress reported; committee to sit again.

STATUTES AMENDMENT AND REPEAL (FAIR TRADING) BILL

Adjourned debate on second reading.

(Continued from 3 March 2009. Page 1455.)

The Hon. R.L. BROKENSHIRE (15:54): I rise to speak to this important bill. I urge the council not to rush through it, because it has some serious implications. I think other members have explained, and will further explain, what is plain to us all: that there are two clear components to this bill.

The government has put to us that one aspect relates to a long-running review of the acts under the Office of Consumer and Business Affairs' supervision. I think it is fair to say that that element has not received much attention and perhaps is not controversial. I say 'perhaps' because members' time, I suspect—certainly, in my case—has been taken up addressing the second element to do with recreational liability. There may be controversial aspects in the first element, but our focus, for the time being, is on the second.

That second element is the question of recreational liability. These provisions have been a mess since this government tried to codify elements of the common law over five years ago in response to the supposed litigation crisis, and we got these provisions via the Recreational Services Act 2002.

I remember the debate, the issues and the saga around that. It has never been an easy issue since 11 September, and there has been a lot of litigation, for example, in relation to supermarkets, where people were litigating for slipping on wet floors and the like. The Treasurer eventually took over the saga, because he believed he could find a way forward, but even then many months, if not a year, went by before the Recreational Services Act came into being. That act made it very difficult particularly for not-for-profit organisations, which are so important because of the recreational and other organisational activities they provide for the community, and it did a lot of damage back then.

I acknowledge that the codes of conduct issue might have been well intentioned, but they have now turned out to be a shambles. When you think about it, this is an embarrassment to the whole of parliament, really, not just the government and the Treasurer. What happened was that community groups went to lawyers to have a code of conduct drawn up, and they were frankly told that they were not affordable and that they should just quietly disobey the law, which is incredibly concerning. I am sure, Mr President, that you like myself and many others have sat on many sport and recreation, church and other volunteer groups, and you always have to have in the back of

your mind what could happen with respect to liability and indemnity. When you go to a lawyer because the government has introduced new legislation, which has been passed by the parliament, and the lawyer says to you, 'This will be unaffordable for you, so disobey the law,' it is pretty concerning. Lawyers knew that no-one was drawing up codes of conduct, for the same reason. It is embarrassing to the parliament because when the legislation was put into practice, it was found to be unworkable.

To its credit, the government has finally conceded that it is a mess and is repealing the code of conduct measures. We have to be careful when we bring in legislation that we do not create a mess. There is other legislation I am concerned about, and I look forward to the debate on legislation such as the Public Sector Bill. I think that we could be going down exactly the same track with that bill, but it could be even more damaging to the South Australian community and workforce. I will not stray from this debate, but I do look forward to the debate on that measure.

I believe that we as a parliament have an obligation to get this right once and for all. However, the big question for the parliament is: where do we go from here? Mr President, if you are getting some of the representation I have received, you know that it is incredibly confusing. It is very frustrating for people out there. We have a situation now where some businesses are at risk. Some not-for-profit organisations are having sausage sizzles, fundraisers and quiz nights to raise money for insurance companies, instead of spending money on resurfacing netball courts or installing better lighting for their ovals. I will talk about insurance companies later on, because I am less than impressed with the information we have received, despite the fact that we made attempts to get real hard evidence from the insurance companies about claims.

The government has conceptually put up its proposal in this bill to try to protect recreational service providers by setting the bar higher than the common law provision of negligence, and it has called that bar 'reckless conduct'. The government does have a noble intention, and that is to make it harder to sue recreational service providers by requiring more than negligence to have occurred: 'reckless conduct' is the term to be considered; or, to put it another way, one who participates in recreational services needs to accept that certain elements of risk are involved. Yet submissions we have received are that insurers are likely to be very happy with this bar because it is, in fact, lower than what it should be higher than; that is, they will be silent on these provisions because they will find it easier to wash their hands of insuring recreational service providers as a result of these amendments.

I have to say that I am fed up with what is happening in the insurance industry. Look at the costs in your own household or in your business. I know what it is like running a farm now; when you go home and try to talk to your wife and family at night they have just come back from a meeting frustrated because they got a bill from the insurance company. It is easy to get the account and pay the bill, but it is damn hard to get a resolution on a claim.

Family First supports the end, if you like; the end being to protect recreational service providers. However the end does not justify the means, and we have serious concerns about the means by which this government is trying to protect recreational service providers. We are informed on this critical second recreational services element of the bill by the numerous groups who have contacted us about the issue, and I am sure they will not mind me putting it onto the record because I am sure every member here has, one way or another, been contacted by Sarita Stratton, Matt Slater and others who have met with members or sent us emails. I acknowledge and am grateful for the information I have received from a number of community groups—in particular Sport SA and Tony Kerin, head of the Australian Lawyers Alliance in South Australia. I have also observed the weekend media and previous articles in local newspapers about the issue, as well as items on television in recent days.

Family First could not make it to the minister's briefing earlier the other day because of work constraints, but I am sure that the minister, in summing up, can put her arguments on the record in rebuttal or agreement with the recreational services sector. I think it is useful to point out that the angst in the recreational services sector is not new, and I think Ms Stratton would agree with that sentiment. That angst has actually existed ever since this government passed a range of civil law changes that were collectively known as the Ipp reforms. There was enough angst out there before, and there was heartache. That is how bad it was, and this half-baked proposal has just caused more pressure across our South Australian community.

I think this second element of the bill, the changes to recreational services liability, demonstrates the evidentiary failings of those changes, and I want to briefly explore that. I pause for a moment (because I believe in giving credit where it is due) to mention the member for

Davenport. If the parliament or government of the day—and I do not care what colour it is—was to actually embrace expertise within the parliament, and include that expertise within some of its brainstorming forums before it brought legislation into this place, the parliament would work better and the government would come out looking a lot better than it sometimes does.

On that point, I would like to talk about the member for Davenport, Iain Evans, who has always been incredibly active when it comes to organisations providing not-for-profit recreational sport and service. He had good ideas back in 2002 that were not really listened to, and so here we are again debating another way forward. I believe he has had a longstanding passion and interest in this issue, and I also believe that the government's changes in this bill are partly in recognition of his advocacy for recreational service providers. However, had he been embraced more in 2002 (and he was not a threat; he was one member in opposition) we could have been a lot better off as a community, and I do not believe we would be debating this today.

I return to the evidentiary failings of these changes. In the drug debate, and with the conduct of this bill, the minister has told members time and again, as the former minister for substance abuse, that her government would use 'an evidence based approach to dealing with social problems.'

However, when it came to the demands of the insurance industry, short of a dollar after 11 September, the industry was not required—and is still not required—to demonstrate its claims history from recreational service providers. I would love to have seen real muscle from the government on this issue, and I cannot understand why the government did not put some muscle into the insurance industry on this issue. As an independent smaller party we have been trying to do that, but I do not think we should be put on the spot in the parliament today, having to debate this legislation without evidence from the insurance industry about claims.

I have not had to jump through so many hoops for a long time in order to get answers from anyone as I have had to do to get answers from the insurance industry. I had a good association with the Insurance Council of Australia, particularly the South Australian branch, when I was the emergency services minister working through the emergency services levy; and I acknowledge that. It was very happy to embrace me as minister at the time and give me all the information and assistance in the world because, guess what, the insurance industry was going to do all right out of the emergency services levy; so it was an open book.

However, with respect to not-for-profit recreational sport providers, when we ask how many claims the industry has had, what it costs and the premium income received in the past five or six years, we cannot get those figures. They say, 'Collectively, we don't have that information and it would be far too difficult to collate all that information as an industry.' I do not wear that; it is a cop-out. It says to me that they are not playing their part in this matter. It is one thing for them to throw a few dollars into grant applications from time to time and to sponsor small clubs but, at the end of the day, without transparency, how do we know that these premiums are not artificially high? I have a feeling that they are.

On the basis of anecdotes, not evidence, a vital and largely volunteer sector of our community was manipulated into codes of conduct that they could not complete. One spent several thousand dollars coming up with a code and then found it futile in every respect.

Our office has put to the Insurance Council of Australia via its constituent members the claims history of recreational service providers or, to put it another way, we simply asked the ICA to show us how recreational services were sending insurers broke. We have not yet received anything and I am not optimistic about receiving this data. Indeed, despite members submitting requests for a claims history or even their position on this bill, the silence has been deafening.

It is for that reason that Family First will move an amendment to the bill which would require insurers to submit their claims history so that we can develop an evidence base. I trust that both major parties, together with my crossbench colleagues, will look at the amendment. If we are to go forward proactively, the parliament must set up a process so that we can have some evidence-based claims history for the future. It will make our job easier and give more confidence and credibility to the insurance companies. I will be moving an amendment because, regardless of the outcome of other amendments to this bill, I believe that having an evidence base is simply good public policy.

I turn briefly to my second amendment, which I call the Family First Community Protect scheme. The amendment requires SAGFA—which was formerly the South Australian insurance corporation and which now comes under the umbrella of SAGFA—to offer insurance to the not-for-

profit sector. I would hope that the government, which says it has a significant social conscience, would look seriously at this amendment and support it. I see this as a way forward for not-for-profit organisations. Already, the government, through that arm, insures a number of volunteers within the CFS. If we can offer an opportunity for not-for-profit sport and recreational organisations to buy their insurance protection through the government, then I think that is good social policy.

I would never advocate government going into profit based business insurance. I would never advocate that; it would be against my ideology, but it is certainly within my personal ideology to see government offering a low premium option for not for profit organisations right across the volunteer sector, because volunteers are vital.

We talk about obesity and the fact that we need good health; in fact, the Minister for Health has a forum coming up about overweight children and obesity. Well, one way of getting rid of that is getting them out on a sports track of one kind or another, but they will not be able to get out there if their parents cannot afford to contribute to the exorbitant insurance premiums. If the government underwrites it, there will be some confidence that it will be done at bargain basement requirements.

I would love to delay this legislation a little longer, because it has put so much pain on people anyway; I would ask the government to muscle up to the insurance industry and have a look at what the real claims are. If the claims for what we are talking about here in this chamber are as low and as profitable as I believe they are to the insurance companies, the government might find there is even a surplus in it for it; a win-win for both. Really, it is about time this government started to look at that.

Put it this way. I have trouble with the ideology of this government regularly; I have trouble with the Public Sector Bill and some other bills, but previous Labor governments would definitely have looked at this. This would have been core for what I would call the traditional Labor governments, but I do not see a lot of tradition in this government. I put out an olive branch and ask it to strongly consider this.

To finalise my points on that, the State Strategic Plan update in July 2008 indicated that, on target 2.2, Preventive health, entitled 'Healthy weight', the government's progress was level 3, negative movement, and it had an achievability rating of 4 or 'unlikely' for being the lowest ranking to get on that scale. We have heard members of the medical profession and the public nationwide complaining about obesity epidemic matters, and here in South Australia the government is getting an F for healthy weight according to its own strategic plan. So, this second amendment is designed to reduce costs for the not for profit sector so the sector can engage people and get them into sport.

We are talking about footy clubs, netball clubs, soccer clubs, Scouts, Guides and all those groups that engage with children and get them active. If we do not protect this sector, the state will keep failing on its strategic plan targets and also on its budget, because there will be even more going to reactive health care. Community groups and not for profit organisations support social cohesion and volunteering and are almost always family friendly. They provide services that enable families and children in particular to be active, to learn and to learn to be participants in the broader society.

If we do not support volunteer groups as Family First proposes, we consign ourselves to an internet and gaming console generation who can kill plenty of bad guys at a shoot-'em-up game but who are not fit or who perhaps have poor mental health due to a lack of social engagement and therefore become further isolated and dysfunctional and a further cost to our community in every respect.

I recall the Hon. Terry Stephens in this place has spoken about kids being unable to get into soccer clubs in the north-eastern suburbs. I know this to be true. Why are fees so high to play? Insurance premiums play a significant part in this, I believe, and as a result largely poorer children cannot play sport because they cannot afford it, and that then brings in significant social problems in those districts, about some of which we have heard, with colleagues such as the Hon. Ann Bressington commenting in the media only recently.

Sport is paramount to a healthy lifestyle and environment—or recreation, at least. We therefore need SAFA to underwrite insurance so it is competitive against the private market. Again, in an indirect way, this should also drive the government to discover an evidence basis for claims risk in this sector but again enable the government to monitor claims history by frankly managing the insurance.

A community group recently told us that it tried to hire a hall once a week for meetings, and it was told that its group would need to pay $500 to $600 a year, when it would be using such a facility for only a few hours a week. This is a ridiculous situation that the Minister for Volunteers should take a direct interest in. He should consider our amendments to fix a toxic insurance situation for volunteers, not for profit. I believe that a major component of that high rent was insurance.

I also believe that it is good policy for the government to underwrite insurance for volunteers, because, as I said, it already does so to some extent. The CFS, the SES, surf lifesaving clubs and others considered to be emergency services are backed by government insurance. This is a precedent for governments supporting important volunteer groups. It would be a damn good vote winner for them, too, by the way. Our amendment is a small way of getting the government to throw its support behind all volunteer groups as a pro-volunteer measure.

On this subject, I also want to say that, if the government is so confident that it has the legislation right with its new reckless conduct provisions, it should put its money where its mouth is and back it via insurance. I will not debate it much further now, as the committee stage is to come, but that outlines the general rationale for our other major amendment.

I want to conclude on the subject of waivers. I have to say that this is a difficult subject, and one that we have spent a lot of time on, and I am still uncomfortable about it. We have received strong submissions from those who do and do not support a parent's ability to waive liability regarding their children. I am pleased to hear lobbyists and members saying, 'Surely, this or that is putting families first', because it shows that our party and others are getting a message that is starting to get through to people about one of the most important considerations in legislating—simply, the impact on families.

I have been pleased to see this focus on the lobbying. Sport SA, via its Sport-E publication of 23 March, has passed on its desire that waivers for children be available. Therefore, we have a situation where we know that some want waivers, but we have to ask why they want them and whether there is a better solution. Family First's amendments, I believe, provide that solution.

We are concerned that waivers will not put families first because, arguably, they can have the effect of leaving a parent without recourse to insurance because of unforeseen harm to their children, and also because a child could sue their parents for the waiver; and, remember, at law they have a right to do so once they reach the age of 18, not at the age of injury. In other words, we do not want to support a situation that could see adult children suing parents. I do not think that we are being dramatic by raising that particular point. I think the potential is there, for sure.

This is reprehensible to our supporters, and it could see claims on deceased estates or all sorts of bizarre situations. I know that this is the model interstate, and I am not writing off the issue of parental waivers, but I am trying to indicate that we want to be sure that the arguments are watertight to prevent parents being left high and dry and children being able to sue parents, or we will be back on this at some time in the future.

I place on record my request that the minister table any Crown Law advice that the government has received on this second component of the bill, so that all of us in this chamber can have a close look. In particular, I am interested in whether the provisions on reckless conduct will stand up in a court of law. That is what I am particularly worried about. Will reckless conduct provisions actually stand the test of the courts and serve to be the higher bar to litigation that the government intends it to be?

Family First is favourably disposed to returning recreational service providers to common law coverage, and we ask the government to produce its evidence base of why it does not like this option. I will have a bit more to say on that when I receive some further legal advice, which we are waiting on, during committee.

To me, all of what I have said so far points towards a government that failed to consult publicly and demonstrate its evidence base for this legislation. I believe, therefore, that there is merit in going slowly on this legislation. I know there is pain out there, but let us get it right this time; let us not just create another problem for all these people. Let us get some community consultation so that we know what is the true claims history and insurance premium position in the recreational services and not-for-profit sector. Frankly, that is what the government should have done in 2002. If it is now trying to make amends, it should do so properly. Let us not make another mess that the government needs to fix in another seven years.

PUBLIC SECTOR BILL

Adjourned debate on second reading.

(Continued from 24 March 2009. Page 1639.)

The Hon. R.L. BROKENSHIRE (16:21): In order to assist government business, I will make a start on my speech today, but I will seek leave to conclude my remarks at a later date. I have major problems with what is happening with this bill. I will go into technical detail at the next opportunity. To put my thoughts on the public record, I am surprised about it. I will continue to back the government on legislation, particularly legislation where I believe it has it right (and many times already since I have been privileged to be in this place I have done that) and where I know that the government has what it and all governments call a mandate. However, I do not believe there is any mandate for this draconian Public Sector Bill that has been put before the parliament.

It is an interesting bill to come from a Labor government; I would not be surprised if a Liberal government put up some parts of this bill, but in fairness I understand that the Liberal opposition will put forward a series of amendments as it has problems with this bill, also. When one puts that into context one asks, 'What is driving the government to do this?' From the day the government got in it has always surprised me with its approach to the public sector.

In trying to paint the picture that I wish to paint, before I came into parliament I had a different understanding and lack of appreciation of what the Public Service did or delivered. That was understandable when I reflect because, as a family farmer and in private business, most of the time you had the public sector either writing to you or calling on you and it was always a tax, increased charges, an impost, a direction or something like that, so you did not have the chance to work with Public Service people to the extent that you do once you have a different career path or, in my case, once I came into the parliament.

From the very time I came into this place I started to realise the real importance of the public sector and how those people working there, by and large—there are always exceptions to the rule, particularly with 70,000 to 80,000 people—are good, committed South Australian people who perform their work within the requirements of the Public Sector Management Act and within the criteria of 'without fear or favour' and on behalf of the South Australian community as public servants.

I have to say that there is an enormous differential between the public and the private sectors. Family First, as a party, has a lot of members in the private sector, just as I am outside the parliament. I want to put this on the public record, because a lot of our members will see my remarks when they receive our newsletter: you need to see the difference between the private sector and the public sector. Yes, we need performance indicators, efficiencies, targets, achievements, and inputs and outputs—you need that in the public sector and you need it in the private sector.

However, the public sector is there for the public; it is not there for the profit requirements of the private sector. By the way, it is not funded by government; it is funded by taxpayers to provide services, facilities and resources to South Australian citizens. It is not the same as the private sector. I want to clearly and (hopefully) articulately put that on the record. They have a different role. There are budget requirements and pressures, with the necessity to be going through budget processes, having meetings and planning strategies with CEOs and other senior management people within a portfolio area to get better outcomes, more rapid achievement of government policy and, generally, more efficiency within the Public Service.

I was part of that when I was a minister as, indeed, the current ministers are a part of it. That is the proper business of government and ministers and, within reason, those things have to occur. The trade-off for that occurs through enterprise agreements, whereby people might trade off some rights they have for a pay rise, or they might agree to accepting other efficiency-gaining initiatives for that pay rise. That is all healthy, and I am not against it: I want to make that clear.

However, what I see as being incredibly unhealthy is the practice of now allowing CEOs to be basically hirers and firers in the Public Service. None of my children work in the Public Service but I would be proud if they did—very proud. In fact, I have encouraged the girls to consider the Public Service as a career. I have done that for three reasons, and one is that there are some pretty good rewards for input when you are a public servant delivering services for your community. There is that part of it; there is reward for effort, and there are good empathy opportunities there.

The second reason why I encourage them is not because of pay structures, particularly if you are in a lower ASO level. It is different if you are a CEO; I would not mind one of those CEO pay positions, and I am sure that some of my colleagues would like that, too. However, the reason why I have encouraged them is that you have always been able to find career paths and opportunities through the Public Service where, if you have the capacity and the commitment, you can, without fear or favour—and that is what I want to reinforce—have a very good career path through the Public Service.

The hardest part, as I said to my oldest daughter, is getting in there. She has already tried once. She is a smart, young, highly-qualified woman (I am a bit biased) but, so far, she has met the closed door–and that happens. However, I have told her to continue trying. I said, 'Once you get in there, if you perform you can go anywhere in the Public Service.'

This bill will wreck all that because, if you happen to have a situation where, without fear or favour, you are a loyal public servant within the act and you are delivering as you believe and have been trained and instructed to deliver, and you tread on the toes of someone, you might be treading water for the next 20 or 30 years, and I will have more to say about why that is.

I believe there is enough nepotism in some of the senior ranks of departments right now. In fact, I have been very concerned about some of the nepotism. One of the problems is that, with a government that has been in office for a while, there is obviously a situation where government is able to choose the CEOs, and the ones who have been a pain in the backside, you flick them or you have paid them out.

In fact, with those who have really annoyed you, you actually pay them out straight away or you have a target before you come into government whereby there are several CEOs who you want to flick because they are the wrong colour for you, they are a pain in the backside and they are going to challenge you.

So, even if that costs you several million dollars, you flick them in the first few months and probably the first few weeks after you take office. I am well aware of one person who was flicked, and I could have told them that that would be the case with the incoming government because they were so loose with the message on it. I, as a minister, knew that that person was gone.

The sad part about that is that that person was probably one of the best CEOs and has gone elsewhere in Australia and is still delivering. When you have been in government for a while, you choose all the people around you in the senior positions, by and large, and you get people to whom you owe favours for their effort into some fairly senior positions.

They are possible scenarios that can occur. Any government or any major party can deny that, but I would challenge them on it for sure because I know that it happens. Then, when you become a minister and you have been a minister for quite a while, you start to lose touch with the rank and file within departments. You rely more and more on the people you have put in there and the team that has been built up around them.

Parallel to that is the CEO who has been able to develop the headnodders in and around him or her. They lose touch more and more with the rank and file of the Public Service, too, or they become arrogant and dictatorial towards some public servants who might raise their head every now and again and say, 'Well, I don't believe this is right' or 'That is not what I understand I should be doing' or they do something else to offend, and they are done over.

That happens to an extent now and it is reasonably hard to control, but if we pass this bill it will be very easy for the senior management group within the various departments. It will be good for ministers, too—wink, wink; nod, nod! 'What did that person do making a comment like that on this piece of material or policy?' or 'How dare that person say anything in the media or ring up the radio!'

They will have a job done on them, and that job will potentially not only undo that person's career and opportunity in the future but it will undo opportunities for their family. Some of your brightest and best, I believe, will be done over by this because we already have a problem in Australia.

In America, if you get a tall poppy, they are encouraged; they are embraced. The CEOs are smart enough in America that, if they can see a potential tall poppy who can make them look better, they embrace those people and they look better and brighter, too, because they lift their performance outcomes in the public service or they lift the profit in the private sector. Then they tell the board, the panel, the minister or whoever is going to give them a $350,000 a year CEO position

instead of the $300,000 CEO position. Here, however, you get in a comfort zone, and you get that nepotism around you and you see that someone has potential to be a risk. They are a risk to your position, or your middle management position, if you have it even more broadly expanded.

I do not know how far this bill will go to 'do over' some good people if they tread on their toes. Do you know what will happen as a result of this? The day this bill passes, we will start to see it in respect of the goodwill. Mark my words: there is a lot of goodwill in the rank and file of the Public Service, and I know that from when I was under pressure as a minister. It used to happen on a Thursday, ironically, and it would be happening with this government, too. For example, you would go to executive council and you might have to do just a small amount of general cabinet business. There would be a red tag from the Premier's office, or there would be a blue tag from another department through another minister. You would be required to have legislation, or whatever the government needed, fixed and ready for cabinet on Monday.

You would go back to your office and call your CEO and hit the panic button. Guess what would happen then? As a minister you would head off out into your electorate on the Friday and Saturday, and you might go out into your electorate on Sunday, or you might actually have a day off with your family. But do you know what would happen quite often? Rank and file public servants would be working. In my experience, if you buy them a couple of pizzas through the proper and open processes by getting one of the senior managers to buy them pizzas or a beer, they will work their backsides off for you, and their families would be put out. Are they going to do that when they are being done over? I do not think so.

We have a situation at the moment where this government, one way or another, is going to sack—it might be sacking with a package, but it is still sacking—1,600 public servants. I wonder what the government will do if they get back into government. However, at the moment, they are on the public record for 1,600. The government is then going to expect better and better performance from those public servants who are left. There is only so far that you can take for granted a person's goodwill. I would have thought the government understood that, because some government members came up through the Public Service.

When you talk to people it is not always about the money. Most of the time it is about job satisfaction and security; it is about a career path and growing an opportunity to use your God given gifts and talents in the area you have chosen to spend the 40 years of your working life. However, you can break a person's heart and spirit to the point where they say, 'Well, stuff this, it's all too hard.' That is what this bill will do. Whether or not this government stays in office or whether the next government is of a different colour, it will have less goodwill from a Public Service which, until now, has always shown goodwill. How many strikes, by and large, have there been by Public Service employees over the past six or eight years? To be fair, I do not think there have been a lot of mass strikes. We often hear the Premier talk about that fact.

There have been a lot of demands for efficiency gains, and a lot of public servants have really struggled to get pay increases equivalent to the private sector. I am saying all this as a proud private sector person, someone who was born and bred in the private sector, but I have had the privilege of seeing how important the Public Service is to us in its commitment and its service delivery to the community. A lot of the work done by the Public Service is not transparent. You cannot grab hold of it and say, 'This is what the Public Service delivers.' That was always one of the problems that we had when we started to set up budgets with performance outcomes.

I cite as an example the police. Police are para public servants, but they deliver a public service. When we looked at enterprise agreements I would struggle with the area of police more than any other area or portfolio that I held because, if police are out there and there is a presence, how can you quantify what that does for communities? You cannot. You can go to a shop and put a person into retail, ring the till at the end of the night so that you know it is starting at zero in the morning, and at the end of the day look at the sales and find out that that particular shop assistant sold $7,500 worth of goods.

You can quantify that, but you cannot quantify a lot of what the Public Service delivers. Like a lot of things, much of it is taken for granted because it is a situation where we are used to those services and are not aware of them until they are no longer there. I fear that one of the key parts of those services, which is goodwill from the public servants, will be dramatically undermined—and I am happy to put on the public record that I would not blame them for that if this bill passes in its present form. There is more I would like to say about this matter, but at this point I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CROWN LAND MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 4 March 2009. Page 1536.)

The Hon. J.M.A. LENSINK (16:42): I will be brief on this particular bill, which the Liberal Party is supporting, as outlined in February by our spokesperson Mitch Williams in another place. I note that it is really a modernisation of the regime for crown lands, given that the original Crown Lands Act was passed in 1929. With all the water that has passed under the bridge since then, a number of things have changed significantly.

I note that the current management of crown lands falls under quite a range of acts: the Irrigation (Land Tenure) Act 1930, the Marginal Lands Act 1940, the Discharged Soldiers Settlement Act 1934, the Port Pirie Laboratory Site Act 1922, the War Service Land Settlement Agreement Act 1945, and the Monarto Legislation Repeal Act 1980. These rather interestingly titled acts will be repealed and replaced by the new act. Clearly, a number of situations have changed since those acts, which are now to be repealed, were enacted. In particular, we would all be aware that the soldier settlement provisions have ceased to be required for some time.

The major changes to the management are as follows: it will be the minister rather than the Governor who will be invested with the power to grant fee simple in unalienated crown land; lease conditions will be set by a crown conditions agreement; the care and control of crown land can be dedicated by a crown record rather than through gazettal; the Land Board is replaced; offences under the old act are updated; and there is a variety of standardisation, including perpetual leases and the like.

I would like to raise one issue at this stage. In his second reading contribution the member for MacKillop suggested to minister Weatherill that clause 24 be examined between the houses for consideration of further amendment. He said that we on this side would feel much more comfortable about clause 24 if clause 16, which relates to the delegation of powers, did not apply to clause 24. I think that commitment was given, but I would like to receive some advice before we proceed further with the bill. I note also that the national competition policy review of 2000 recommended that this act be rewritten, so certainly some years have elapsed since then. Generally speaking, these reforms are well overdue and I support the second reading of the bill.

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

The Hon. I.K. HUNTER: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

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

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

At 16:47 the council adjourned until 7 April 2009 at 14:15.