# LEGISLATIVE COUNCIL

## Thursday 10 February 2011

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

### CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (EXEMPTIONS AND APPROVALS) AMENDMENT BILL

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:18):** I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

### HOUSING SA RENTAL INCREASES

**The Hon. R.L. BROKENSHIRE:** Presented a petition signed by 1,157 residents of South Australia requesting the council to urge the State Government to—

1. Abandon the policy of Housing SA from March 2011 taking, as rent, the rental proportion of the pension increase that the federal government intended for pensioner retention as income; and

2. In future, heed the wish of the federal minister in this regard.

### STANDING ORDERS COMMITTEE

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:21):** By leave, I move:

That the Hon. B.V. Finnigan be appointed to the Standing Orders Committee in place of the Hon. P. Holloway (resigned).

Motion carried.

### BUDGET AND FINANCE COMMITTEE

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:21):** It is with great pleasure that I move:

That the Hon. P. Holloway be substituted in place of the Hon. B.V. Finnigan (resigned) on the Budget and Finance Committee.

Motion carried.

### STATUTORY OFFICERS COMMITTEE

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:22):** I move:

That pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. B.V. Finnigan be appointed to the Statutory Officers Committee in place of the Hon. P. Holloway (resigned).

Motion carried.

### PAPERS

The following papers were laid on the table:

By the Minister for Industrial Relations (Hon. B.V. Finnigan)—

Reports, 2009-10—
- Australian Crime Commission
- Electricity Industry Superannuation Scheme
- Suppression Orders

Listening and Surveillance Devices Act 1972—
- Report, 2009
- Report, 2010

Regulations under the following Acts—
- Associations Incorporation Act 1985—Fees
- Correctional Services Act 1982—Personal Property

Expiation of Offences Act 1996—Fees
Family Relationships Act 1975—General
Harbors and Navigation Act 1993—Unprotected Waters
Justices of the Peace Act 2005—Prescribed Requirements
Motor Vehicles Act 1959—
Disclosure of Information
Exemptions
Parking Permits
Schedule 4 Demerit Points
Trade Plates
Occupational Health, Safety and Welfare Act 1986—Asbestos Definition
Recreation Grounds (Regulations) Act 1931—General
Road Traffic Act 1961—
Miscellaneous—
Licence Disqualification
Prescribed Offences
Road Rules Ancillary and Miscellaneous Provisions—
Display of Parking Permit
Trams
Trustee Companies Act 1988—Revocation
Victims of Crime Act 2001—Fund and Levy
Rules of Court—
Magistrates Court—Magistrates Court Act 1991—
Addendum to Amendment No 37
Amendment No 36
Civil—Amendment No 35
Supreme Court—Supreme Court Act 1935—
Bail Review 1985—Amendment No 3
Civil—Amendment No 14
Criminal—
Amendment No 3
Amendment No 27
Rules under Acts—
Road Traffic Act 1961—
Australian Road Rules—
Parking Times
Various
Time Extension
Vehicle Standards
Motor Accident Commission Charter
Return of Authorisations Issued to Enter Premises pursuant to Section 83C(1) of the Summary Offences Act 1953—1 July 2009 to 30 June 2010
Return of Warrants Issued to Enter Premises pursuant to Section 83C(3) of the Summary Offences Act 1953—1 July 2009 to 30 June 2010

By the Minister for State/Local Government Relations (Hon. B.V. Finnigan)—

District Council By-Laws—
Mount Gambier—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
Peterborough—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs and Cats

By the Minister for Gambling (Hon. B.V. Finnigan)—

Regulations under the following Act—
Gaming Machines Act 1992—Exemptions

By the Minister for Regional Development (Hon. G.E. Gago)—

Reports—2009-10—
Australian Health Practitioner Regulation Agency
Community Benefit SA
Country Arts SA
Mid North Health Advisory Council Inc.
Pika Wiya Health Advisory Council Inc.
Port Broughton District Hospital and Health Services Health Advisory Council Inc.
Teachers Registration Board of South Australia
The State of Public and Environmental Health
Veterans Health Advisory Council
Natural Resources Management Council—Reports—
2005-06
2006-07
2007-08
2008-09
2009-10
South Australian Abortion Reporting Committee—Report, 2009
Construction of a building addition to the existing Blackwood CFS Station at Allotment A in RP 4132, Hundred of Adelaide, Gorse Avenue, Hawthorndene
Interim Operation of the Woodville West Neighbourhood Renewal Development Plan Amendment Report
Report of actions taken by Health SA following Coronial Inquest into the death of Mr Ricky Bais on 22 August 2007
Regulations under the following Acts—
Development Act 1993—
External Painting
Miscellaneous No 2
System Indicators
Livestock Act 1997—Pigs
National Parks and Wildlife Act 1972—Protected Animals Marine Animals
Natural Resources Management Act 2004—
Financial Provisions—Contiguous Land
General
Peake, Roby and Sherlock Prescribed Wells Area—Reduction of Water Access Entitlements
Primary Industry Funding Schemes Act 1998—Riverland Wine Industry Fund
SACE Board of South Australia Act 1983—Schedule 1 Fees
Upper South East Dryland Salinity and Flood Management Act 2002—Prescribed Rate of Interest
Waterworks Act 1932—Water Conservation

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

Regulations under the following Acts—
Fair Trading Act 1987—Related Acts
Liquor Licensing Act 1997—
Dry Areas Long Term—
Meningie
Naracoorte
Peterborough
Port Augusta
Port Lincoln
Strathalbyn Area 1
Dry Areas Short Term—
Adelaide New Year's Eve
Adelaide Schutzenfest

Beachport New Year's Eve
Glenelg New Year's Eve
Kingscote
Morgan New Year's Eve
Robe New Year's Eve
Rymill Park Fringe Festival
Rymill Park Summadayze
Two Wells Christmas Street Parade
Unley Area 1
Wallaroo New Year's Eve

### EMPLOYMENT FIGURES

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:28):** I table a copy of a ministerial statement relating to South Australian employment made earlier today in another place by my colleague the Premier.

### SKILLS FOR ALL

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:29):** I table a copy of a ministerial statement relating to Skills for All made earlier today in another place by the Treasurer (Hon. J.J. Snelling).

### COMMISSIONER FOR WATER SECURITY

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:29):** I table a copy of a ministerial statement relating to the Commissioner for Water Security made earlier today in another place by my colleague the Minister for Environment and Conservation (Hon. P. Caica).

## QUESTION TIME

### PUBLIC SECTOR LEAVE ENTITLEMENTS

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:30):** I seek leave to make a brief explanation before asking the Minister for Public Sector Management a question about long service leave cash payouts.

Leave granted.

**The Hon. D.W. RIDGWAY:** As members will recall, the Public Sector Bill went through the parliament in early 2009. The new act came into effect at the start of February last year, that is, February 2010. Embedded in this significant piece of legislation was a variation in long service leave arrangements. In the old act, only executives could take cash payouts in lieu of long service leave. In the new act, and therefore from 1 February last year (2010), any Public Service employee has been able to apply to the chief executive for a cash payout of their long service leave.

It was indeed a rare and positive gesture to a public sector workforce which, since that time, has endured a great deal of disappointment. In looking back over the debate on the bill, it is interesting to note that little attention was paid to this clause, given the significance of the variation from the old act. I wondered whether cabinet had realised the financial implications of what it was offering to the public sector.

The opposition has received some information via FOI. According to a memo from the Under Treasurer to the former treasurer, the implications were certainly not clear. In his memo dated 13 January 2010 (I indicate prior to the election), he explains to the treasurer that the long service leave liability to the general government sector had already reached $1.3 billion. He goes on to explain to the unknowing treasurer that even if 10 per cent of the public servants took up the offer—and he notes that there is already a lot of interest in the measure—it would cause a significant debt of some $130 million.

If you do the simple maths, it works out that if all the public sector employees took up the offer it would be a $1.3 billion liability that would become a debt. On that same day (13 January 2010), the treasurer wrote a minute to the then minister, the Hon. Jay Weatherill, and I quote from that minute:

I am concerned that this significant change in employee entitlements does not appear to have been brought to the attention of Cabinet during the approvals process. To this end was this significant broadening of the payout arrangements intentional or an oversight in the drafting of the legislation? If it was intentional what was the motivation?

I am advised that at the agency level employees have shown significant interest in cash payouts.

At 30 June 2009 the general government sector long service leave liability was $1.3 billion; even if there is only a small take up rate for payments there is potential for a significant impact on net debt at a time when we can least afford it.

His final paragraph states:

I recommend that action be taken to limit the application of this provision, and that in the longer term—post election—the clause be removed from the PS Act for both executive and non executive employees.

My question to the minister is: can the minister confirm that cabinet was not made aware of this clause and its implications and that measures were clearly taken to conceal the change in policy prior to the 2010 election?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:34):** I was waiting for a question the honourable member might know that I am able to answer, because he knows all too well that in fact any consideration and all deliberations of cabinet are confidential. We take oaths in respect of that, as the honourable member would know. He knows that only too well, and he is using this as an opportunity to besmirch this government.

We have made some tough budgetary decisions which we have been extremely open and transparent about. They were difficult decisions to try to bring our state back into a long-term sustainable economic future. As I said, he knows all too well that the considerations and deliberations of cabinet are completely confidential.

## PUBLIC SECTOR LEAVE ENTITLEMENTS

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:35):** I have a further question for the minister. Given that in the Under Treasurer's note to the treasurer the outstanding liability at 30 June 2009 was $1.3 billion, will the minister confirm that if only 10 per cent of the public sector take up this payout offer it will incur a debt of $130 million? How many public sector employees have availed themselves of this option and what is the current liability at 30 June 2010 of the public sector long service leave?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:36):** I thank the honourable member for his second question in relation to details around figures relating to long service leave payouts. A number of those questions relate to details relating to the responsibilities of the Treasurer, and I am happy to refer those questions to the Treasurer and bring back a response. In terms of the areas I am responsible for, I do not have any detailed figures with me, and I am happy to take those matters on notice and bring back a response.

## PUBLIC SECTOR LEAVE ENTITLEMENTS

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:36):** Thank you for the opportunity to ask a third question, and I seek leave to make a brief explanation before asking it.

Leave granted.

**The Hon. D.W. RIDGWAY:** I just quote from the last paragraph of the treasurer's minute to the Hon. J. Weatherill, the minister responsible:

I recommend that action be taken to limit the applications provision and, in the longer term, post-election, the clause be removed from the Public Sector Management Act for both executive and non-executive employees.

My question to the minister is: have any instructions been issued to parliamentary counsel since the election to draft amendments to remove that clause from the Public Sector Management Act and, if not, will the minister guarantee the continuation of these provisions?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for**

**Government Enterprises) (14:37):** Again, I do not have the details in relation to that with me. I am pleased to take those questions on notice and bring back a response.

## STATE/LOCAL GOVERNMENT RELATIONS

**The Hon. CARMEL ZOLLO (14:38):** Will the Minister for State/Local Government Relations inform the council what action the government is taking to ensure a cooperative relationship with local governments in South Australia?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:38):** I am pleased to inform honourable members that yesterday state and local governments in South Australia entered into a new agreement which confirms our strong working relationship. The Premier and I yesterday signed a new state and local government relations agreement with Felicity-ann Lewis, President of the Local Government Association of South Australia.

The signing of this document represents a new milestone in the collaborative relationship which was first established under the Rann Labor government in 2004. The agreement is designed to guide the relationship between the state government and local governments on matters of mutual interest. Past agreements have seen positive outcomes achieved in diverse areas, including waste management, recycling, rural property addressing, tourism, climate change and a reduction in South Australia's reliance on the River Murray.

This agreement delivers practical results with real benefits for all South Australians. As an example of cooperation, the Tour Down Under has become a signature event for our state. As the Premier noted yesterday in his meeting with local corporate leaders, the Tour Down Under's first visit to Tailem Bend was an outstanding success, thanks largely to the enthusiasm of the local council and the local community.

The Community Waste Water Management System Scheme has been a success story of previous agreements. Local government has partnered with the state and commonwealth to fund five key stormwater harvesting projects worth $145 million. This will treble stormwater harvesting within South Australia to 20 billion litres by 2013. Another practical example of how this agreement delivers results is heavy vehicle access reforms. By state and local government working together we have reduced red tape and have provided heavy vehicle access to local government roads to enhance the delivery of commodities and freight.

The rollout of rural addressing is an issue that I am personally familiar with. I remember a lot of discussion about it even when I was a child. I commend local government and the previous minister, my honourable colleague, for her work in implementing this worthy scheme. There were considerable investment and signage to help ensure that some 50,000 rural households could be accurately and efficiently identified by emergency services and utility companies.

This government has also signed a climate change sector agreement with the Local Government Association. The Labor government is working cooperatively with local government on a range of issues, and this agreement underpins that collaboration. The President of the LGA, Mayor Felicity-ann Lewis, has been very constructive in helping to forge this relationship. I acknowledge her valuable contribution.

In a media statement, Mayor Lewis said that the agreement ensures state and local governments work collaboratively to achieve mutually agreed targets, goals and strategies. 'It also ensures we increase the efficiency, effectiveness and coordination of services and infrastructure to achieve better outcomes for South Australians,' she said. 'Our two tiers of government work exceedingly well together,' Mayor Lewis said.

This government is committed to working cooperatively with local government, as this agreement signifies. I particularly express my gratitude for the work that Her Worship Mayor Felicity-ann Lewis has done during her term as president of the Local Government Association.

## STATE/LOCAL GOVERNMENT RELATIONS

**The Hon. J.M.A. LENSINK (14:41):** Does the agreement cover waste management issues and, in particular, the government's unilateral decision without consultation with local government to increase the solid waste levy?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:42):** The State and Local Government Relations Agreement is a document which sets out the parameters and the framework under which

the relationship between state and local governments will function. The idea is to ensure that we have the most productive and constructive relationship that we can between the two levels of government.

One of the provisions of the agreement is to ensure that there are regular opportunities for the state and local governments to come together to discuss issues of mutual concern. It would really be rather extraordinary if a relations agreement between the two levels of government was expected to cover every single issue that might come up in the period of the agreement. Of course, it could not possibly do so.

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

**The Hon. B.V. FINNIGAN:** The Hon. Ms Lensink has just said that all local government is about is roads and rubbish—

**The Hon. J.M.A. Lensink:** No, I did not say that.

**The Hon. B.V. FINNIGAN:** We know that is simply not correct, and it shows a complete lack of understanding of what local governments do in this state and the services they provide to their ratepayers. Of course, the agreement between local government and the state government does not cover the minutiae of every interaction, every piece of legislation that is going to affect local governments, and nor should it. The administration of any particular functions will of course be covered by the relevant legislation and regulations, which are tabled in the houses of parliament.

## STATE/LOCAL GOVERNMENT RELATIONS

**The Hon. J.S.L. DAWKINS (14:43):** Given that in recent years there has been a lack of attendance and participation by the Office of State/Government Relations at regional Local Government Association meetings, including the meetings of SELGA which he would be well aware of, will the minister assure this chamber that all meetings of regional Local Government Associations will be attended by staff or representatives of the Office of State/Government Relations?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:44):** I'm not sure how that supplementary related to my initial answer; however, I am happy to address it. Of course, the various local government associations, where the various councils come together—particularly those in regional areas—are a very important part of local governments' functioning and their relationship with the state government.

Of course, I do not know offhand what the attendance has been by officials of the agency at particular meetings at particular times. I would think that what is important is a productive and fruitful relationship and that lines of communication are kept open between the government and between local governments.

Whether or not that means somebody from the agency attends every single meeting of every regional local government association body, I do not know. I would have thought that it would not necessarily be essential for the good functioning of local government that there be a representative from the state government there on every occasion.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. B.V. FINNIGAN:** I am confident that regional councils and regional local government bodies are connected by telephone and the internet, so I am sure there is an opportunity for officials to have a look at what local government bodies have been discussing, debating and deciding as to whether or not there was a representative present.

It is not important whether a particular person is at a particular meeting on every occasion. What is important is the overall relationship between state and local governments. What this agreement is about is ensuring that that is a productive, effective relationship. Certainly, as minister, I am looking forward to visiting as many of the local government associations in regional areas as I can, and it will be an opportunity for me to meet with local government representatives I may not have met this time.

So, I believe there are opportunities for local governments to communicate with the state government; this agreement sets up mechanisms which ensure that that will happen. What is

important is ensuring a collaborative, constructive relationship, and that is what will be happening in the future.

### VISITORS

**The PRESIDENT:** Before we continue on with question time, we are blessed today with a number of distinguished guests in our gallery. I notice that we have visitors from the Parliament of Tonga, the honourable Speaker, Lord Lasike, and the Deputy Speaker, Lord Tu'i'afitu. Welcome. The honourable Speaker and the Deputy Speaker are visiting our parliament as part of a twinning program with Pacific parliaments, so welcome to the Legislative Council.

We also have with us guests from Italy: Dr Enzo Testa, who is the Mayor of Roccabascerana, Province of Avellino, Campania Region, which is the region that Hon. Mrs Zollo comes from and is very familiar with. We also have with us Father Albert Mwise, a parish priest. He is a priest of several important communities in the same region of Italy. They are accompanied by the Acting Consul of Italy in South Australia, Mrs Orietta Borgia.

Welcome, and we hope you enjoy your visit to South Australia. I am sure that you will find the hospitality welcomes you and that you will not want to leave our wonderful state.

## QUESTION TIME

### THINKER IN RESIDENCE

**The Hon. D.G.E. HOOD (14:49):** I seek leave to make a brief explanation before asking the minister representing the Premier a question regarding comments made by the new Thinker in Residence, Goran Roos.

Leave granted.

**The Hon. D.G.E. HOOD:** Goran Roos is chairman of VTT International, which is the global arm of Finland's Technical Research Centre, and he has been appointed as a Thinker in Residence to South Australia for 2011. I might say I was very disappointed with Mr Roos' comments in the media earlier this week regarding the future of the Holden plant at Elizabeth. The comment, as reported (and I believe it was accurately reported by *The Advertiser*) was, 'The Industry is not competitive and you have to let it go.' I have no difficulty with a person having a certain view one way or another regarding our motor industry.

However, I must ask why the government has brought over Mr Roos, at taxpayers' expense, including Holden workers' taxpayers' expense, and paying him to make comments which condemn their industry and their jobs. The Holden plant at Elizabeth is a significant employer in the northern suburbs—indeed, the single largest employer, as I understand it—and literally tens of thousands of jobs are indirectly related to that plant's continuing operation. It is a vital part of our state's economy. My questions to the minister are:

1. Why is Mr Roos being paid, I understand, $3,300 a day to effectively run down our automotive industry in the way that he has?

2. Does the government accept that comments such as the ones made by Mr Roos result in Holden workers feeling uncertain about their future, and are unacceptable and a gross misuse of taxpayers' funds?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:51):** The Thinker in Residence program has been a very important initiative of this government which has brought to South Australia many important thinkers, innovative academics and experts in their fields to study what they may be able to bring to South Australia that might be useful to the government. I am not familiar with the particular comments that Mr Roos has made, other than by media reports.

The purpose of the Thinker in Residence is to look at issues that might be important in the area in which they have some knowledge. I can certainly assure the council and the honourable member that this government is absolutely 100 per cent committed to the automotive industry in this state. This government and the federal Labor government have done a great deal over many years to help ensure the survival and, indeed, the thriving of the automotive industry. However, we know that it is a challenging industry.

We were all saddened to see Mitsubishi close, but it is a tough industry in which to compete globally. The operation, particularly of General Motors Holden at Elizabeth, has been an

absolute leader in the country in terms of industry and producing excellent vehicles, which I am sure many of us enjoy driving. The government is certainly committed to ensuring that the automotive industry thrives and remains an absolutely critical source of employment and economic activity for this state. In relation to the comments by Mr Roos, and any other details that the honourable member was seeking, I will refer them to the Premier or the Minister for Industry and Trade in another place.

## NATURAL DISASTER SCAMS

**The Hon. R.P. WORTLEY (14:52):** I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about natural disasters.

Leave granted.

**The Hon. R.P. WORTLEY:** We all know that parts of Australia have recently suffered through devastating natural disasters, and our thoughts are with those who have been affected. The after-effects of natural disasters are not always restricted to things like rebuilding homes and infrastructure. Unfortunately, some unscrupulous people try to take advantage of others following events like these. Will the minister inform the chamber of scams and other issues that people need to be aware of following natural disasters?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:53):** I thank the honourable member for his most important question. Indeed, I am very keen to warn all South Australians that they need to be extremely wary of scams following the spate of recent natural disasters across the country. Unfortunately, it is quite common for scams to emerge after a natural disaster. It is hard to believe that there are some con men who would use natural disasters as a means of exploiting and ripping off consumers. Nevertheless, that has certainly been our experience in the past and, therefore, we are putting out warnings today and also information sheets to make people aware of where they can go to get assistance, if they need to.

I would like to draw members' attention particularly to scams surrounding the reselling of flood-damaged vehicles, particularly from Queensland, Victoria and New South Wales. Everyone who is looking to buy a car needs to be on the lookout for flood-damaged vehicles and any second-hand dealers or other traders who may be making false and misleading representations, particularly regarding the history of the motor vehicle that is for sale.

Members may not know that if a vehicle is flood damaged then it should be identified as a water-damaged vehicle or classified as a statutory write-off. In fact, if a dealer does not disclose this to consumers they may be in breach of the Australian Consumer Law by not revealing that information, and they could, in fact, face penalties of up to $1.1 million.

OCBA encourages consumers buying a flood-damaged car to check the written-off vehicle register in the respective state or territory where the vehicle is being purchased, and OCBA can assist people with that. There is a telephone number (131084) to ring at the Service SA customer service centre to find out if the vehicle has been recorded as written off. They will need to supply the registration number and vehicle ID, which will then enable them to check that.

The written-off vehicle register lists cars that are no longer roadworthy and also displays the vehicle's history, including whether the car is subject to finance security or has a record of being stolen and recovered in the past. It is important to remember, though, that vehicles which are uninsured at the time of the disaster may not be recorded in the written-off register. So, I am reminding people that they need to be very cautious, particularly if it is a private sale. Some of that information may not be available on that register.

In order to be confident that there are no significant problems with the vehicle, OCBA also recommends that consumers be diligent in examining the vehicle and, if they can, that they have it inspected by a professional before purchasing it. There are lots of tips in the crisis fact sheets in terms of what signs of a car being flood damaged to look for, so I urge people to have a look at those crisis fact sheets. That might help them when they are inspecting a vehicle.

OCBA has also advised that consumers need to watch out for other scams following natural disasters. Some of these include fake fundraisers or charity scams and, again, it is hard to believe that these despicable people can go out there and try to rip people off by playing on their goodwill and generosity. This involves fake charities, using false websites, unsolicited emails or phone calls. They might even approach consumers in the street seeking donations.

Another scam is price rip-offs, where traders unreasonably increase the cost of goods and services, saying that the price rise is a result of a natural disaster. There might be some form of remedy there if people can demonstrate they are being exploited in an unreasonable way. Another is the travelling repair conman, those people who approach consumers and offer to do things like property repairs or cleanup services, demanding cash payment up front and leaving consumers out of pocket. Again, there are some helpful hints in the crisis fact sheets that remind people never to pay all moneys up-front and to do checks like making sure that it is a reputable business or service.

I strongly urge consumers to report any scams to the ACCC via the SCAMwatch website, and I am pleased to advise that a series of fact sheets has been developed by OCBA, providing more information about things to be aware of as a consumer following a crisis or disaster, and these are available on the OCBA website.

## DISABILITY, UNMET NEEDS

**The Hon. K.L. VINCENT (14:59):** I seek leave to make an explanation before asking the minister representing the Minister for Disability a question about unmet needs in this state.

Leave granted.

**The Hon. K.L. VINCENT:** Mr President, here we are again, at the beginning of a new parliamentary sitting year, and I am somewhat saddened to say that, again, I am asking a question regarding the publication of unmet needs data in South Australia.

As my fellow members would know, unmet needs data shows the level of recorded unmet needs in the disability community, that is, people who are waiting on the government to provide essential services, such as in-home support, respite and supported accommodation. In fact, my fellow members may recall that the first question I ever asked in this place related to the publication of unmet needs data.

At that time, in May last year when I asked when the unmet needs data from December 2009 would be uploaded to the website, interestingly enough the government responded by publishing that data that very afternoon. I trust that all of us in this place are aware that Monsignor David Cappo and the Social Inclusion Board have been asked to provide a blueprint for disability services in this state.

I believe that, in order for the blueprint to be truly viable, it must be more than an oratory as to how things should be; it must also acknowledge and address the current unmet needs crisis of people with disabilities in South Australia. In order to do this, it must take into account the most up-to-date unmet needs data, yet we are still relying on data from June 2010. My questions are:

1. When will the government publish the December 2010 unmet needs data?

2. Does the government agree that the blueprint will need to provide future strategies, as well as answers to funding our way out of the current unmet needs crisis?

3. When will the government inject further funds so as to address the unmet needs crisis that faces the disability community in South Australia?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:01):** I thank the honourable member for her important questions, and I will refer those to the Minister for Disability in another place and bring back a response.

## WORKPLACE SAFETY

**The Hon. S.G. WADE (15:02):** I seek leave to make a brief explanation before asking a question of the Minister for Industrial Relations.

Leave granted.

**The Hon. S.G. WADE:** As the minister advised the house yesterday, Daniel Nicholas Madeley died in a work accident in June 2004. Six years later SafeWork SA commenced a compliance project to identify the number of horizontal and vertical borers at South Australian workplaces. The project commenced in May 2010, the same month in which the inquest into Mr Madeley's death commenced.

The project found that 78 South Australian workplaces had borers on site but, as at 29 September 2010, only seven of those businesses had been visited. As a result, three prohibition

notices and five improvement notices were issued. In September 2010, SafeWork SA gave an undertaking to the Coroner to provide a further update on the outcome of the compliance project.

As at yesterday, the Coroner advises that no further information had been provided to him. The Coroner says in his report:

> Given that the project started in May 2010 and is not yet complete in February 2011, it is fair to say that the project is hardly proceeding expeditiously. In my opinion, some greater sense of urgency should be applied to this project.

In light of the Coroner's comments, I ask the minister:

1. Given the failure of SafeWork SA to provide the update on the compliance report to the Coroner that it promised, will the minister now provide an update on the compliance project to this council?

2. When does the minister expect the compliance report will be completed?

3. Given the rate of site visits in the first five months of the compliance project, the visits alone will take a further 3½ years. In that context, does the minister agree with the Coroner that the progress of the compliance report is unacceptably slow and needs to be given some greater level of urgency?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:04):** As I indicated yesterday, the finding of the inquest into the death of the late Mr Madeley was handed down yesterday by the Coroner. As yet I have not had the opportunity to read the entire findings. I have started doing so, but, as I indicated to the house yesterday, I will carefully and thoughtfully consider what is in the findings of the inquest and come back to the house.

When we are talking about the tragic death of a young man and the need to avoid such deaths happening in future, I am not going to be rushed into a precipitate or foolish response without being able to properly consider the findings of the Coroner and the full details of what he has had to say.

I can advise the house of the recommendations that the Coroner makes. He has made a couple of recommendations relating to investigations. He believes the SafeWork SA Advisory Committee, which is established under health and safety legislation, should 'examine the practices of SafeWork SA in the period preceding 5 June 2004 in order to consider the adequacy of the inspection regime that was then in place'.

He similarly recommends that the SafeWork SA Advisory Committee examine the practices 'after 5 June 2004 in order to consider the adequacy of the inspection regime that has been in place since then'. The Coroner has gone on to suggest that 'the Government consider a major reform to the current system'—

**The Hon. S.G. Wade:** I didn't ask you to read it to the house.

**The Hon. B.V. FINNIGAN:** —'of criminal prosecution for fatal industrial accidents.'

**The Hon. S.G. Wade:** Just reading it will do.

**The Hon. B.V. FINNIGAN:** The opposition has been saying, 'Why haven't you read it? Why aren't you making an instant response without properly considering what the Coroner's findings have to say?' Here I am, actually referring to the findings of the inquest, and they are being critical.

So, which is it? Should I have flicked through the findings of the inquest and quickly come to a conclusion and said, 'This is what we will do' without thinking about it, without carefully considering it and without taking into account what the Coroner has had to say on the full background and facts of the matter, or should I have ignored it? Apparently, neither is satisfactory to members of the opposition. They have been criticising me for not having had an instant response and here they are saying, 'What are you doing reading it?' So, which is it?

I can advise the house that, as I said, the Coroner has suggested that 'the government consider a major reform of the current system of criminal prosecution for fatal industrial accidents'. He has gone into some detail about that in relation to three points in particular that he thinks consideration should be given to in relation to a reform of the law.

I might advise the shadow attorney-general that it would be quite prudent, I would have thought, in considering significant changes to criminal law, to consult the Attorney-General, the chief law officer of the state. Apparently, the shadow attorney-general thinks that I should just rush like a bull at a gate, within a day and a half of the Coroner's findings being published, and hop up here in the house and tell them that I am going to make significant changes to the criminal law in South Australia.

According to the shadow attorney-general, I should not carefully consider what the Coroner has to say, as I indicated yesterday that I would. As I have indicated, I have started reading the findings of the inquest. As I have indicated, I have started considering the findings of the inquest. However, it would be irresponsible of me to make some sort of instantaneous response to the findings of an inquest. It would be absurd and, as I indicated yesterday in the house, I will carefully consider what the Coroner has to say.

I think it would be quite inappropriate and irresponsible of me, within a day and a half of what the Coroner has had to say being published, for me to be hopping up here and saying I am going to make serious, significant changes to the criminal law without consulting the Attorney-General or the judiciary or the agency that is involved in the administration of health and safety legislation.

*Members interjecting:*

**The PRESIDENT:** Order! Now, the Hon. Mr Wade will come to order and the Hon. Mr Holloway will come to order. Have you completed your answer, minister?

**The Hon. B.V. FINNIGAN:** No. As I have indicated, it would not be prudent or responsible of me to recommend significant changes to the criminal law within a very short period of time of the findings of the inquest—

*The Hon. J.S.L. Dawkins interjecting:*

**The PRESIDENT:** The Hon. Mr Dawkins will come to order, too.

**The Hon. B.V. FINNIGAN:** —being published. To suggest that when it comes to a legal judgement it is just a matter of reading it and, from there, you would know exactly what response to make and you would be able to report straight away to the council—I am sorry, but the findings of an inquest by the Coroner is not the *Reader's Digest* and it would be very irresponsible of me to say that I am making an instantaneous response without thoroughly and properly considering the findings of the inquest. So, that is what I will do: consider it carefully and thoughtfully.

**The Hon. R.I. Lucas:** Are you past page 1?

**The Hon. B.V. FINNIGAN:** I have indeed read the majority of the findings, but I am doing so in a fair and considered fashion. It has probably been a day and a half since the Coroner handed down these findings, so I am sure that I owe it to the people of South Australia to carefully consider what the Coroner has had to say and to make a considered judgement about it. I am not going to make a decision on the fly. I am not going to allow the opposition and their disgraceful politicking about the death of a young man and the recommendations that the Coroner believes flow from that make it seem that I should make some sort of instant response. I will carefully consider what the Coroner has had to say, look at those recommendations and seek further advice, particularly in relation to the suggestions that the Coroner has made about the criminal law, and I will report to the council when I have done that.

## WORKPLACE SAFETY

**The Hon. R.I. LUCAS (15:12):** Can the minister assure the council that the 2008-09 budget cuts which resulted in a reduction of 18 staff in SafeWork SA, including three senior inspectors, a principal inspector, a senior industrial relations inspector and the manager of frontline services, had no impact on SafeWork SA's capacity to ensure safe work places in South Australia and, in particular, on SafeWork SA's capacity to conclude the compliance audit referred to by the Coroner?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:12):** I did not refer to the budget in my initial answer; however, I can certainly say that this government has put far more resources into the health and safety inspectorate than a Liberal government would ever dream of. We have put more inspectors in place and we have increased the scope and the strength of the legislation that

applies. As I have said, I will carefully consider the findings of the Coroner in relation to this particular case rather than make some sort of knee-jerk response.

*The Hon. R.I. Lucas interjecting:*

**The PRESIDENT:** Order!

## WORKPLACE SAFETY

**The Hon. T.A. FRANKS (15:13):** Will the minister commit to reading the report by the next day of sitting, some 11 days from this date?

*Members interjecting:*

**The PRESIDENT:** Order! I do not know whether you realise it, but ministers are a fair bit busier than some of you sitting over there.

## OCCUPATIONAL HEALTH, SAFETY AND WELFARE GRANTS

**The Hon. I.K. HUNTER (15:14):** Will the Minister for Industrial Relations provide the chamber with details of the successful Occupational Health, Safety and Welfare Grants Program?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:14):** This government is committed to helping South Australians enjoy safe, fair and productive working lives. That is why we have increased the resources devoted to health and safety inspections. In pursuit of this goal, the government funds an Occupational Health, Safety and Welfare Grants Program that is overseen by the SafeWork SA Advisory Committee.

I am pleased to inform honourable members that, under this program, three commission research grants worth $435,500 were recently approved by the SafeWork SA Advisory Committee to assist South Australian university-based and independent researchers to undertake applied research with the ultimate aim of improving workplace safety programs in South Australia. In a sign that more South Australians are aspiring to take workplace safety into their own hands, the call for funding for 2010-11 resulted in 11 applications being considered. The advisory committee found these to be of an extremely high standard.

The research initiatives to be funded through this program include a study on the benefits of safe vehicle purchasing on reducing injury and injury claims related to work-related driving; a project to develop, pilot and implement a stress work and technology (SWAT) index, which is a tool designed to measure technology-induced workplace stress; and a project to establish how growing numbers of culturally and linguistically diverse workers in the aged-care industry interact with work, health and safety.

In the previous round of applications, the advisory committee approved grants that helped fund research into important issues such as workplace alcohol and drug testing, occupational asthma and working hours. The financial assistance provided by the commission's research grants program is one of three programs currently funded by SafeWork SA to help reduce workplace injury and illness in South Australia.

Another of these is the small grants program. To be eligible for grants of up to $50,000, applicants must be based in South Australia and conduct the proposed work in this state within 12 months. In January, the previous minister launched the 2011 call for funding, and the deadline for small grant applications is 5pm on Friday 18 February. I understand that further information about the grants can be found on the SafeWork SA website.

Strengthening the depth and breadth of research into workplace safety is a key component of this government's long-term strategy to reduce workplace harm in South Australia. This government's continued strong financial support for occupational health and safety research helps make this possible, and I look forward to following the progress of these funded projects and seeing the benefits they bring to South Australian workers.

## WORKPLACE SAFETY

**The Hon. R.I. LUCAS (15:16):** I have a supplementary question. As the new minister, does the minister give greater priority to spending scarce SafeWork SA dollars on inspector positions, which have just been cut, or research positions for projects?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:17):** What the government does and what I

will be doing as minister is ensure that we have an agency that is able to successfully administer the occupational health, safety and welfare legislation in this state.

**The Hon. S.G. Wade:** The Coroner thinks there's a lack of urgency.

**The Hon. B.V. FINNIGAN:** The Hon. Mr Wade is interjecting again about the findings of the Coroner. I notice that there were no questions regarding this matter yesterday, the day that the actual report came out and the day that I made a ministerial statement. Until it made the television news and the front page of *The Advertiser*, none of these honourable members showed any interest. They did not respond to my ministerial statement. They did not ask a question; they did not raise the matter at all, but suddenly they thought, 'Oh, look, the media have taken an interest in this; let's see if we can capitalise on this tragedy and turn it into a political issue.' I think that is a disgraceful approach.

What I can say in relation to the Hon. Mr Lucas's supplementary question is that the government is responsible for ensuring the administration of the law, and we will do that and make resource allocations to ensure that the law is administered properly and that the best health and safety regime that we can put in place for South Australian workers is in place. Resource decisions are based on the need to ensure that the law is administered properly and that as much is done as can be done to ensure that health and safety is a priority in South Australian workplaces and that injuries and deaths are minimised as much as possible.

## LOCAL GOVERNMENT ELECTIONS

**The Hon. M. PARNELL (15:19):** I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about transparency in local government elections.

Leave granted.

**The Hon. M. PARNELL:** At the annual general meeting of the Local Government Association on 29 October last year, a resolution was passed calling for an amendment to the Local Government Elections Act 1999. The resolution asked for an amendment to:

> ...include a requirement consistent with that which applies to elected members through the Register of Interest provisions of the Local Government Act 1999 that all candidates in local government elections must declare in their nomination information consistent with the Register of Interest requirements under the Local Government Act including membership of professional bodies and political parties in the preceding two years and that this disclosure be publicly available for the information of electors.

My question to the minister is: will the government be proposing such legislation and if so when might we expect to see the bill?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:20):** I know this is a matter that is of concern to some honourable members, as to whether or not those who are standing for election in local government are declaring whatever political affiliations they may have. It is not unexpected that a lot of those who are involved in local government are, of course, involved in political parties on all sides of the political spectrum.

What I think is important is that we have free and fair elections which are fairly and rigorously conducted. There are candidates who decide to publicise the political affiliations they have, if indeed they have them, and there are others who do not. What I think it is important to recognise is that councillors are declaring those areas where there might be a potential conflict of interest. Of course, that is what the regulatory framework aims to ensure.

I would have concerns about seeing local government become party politicised the way it is in some other states, where people are indeed endorsed for local government positions. Personally, I would not like to see it come to the position where we would have Labor and Liberal candidates running in elections. Certainly, there are many candidates who run for local government and who serve in local government who have party political affiliations, and that is their democratic right under the system.

As members would be aware, the Attorney-General has issued a discussion paper regarding public integrity which does cover some matters concerning local government. I do not think at this time it is a recommendation in that discussion paper that party political membership be declared by candidates for local council. Obviously, as members would be aware, the consultation period for that discussion paper is open until 25 March, from memory, so if the honourable member

or any of those who believe this is something that needs to be considered want to make a submission to the review of the discussion paper which will be the subject of further report to the other house by the Attorney-General, they are certainly able to do that.

I am sure the honourable member will be aware that the Local Government Association has considered this matter, particularly in relation to those who are employed by members of parliament or ministers or what have you, being local government representatives. Again, I am sure that the honourable member is aware of the Victorian Ombudsman inquiry involving the Brimbank City Council which touched on these issues.

It is not my intention at this point to introduce legislation which will particularly address the issue he has raised, but I would say that, as I have indicated, the government is reviewing public integrity structures, including those in local government. This is a matter that touches on that, so I would encourage the honourable member and anyone else concerned with the matter to make a submission to that review.

## GAMING MACHINES

**The Hon. T.J. STEPHENS (15:25):** I seek leave to make a brief explanation before asking the Minister for Gambling a question about gaming machines.

Leave granted.

**The Hon. T.J. STEPHENS:** Yesterday, the minister gave me a response to a question about the notion of mandatory precommitment in regard to the use of gaming machines which, at the end of the day, told us very little about his position. However, I advise the chamber that the former minister for gambling (Hon. Tom Koutsantonis) was reported in *The Australian* on 2 February as saying that he would not make precommitment mandatory and that he favoured voluntary precommitment. My question to the minister—and a simple yes or no answer will suffice—is: will he also adopt his factional colleague's position, which favours voluntary precommitment? Yes or no?

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:25):** Again, I refer the honourable member to what I said in the council yesterday. It is very important that the state carefully consider anything that the commonwealth chooses to propose in relation to gaming machine reform and, in particular, to any requirement that there be precommitment by gamblers using gaming machines. That is a matter that needs to be considered carefully and, indeed, holistically and based on the evidence.

As I indicated yesterday, it is very important that there be an evidence-based approach to considering gaming machines and whether or not there ought to be precommitment for them. So, I am certainly not going to give some sort of off-the-cuff response about what I consider about it. What I will do is to have a look at the evidence and what the commonwealth proposes, if anything, and then the government will come to a decision about its position in due course.

I know that my predecessor in this portfolio (the member for West Torrens in the other place) also wants to see an evidence-based approach. He favours a system that ensures that any measures taken to address problem gambling are based on evidence and on what will work in helping problem gamblers not to gamble.

Again, I simply refer the honourable member to what I had to say. I will be considering that matter, along with anything the commonwealth has to put in due course, and the government will come to a position at that time which will be based on evidence and based on the best needs of the South Australian community.

## SERVICE SA

**The Hon. P. HOLLOWAY (15:27):** I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about access to government information and services.

Leave granted.

**The Hon. P. HOLLOWAY:** I understand that the core theme of the government's Ask Just Once strategy is to improve service delivery, especially for people most in need of support. The key focus of the strategy is to improve efficiency—for example, by encouraging people to use the internet to access government information and services. It is a pity members opposite do not utilise it a bit more often, rather than asking for inane FOI requests and so on.

Encouraging people to use online delivery modes will allow frontline staff to focus their attention and assistance on where they can add the most value. My question is: will the minister outline to the chamber how the government is making access to information and services easier for all and encouraging a shift to the internet?

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:28):** I thank the honourable member for his question. Indeed, he is right that many of the FOI requests made by the opposition are, in fact, public documents and could easily be accessed by hopping onto the internet.

Service SA is the state government's one-stop contact point for government information and services. It offers choice and flexibility to customers and provides access to government-related services, information and products and financial transactions through an integrated network of phone, face-to-face and online delivery channels.

Service SA manages the South Australian government's single entry point online, www.sa.gov.au. In line with the government's Ask Just Once strategy, Service SA, in conjunction with the relevant departments and agencies, is constantly maintaining and updating the information available on the site. This website has been designed to make South Australian government services and information much easier for members of the community and businesses to access.

Content on the site is customer focused and organised by topics of interest to people in businesses. This approach brings together all information from across government on topics such as transport or disability, regardless of the departmental boundaries and divisions of responsibility. We know this has frustrated many people in the past who have had to hop from department site to department site to obtain cross-policy information.

Since the official launch of the site in November 2009, customers have enjoyed benefits such as a reduction in time, effort and costs when transacting with government, as the provision of easily accessible information will obviously better inform customers; a reduction in the necessity to move from one department's intranet site to another to search for information; and the provision of more streamlined and integrated approaches focusing on the service required by the customer rather than on the government department.

I am advised that the content is written in simple, plain English, separating corporate information from customer content. This enables users to find what they need quickly and easily. The approach to writing the content for the site has been borne by leading global research and also experts in the field, so quite a lot of consideration has gone into this. The site now has close to 1,900 pages of content, and I am advised that traffic has increased 22 per cent from January 2010 to January 2011 and page views are up by 26 per cent. This represents over 4,000 visits per day, and I understand this trend is expected to continue.

Service SA has arranged for an external consultant to run focus groups. I am advised that the groups provided positive feedback, with users advising that content is easy to find. I am pleased to advise that all portfolios across government are now committed to leading or contributing content to the site.

## ANSWERS TO QUESTIONS

### WASTE LEVY

In reply to the **Hon. J.M.A. LENSINK** (10 November 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises):** The Minister for Environment and Conservation has advised that:

1. I am advised that all operational waste levy audit activities for 2008-09 were completed and all waste levies received as per the regulations.

I am further advised that the EPA has addressed the issue of incomplete reporting and activities by incorporating waste levy audit processes into the EPA's Financial Management Compliance Framework, which will provide greater independent review and oversight of the waste levy audit program.

## DISABILITY ADVOCACY SERVICES

In reply to the **Hon. K.L. VINCENT** (29 September 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises):** The Minister for Disability has provided the following information:

1. Since 2007, the State Government has not funded disability advocacy services in South Australia and instead focuses resources on the provision of front-line services.

2. The Commonwealth Government, through the Department of Families, Housing, Community Services and Indigenous Affairs funds six advocacy services in South Australia. They are:

- Brain Injury Network of South Australia Inc.
- Citizen Advocacy South Australia Incorporated
- Disability Advocacy and Complaints Service of South Australia Incorporated
- Family Advocacy Incorporated
- Independent Advocacy SA Inc.
- MALSSA Incorporated

3. Most of these organisations provide statewide services including regional and remote areas of South Australia.

4. The Commonwealth Government is responsible for consultations in South Australia, in relation to the draft National Disability Advocacy Framework.

## ILLICIT DRUG USE

In reply to the **Hon. D.G.E. HOOD** (29 September 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises):** The Minister for Mental Health and Substance Abuse has advised that:

1. Yes.

2. The Minister has seen the report.

3. The Government takes very seriously the problem of the use of illicit drugs. The Government remains committed to a socially inclusive approach to preventing the use of illicit drugs, as set out in detail in the South Australian Drug Strategy 2005-10. In conjunction with other Australian jurisdictions, it continues to implement the National Drug Strategy, a national framework for actions to prevent and minimise drug-related harm to individuals, families and communities. The actions and policies undertaken by the State Government are targeted to: reduce the supply of drugs; reduce the demand for drugs; and reduce the harm from drugs; as outlined by this strategy and its supporting strategies.

The Government agrees that methamphetamine use is a serious problem, not only for users but also for their families and for the community. It is also important to note that the prevalence of use is on the decline.

## SCHOOL AMALGAMATIONS

In reply to the **Hon. T.A. FRANKS** (30 September 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises):** The Minister for Education is advised that:

This budget measure takes effect from 2013. All schools involved in the measure were contacted and advised of the measure shortly after the budget was delivered. Schools were advised that further information sessions and details would be provided. These information sessions are being undertaken during term four this year and outline the process of consultation

with the school that will occur in implementing this measure. It has been made clear that the Government will comply with the Act in implementing this measure.

**FOSTER CARE**

In reply to the **Hon. D.G.E. HOOD** (30 September 2010).

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises):** The Minister for Families and Communities has provided the following information:

1. Analysis by the Department for Families and Communities (DFC), which is consistent with research in other jurisdictions, reveals that the number of children and young people entering care has remained relatively stable during the past five years. Indeed, to clarify, from 30 June 2006 to 30 June 2010 the number of children in foster care increased from 905 to 1,017. Subsequently, the number of children in foster care has not doubled in five years.

However, children and young people are remaining in out of home care for longer periods of time for a number of reasons including the younger age at which children are entering care; and the particular care needs of individual children and young people. The need to respond to reduced parental capacity due to multiple risk factors in families including parental drug and alcohol abuse, domestic violence and mental health issues also contributes to reasons for children entering care. Consequently, figures showing the number of children and young people in out of home care are skewed by these factors.

2. The Children's Protection Act 1993 recognises the family as the primary means of providing for the nurture, care and protection of children and places a high priority on supporting and assisting the family to carry out its responsibilities to children. This is consistent with the legal principle that the Minister for Families and Communities must try to preserve families and family relationships. Consistent with the legislative intent and policy, the first priority for the DFC is to try to place children and young people with family, including grandparents, wherever this is safe, there is capacity within the family to provide care and the child's needs can be met within the family.

It is Families SA policy that the first preference is for children and young people to be cared for by members of their extended family or kinship group who have been assessed to have the capacity to provide the child with appropriate care. However, the priority on placement with family members must never override the paramount considerations of safety, wellbeing and best interests of a child.

At 30 June 2010, there were 847 children placed with relatives or kin. This is 38.7 per cent of the total population of children in alternative care placements. This is a significant increase from 2001 when only 20.7 per cent of children in alternative care were in alternative care placements with relatives or kin. Our policy, as stated in the Directions for Alternative Care in South Australia, released for public consultation on 24 July this year, sets as an immediate priority, increasing the relative and kinship care program to provide at least 50 per cent of all alternative care places.

This increase reflects the emphasis placed on developing and strengthening the Relative and Kinship Care program in Families SA. The Relative and Kinship Care program is managed in the same way as the foster care program in South Australia, whereby relative and kinship carers are assessed and registered as formal carers; receive Alternative Care Support Payments; and are provided guidance and assistance through their allocated support worker.

The Australian Institute for Health and Welfare reports that across Australia the proportion of children in out-of-home care who were in relative/kinship care has risen. South Australia had the highest rate of increase, moving from having the lowest rate (14 per cent) in 2002-03 to 38 per cent in 2008-09, when South Australia moved ahead of Victoria, Queensland, Tasmania and the Northern Territory.

3. Adoption severs all relationships and connection with birth families, including siblings, grandparents as well as parents and is not a policy being pursued by the Government.

However, one of the key focuses of the Directions for Alternative Care in South Australia is Other Person Guardianship arrangements which will provide carers, including grandparents, who are prepared and able to devote their lives to a child and who are able to manage the needs of children in their care, with the 'parental' authority to make decisions on behalf of those children. Other Person Guardianship will enable a carer to apply through the Youth Court to have full

guardianship of the child, in doing so, have a greater say in their health, education and life choices. Most importantly, this will also provide for the stability and permanency for the child.

The government is committed to increasing this type of long-term care arrangement to enhance opportunities for positive, life-long relationships between children and young people and those who care for them, without severing all relationships with other important people in the child or young person's life. The Department is developing the criteria and practice guidelines to deliver this commitment.

## MEMBER'S REMARKS

**The Hon. P. HOLLOWAY (15:32):** I seek leave to make a personal explanation.

Leave granted.

**The Hon. P. HOLLOWAY:** Yesterday, during matters of interest, the Leader of the Opposition made a series of allegations against me, including that I had misled this chamber. Mr Ridgway's allegations were subsequently repeated in *The Advertiser* this morning.

In making these claims, the Leader of the Opposition referred to documents which are currently before the Supreme Court, which is in the process of hearing the judicial review on the Gawler Racecourse Development Plan Amendment. The Leader of the Opposition would be well aware that, because the matters he has raised are sub judice, I am not in a position to respond to them. This advice is supported by crown law. The longstanding convention in this house is that issues should not be raised in parliament while they are before the courts.

I can say that I categorically deny that I have misled this chamber and I look forward to rebutting these claims as soon as the court makes its decision. The fact that the Leader of the Opposition has raised these matters in this manner reflects on his integrity, not mine.

**Honourable members:** Hear, hear!

## SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February 2011.)

**The Hon. D.G.E. HOOD (15:34):** This is a timely bill. Members will no doubt be aware that, unfortunately, a very serious incident occurred in the city just yesterday. A young woman, 32 years of age, was standing at the bus stop waiting for the bus and was stabbed. I will not go into a great deal of detail; I am not aware of a great deal of detail, other than what has been published on the Adelaidenow website, but obviously it is tragic, and you can imagine if that was one of your family or friends.

My understanding is that the victim was not known to the assailant. It is a terrible situation, and I think it is a significant event that reminds us of the importance of some of the legislation we debate in this place. We sometimes forget that these bills have very significant application in the real world. Certainly, if the passing of this bill would reduce or, ideally, eliminate the sort of incident we saw yesterday, I think it should be wholeheartedly supported.

That said, when we debate bills in this place, of course, it is about the detail. It is about the various lines of the bill that may or may not support our particular positions on a matter, and it is that to which I now turn. I rise to indicate Family First's qualified support for this bill, which fulfils several objectives, which are listed by the government as including a prohibition on the sale of knives to minors; authorisation of police to use hand-held metal detectors to find knives and other weapons, the implementation of a weapons prohibition order regime, and allowing general weapons amnesties to be conducted in relation to dangerous articles and offensive and prohibited weapons.

These are all generally good things, and I think most members in this place would concur with that statement. Family First would always support measures that work to reduce measures that reduce knife crime in particular, as it is a very nasty crime indeed. That is, of course, as long as these measures are not taken so far that they become unacceptable to the community. We are opposed to measures that adversely impact recreational fishers, for example, who are legitimate users of knives; sporting shooters, who may also be legitimate users of knives; and other law-abiding members of the community who simply enjoy the outdoors and require to use a knife as part of their particular pursuit.

The Hon. Stephen Wade in his contribution asked a number of very pertinent questions—as he often does, I might say—including the following: what is the scope of lawful excuse within the act, in particular in terms of parents and guardians transporting a child to school where the weapon is not needed for a task at the school, but is being carried, or is in their possession, for a purpose beyond the school. Would that constitute a lawful excuse?

Secondly, would the presence in a student's lunch box, for example, of a fruit knife related to that lunch be considered a lawful excuse? One assumes so, but I put these questions to the minister for clarification. Would a Stanley knife in a student's art kit or locker be considered a lawful excuse? Does a person need to know that they are carrying or possessing a weapon for the offences under this bill in order for it to be established that they have a lawful excuse?

The fact is that knives are used for many legitimate purposes and have been used as an ordinary tool for thousands of years. If this bill means that students, for example, cannot use a knife and fork whilst eating lunch—I am sure that is not the intention—then obviously we have taken things too far. As I say, I am sure that is not the intention, but I place that question on the record for the minister's clarification in the summing up.

I would like to add a few more questions that I think will really tease out the specifics of the bill, and the first one of those is: will this bill restrict Boy Scouts, for example, from being able to use, possess or buy a knife, or other groups, such as the Sea Scouts or Girl Guides who use pocket knives?

Secondly, will this bill prohibit recreational fishers, specifically, from being able to carry a fishing knife in a reasonably public place, such as a public beach, which they might need to cut their lines or gut their fish, or whatever else they may do with them? Will this bill restrict duck shooters or hunters from being able to carry a knife on their way to and from their hunting grounds? Is it anticipated that ordinary eating utensils, as I mentioned before, such as knives for cooking (perhaps in a home economics class or something to that effect) will always be exempt?

In short, what limitations and scope are suggested in the definition of ‘lawful excuse’, which is left undefined in this bill?

This is a very important question. To me, this is the real key issue in this bill. I think that everyone would agree that people carrying knives should have a lawful excuse. The question is: what is a lawful excuse as defined by this bill?

I also have one question regarding weapons prohibition orders and an inconsistency with respect to firearms prohibition orders that is evident in this bill. Under the current domestic violence order regime, a magistrate must—and I repeat, 'must'—issue a firearms prohibition against a person if a domestic violence restraining order is made against them. That is probably not unreasonable, but it is a requirement. There would be some people who may have a case against that.

However, the important point to make here is that this bill does not require a weapons prohibition order in the same circumstances as for other weapons. In fact, police cannot even apply for a weapons prohibition order against someone unless they have a criminal conviction for an offence of violence or are liable to supervision, and that seems inconsistent to me. Essentially, we have this condition that there is an automatic requirement to remove firearms, which, again, may not be unreasonable, but the question is: why should that not apply to other dangerous implements for people also under such orders?

It is fair to say that I do have some concerns regarding the wide scope of this bill and whether some of the legitimate and important freedoms for groups, such as fishers and shooters, will be further eroded. As a party, we believe very much in the right to individual freedom, and we do not like those freedoms being eroded without very good reasons, indeed. I trust that this bill will not do so significantly.

My reading of the bill is that it is a legitimate attempt to curb, essentially, out of control use in gang-related crimes associated with knives and, again, I think that every member in this chamber would support that. We certainly would very strongly, but we want to make sure that freedoms are not unnecessarily eroded for law-abiding citizens who do the right things with knives or, as in the case of sporting shooters, firearms. That being said, and assuming that the answers provided are reasonable, I think it is fair to say that Family First is happy to support this bill.

Knife crime, unfortunately, is on the rise, and this is the real reason for this bill and the reason for our support of the bill. Knife crime is on the rise, and I have just given a horrific example

of one incident that happened yesterday. In fact, I am told by South Australia police that figures show a 30 per cent increase in knife-related crime over the past five years. Homicide and related offences have increased by 22.6 per cent during that period, armed robbery has increased by 10.4 per cent and assaults by 3.9 per cent.

In some measure, this may be due to the rise in the use of amphetamine-type drugs in recent years. These drugs are cheap, so less theft occurs to pay for the habit, but they cause aggression, which is one of the reasons we are seeing a rise in figures such as assaults, code black calls in our hospitals and attacks on pensioners in their homes. Certainly, a clamp down on the sale of knives to minors, which this bill seeks to do (among other measures described in this bill) may take steps towards reducing some of that crime. Again, I am sure that all members in this chamber would be happy to support that.

I doubt that this bill will make a vast difference but, certainly, it may have some impact on knife crime, and some impact will be a step in the right direction. As I say, if we can avoid the sort of horrors that we saw yesterday, it is worth supporting. It may remove some knives from schools, for example, which teachers no doubt will appreciate, and for that, amongst the other reasons I have outlined, I indicate that Family First provides in-principle support for this bill, but careful answers to the questions I have put to the minister will be appreciated and important in our final decision.

**The Hon. J.S.L. DAWKINS (15:43):** I rise to speak briefly on this important bill. I fully support the remarks of my colleague the Hon. Stephen Wade; and I note that he has raised large number of queries in relation to the bill, and we look forward to receiving the answers. I also note the comments made just now by the Hon. Dennis Hood, who shares the concerns that I have in relation to the impact of knife-related incidents in our society.

I particularly want to refer to an amnesty on knives, which I understand will now be specifically effected through clause 21L of this bill. Before going onto that, I would just like to give a bit of background to my interest in this area and, I must say, the lack of any response from the government. On 26 May last year, I asked the minister representing the Minister for Police a question in relation to a general weapons amnesty. At that time, I said:

> On 1 April this year Victoria Police Deputy Commissioner Kieran Walshe announced a month-long weapons amnesty with a particular focus on knives. According to Victoria Police over 800 weapons were handed in, including machetes, swords, hunting knives, butcher's knives and flick knives. According to the Australian Bureau of Statistics 2008 victims of crime report, knives were the most prevalent weapons used in the categories of murder, attempted murder, kidnapping, abduction and robbery.

I went on to say:

> We are all aware that last weekend the city's West End was the scene of yet another violent and near fatal stabbing.

With that in mind, I then asked:

> ...will the government follow the Victorian government's lead and announce a knife-specific amnesty or broaden the scope of future gun amnesties to include all weapons?

The Hon. Mr Holloway, the then minister representing the Minister for Police, responded that I had raised a matter of legitimate public concern. He went on to say:

> I know from my experiences as minister for police that the amnesties that take place from time to time are generally made on the recommendation of the Commissioner for Police. However, I am sure that, if the honourable member's suggestion is put to the commissioner by the Minister for Police, it will be given careful consideration. We have had a number of amnesties at various times, and obviously their timing depends on a number of factors. However, as I said I will make sure the suggestion is conveyed to the minister for his, or the commissioner's, consideration.

The fact is that I respect that the minister representing the Minister for Police was very genuine in those thoughts, but does that mean that I got a response from either the Minister for Police or the Commissioner for Police? No, I did not—nothing.

Sir, you might recall that almost six months later I reiterated some of those remarks in a second question. I basically asked whether the minister in this chamber knew of a response and, if there had not been a response, whether he would undertake to make further representations to report back with a response before the end of last sitting year. There has been no response.

I am very grateful that the bill includes a capacity (I am told it is a specific capacity) to allow a knives amnesty, and I think that is a very good thing. However, what I am unhappy about is the

fact that, once again, we see an example of where, I think, the ability of members in this place and the other place to ask a question and get a response from the government in a reasonable period of time is being totally ignored. I was not playing politics with the matter at all. What I was doing was raising my concern and the growing concern of many people in the community, as exemplified by the Hon. Mr Hood a few moments ago, about knives in the community.

I commend the government for including this provision in the bill, but the fact is that there was no contact with me. I do not want any thanks for raising it, but it would have been nice just to have been contacted by the Minister for Police's office and told that this will be fixed in the bill. I am disappointed about the way in which that has happened; however, my concern about knives in the community, as I say, I think replicates that of many others. I am delighted that the capacity to have the amnesty is in the bill, and I look forward to that capacity being activated.

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

## DROUGHT RECOVERY PROGRAM

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:50):** I table a copy of a ministerial statement relating to state drought response and support 2006-11 made earlier today in another place by my colleague the Premier.

## CONTROLLED SUBSTANCES (THERAPEUTIC GOODS AND OTHER MATTERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February 2011.)

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:51):** There being no further second reading contributions, I will take this opportunity to sum up. This bill takes account of the national registration of health practitioners. It will enable registered health practitioners to practice to the full extent that they are qualified. It will authorise nurse practitioners and midwives who have had the appropriate endorsements to prescribe both schedule 4 and schedule 8 prescription drugs.

Nurse practitioners and midwives will be able to access prescribing arrangements under the Pharmaceutical Benefits Scheme (PBS) in collaborative arrangements with medical practitioners. Enabling eligible midwives and nurse practitioners to access prescribing arrangements under the PBS will give patients better access to health care, particularly in regional areas.

The commonwealth therapeutic goods laws will provide a framework for regulating safety, quality and efficiency of medicines and medical devices in Australia. An effect of the bill will be to apply the commonwealth therapeutic goods laws. As a law of South Australia, this will help ensure that there are no gaps in the regulation of medicines and medical devices in South Australia.

The bill also ensures that there are adequate controls over the sale of those poisons, medicines and medical devices that will be permitted to be sold via an automatic vending machine. Some items, such as cosmetics, deodorants and soaps that are not currently permitted to be sold via automatic vending machines will be permitted to be sold via these machines.

I note that the opposition has indicated that it generally supports the bill, but has moved an amendment, and I am thankful for their support. However, the government intends to oppose the proposed amendment, and I will certainly provide more details about why the government will be opposing that during the committee stage.

I am pleased that the Greens have expressed support for the bill without amendment. Again, thank you to the Greens. They have noted that the extension of prescribing rights to midwives will provide more choice to women in maternity care. Midwives and nurse practitioners will be able to play a greater role in the health system which is, indeed, a very positive thing.

Members will notice that I have two amendments on file. These are essentially of a technical nature, and I will provide more detail about these amendments during the committee stage. Again, I thank all members for their contribution during the second reading stage and look forward to the committee stage.

Bill read a second time.

In Committee.

Clause 1.

**The Hon. R.L. BROKENSHIRE:** I welcome the way in which the bill recognises and supports the increased contribution and responsibility of nurses, nurse practitioners and midwives. The concern I have is that nurses, nurse practitioners and midwives already have a lot of responsibility and I wonder whether the government is pushing more responsibility upon them as a cost-saving measure in order to avoid doctors doing this work. Of course, it is not a cost-saving measure if nurses', nurse practitioners' and midwives' pay increases are to the appropriate level, and I trust that there will be some recognition there. The minister may like to highlight an answer to that.

I am also concerned that this measure is an acknowledgement of failure to recruit and support sufficient doctors, particularly in regional South Australia. I accept that the government needs to give these powers to nurses and nurse practitioners out of necessity, but is that a present necessity caused by the failure to sufficiently train and attract doctors to regional South Australia?

Having said that, I acknowledge that nurses, nurse practitioners and midwives have indicated that they want this bill to pass. I respect that and we will be supporting the bill, but I do have some questions for the minister. The first question is about enforcement. What level of breaches of the law have occurred under the existing prescribing rights? Or, put another way, how many prosecutions under this act have occurred in the context of existing drug prescribing rights and drug access for existing licensed practitioners, and how many of those prosecutions have been successful? What inspectorate exists or what level of regulatory oversight occurs?

**The Hon. G.E. GAGO:** We do not have that level of detail with us today. However, I am happy to take those questions on notice and bring back a response.

**The Hon. R.L. BROKENSHIRE:** I accept that the minister will get back to us on those questions. Another question relevant to clause 1: is the minister confident that the regime has enough checks and balances to ensure that there is no abuse of the rights and access to Schedule 4 and Schedule 8 drugs under the act?

**The Hon. G.E. GAGO:** I have been advised that there are indeed a number of checks and balances in place to ensure that standards are upheld and protections are put in place; these include national board endorsements of the competencies to prescribe to ensure certain standards. There is also a policy in place for nurse practitioners, which includes an approved list of drugs and, of course, a number of clinical professionals have input into that, including medical practitioners, to ensure that it is an appropriate list.

There is also the normal authorisations required for prescribing rights, where they are required to seek authorisation from the drug dependency unit and, of course, the drug dependency unit also provides an overall monitoring of prescribing to make sure that those practices remain within reasonable boundaries.

**The Hon. R.L. BROKENSHIRE:** Also on clause 1, as I understand it the government's new protocols are to have these answers with these bills. First, what is the budget impact of this bill? Has the impact been budgeted for already, or will the minister need to go to the new Treasurer to secure funding for that impact in the forthcoming budget? The other question (which is now standard government practice that I will be adopting) is: how many additional staff will be required by the passage of this bill?

**The Hon. G.E. GAGO:** I have been advised that budgetary and staffing impacts are expected to be minimal. In fact, in the 2010-11 budget new money was set aside for increasing the number of nurse practitioners, so those funds have already been designated. In fact, the outcome of this bill will ensure that we make better use of the health care professionals who are already currently in the system, enabling them to work more efficiently and effectively within their current scope of practice. Logic would say that, if you think about the costs of seeking prescribing rights, using a medical practitioner service is more expensive than using a nurse practitioner, so in fact there are some significant efficiencies there.

**The Hon. R.L. BROKENSHIRE:** Is that code for saying that nurses will be expected to have more responsibility and do more work for less?

**The Hon. G.E. GAGO:** What it means is that they will be better able to practise within the scope of their competencies. That is an improvement to efficiency.

**The Hon. S.G. WADE:** In relation to the minister's remarks: will nurses need to have further training to enable them to take the role of a nurse practitioner, as opposed to a registered nurse?

**The Hon. G.E. GAGO:** This affects those nurse practitioners who are already qualified as nurse practitioners, so this is not about expanding the role of registered nurses. There are career pathways for nurses, and one of those is that of a nurse practitioner that requires certain qualifications to fulfil or meet those competencies. What we are talking about here are those nurses who are already qualified to be nurse practitioners. Nurse practitioners already have prescribing rights, so that is not new. What we are saying is that this will expand the scope of their prescribing rights.

**The Hon. R.L. BROKENSHIRE:** Given that the drug RU486 is a Schedule 4 drug, which I understand nurses can currently prescribe if accredited, can the minister advise how many prescriptions of RU486 have been prescribed in each of the last three years, and are there circumstances contemplated where a midwife would need to prescribe RU486?

**The Hon. G.E. GAGO:** The question is not relevant to this bill. I am advised that nurse practitioners can already prescribe Schedule 4 drugs. This bill goes to increasing their scope to include Schedule 8 drugs, so this question is completely irrelevant to this piece of legislation.

**The Hon. R.L. BROKENSHIRE:** The Nursing and Midwifery Board has not yet published a list of scheduled medicines applicable to registration standard. Can the minister tell us whether that list has been published and, in any case, what are the medicines proposed or likely to feature on that list?

**The Hon. G.E. GAGO:** I am not too sure to what particular list of drugs the member is referring, so he could provide more information. Is he talking about all other schedules, or is he talking about those drugs contained in Schedule 8?

**The Hon. R.L. BROKENSHIRE:** Drugs in Schedule 8 in particular.

**The Hon. G.E. GAGO:** I have been advised that those particular drugs listed in schedule 8 are nationally agreed upon by a standard expert committee and they would be available publicly. I am sure they are on the internet. If the member went to the Therapeutic Goods Administration site, I am sure he could find them listed there.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

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

Page 5, line 17 [clause 6, inserted section 11B(1)(a)]—Delete 'as a law of South Australia in relation'

The Controlled Substances Bill, the bill before us, was introduced to the house on 10 November and in this place on 23 November. The changes in the bill, as the minister has explained, make amendments to provide the necessary flexibility for endorsed health practitioners to manage scheduled medicines with the same powers and functions under the South Australian legislation as they have under the commonwealth therapeutic goods laws.

The bill in that sense is yet another example of a national law. In recent times this council has taken a more critical approach to the application of national laws as laws of South Australia. This council and, if I can speak more directly, the Liberal opposition, does not pretend that the complex interactions of commonwealth and state laws lend themselves to a formulaic approach. In appropriate circumstances, we will support a law of another jurisdiction being applied in South Australia.

For example, we supported the Australian Consumer Law in the form of a commonwealth act being applied in South Australia as the South Australian law because we saw the law was primarily one of commonwealth constitutional responsibility, where the use of the state law is primarily to ensure the commonwealth law applies consistently to all relevant parties. It is our understanding that that is also the case with this bill. Without a state bill to support the

commonwealth act, law would not apply to unincorporated associations, including natural persons. We see the wisdom of having a state act to support the commonwealth act.

That said, there is one clause that continues to concern the opposition. Having accepted the use of applied law to apply the national law, our issue is not a fundamental problem, but we believe it is a clause worth fixing. Clause 6, which we are currently considering, inserts a new section 11B. That clause says that the commonwealth Acts Interpretation Act shall apply as a law of South Australia in interpreting the commonwealth act.

The opposition is happy for the commonwealth Acts Interpretation Act to be used for interpretive purposes; however, we just see no need to overstate the situation by declaring the law to be a law of South Australia. It is not: it is a law of the commonwealth, and its only relevance here is to interpret an applied law. The opposition proposes simply to delete eight words to make the bill more accurate and, frankly, less offensive.

**The Hon. R.L. BROKENSHIRE:** Relevant to the amendment, I would like ask the minister some questions in that area with respect to clause 6. Why is it that, yet again, we are allowing commonwealth laws to apply as state laws when we have no power to disallow those laws? Why are we continually giving away our parliamentary sovereignty? Here we will apply the Therapeutic Goods Act as amended by the commonwealth in future whereby Canberra bureaucrats will decide what is good for South Australia. To me, this is a referral of powers by stealth, again. In the second reading explanation, the minister said that Victoria allegedly tried to mirror laws and it proved unworkable.

I ask the minister with responsibility for the bill in our house why that was the situation. We recently saw the opposition successful in getting laws tabled here in our parliament as state law rather than legislation by reference to commonwealth law that may change. I ask this question again, and I will continue to ask it because I am quite concerned about what is happening here. I hope that maybe the new COAG might start to address some of this, too, but, at this point, we are responsible for protecting our state's rights—that is what we are democratically elected to do, not rubberstamp. I ask again, and I will keep asking every time we are asked by this government to do this: why does this government find this an acceptable practice with respect to the proposal?

**The Hon. G.E. GAGO:** With all due respect, the question that the Hon. Robert Brokenshire has asked is not relevant to the amendment before us. The amendment before us is quite specific about the common use of words. The honourable member's question is not relevant to that, it is much broader.

**The CHAIR:** The amendment is to clause 6. I think that the Hon. Mr Brokenshire's question was on clause 6 rather than the amendment.

**The Hon. G.E. GAGO:** I see. I am sorry; I thought we were dealing only with the amendment. In respect of the issues raised by the Hon. Robert Brokenshire, the commonwealth therapeutic goods laws provide a framework to ensure that medicines and medical devices are safe, effective and of appropriate quality. The Therapeutic Goods Administration administers the commonwealth therapeutic goods laws.

Manufacturers of medicines and medical devices must be licensed, and therapeutic goods must be produced in accordance with good manufacturing practices. Products must be included on the Australian Register of Therapeutic Goods. The commonwealth therapeutic goods laws already apply in South Australia to import and export interstate trade and trade by corporations. There is a gap in the regulation as the commonwealth therapeutic goods laws do not apply to persons in unincorporated businesses that trade only within South Australia. So, that gap exists.

As a result of this gap, there is a risk that a person could manufacture a medicine or a medical device for sale within South Australia without having to meet the national controls on safety, efficacy and quality. There is also a potential risk to public safety. The most effective mechanism to cover this gap in regulation is to apply the commonwealth therapeutic goods law as a law of South Australia, as any changes to the commonwealth law would automatically then apply here in South Australia, and that provides greater consistency and less potential for confusion.

Other mechanisms, such as incorporating the commonwealth Therapeutic Goods Act into the Controlled Substances Act, or taking the approach that was taken with the Health Practitioner Regulation National Law (where Queensland legislation is attached as a schedule to the South Australian act) which can be updated via regulations and which is what we did here when we looked at that particular piece of legislation. That actually is not practical or workable in this case.

With these mechanisms, there is a potential for inconsistency between South Australian legislation and the commonwealth therapeutic goods laws, and this could have public safety implications. If the commonwealth legislation is amended to address an issue that has been identified in relation to safety, efficacy or quality of medicines or medical devices, commonwealth officers would be unable to enforce the new provision until the South Australian legislation was amended, which is just simply not in the interests of South Australians.

So, there is a provision in the bill for the applied provisions—the commonwealth therapeutics goods law—to be modified. There is also a provision for persons or medicines or medical devices to be exempted from the applied provisions, so there is flexibility around that. This will enable any specific local issues to be taken into account, if there was a change to the commonwealth legislation that presented a significant problem for manufacturers in South Australia.

So, we have got the best of both worlds. We have got the best of a nationally consistent approach that would improve safety for consumers here in South Australia, as well as having mechanisms to modify aspects to meet our local needs, if and when that is needed.

Given that the amendment has been put, there are issues in terms of the government's response that are relevant to the general discussion around clause 6. The government opposes the amendment put by the Hon. Stephen Wade. The words amending division 1, part 11B(1)(a) of the act have been agreed by a parliamentary counsel's committee, which is a committee of parliamentary counsels of each state, territory and New Zealand.

These common words have actually been in use since at least 1994, so there is nothing new there—there is nothing to be frightened of. This proposed amendment is about a question of drafting, not substance.

**The Hon. S.G. Wade:** It has no effect, so let it happen.

**The Hon. G.E. GAGO:** Well, if you just let me finish; if you are not prepared to listen. There is nothing to be afraid of here. You can listen to this and you might actually pick up something.

**The Hon. S.G. Wade:** I am just clarifying my understanding of what you are saying.

**The Hon. G.E. GAGO:** Well, why don't you just sit and listen? It is easy. A fundamental principle of drafting is consistency. The same words should be used to mean the same thing across legislation. Given that this legislation applies across the nation, it is important, and in everyone's interest, that the same words should be used to mean the same thing—this avoids the potential for confusion and misunderstanding.

The wording in this bill does not erode or undermine state sovereignty. So, it does not go to that issue; it does not affect what we can and cannot have input into at a later date or what powers we have over these provisions. As I said, it is a question of drafting, not substance.

The last time this house enacted legislation that applied a commonwealth act, together with the commonwealth Acts Interpretation Act, using these same words, was last November when it enacted the Australian Consumer Law. Again, this is not something new. We have done it before and it is simply about providing consistency to the use of common wording.

It would be mischievous, and potentially confusing, to start using different wording to achieve the same end. Readers and courts, for instance, would be right to think that some different purpose must have been intended, because different words are being used, when, in fact, there is no intention to mean anything different. So, there is the potential to use different words to say or mean the same thing.

If the words are not consistent, it would be quite easy for courts and others to think, 'Well different wording is in place, it must be meaning something different.' It does not mean anything different. So, it is for those reasons that the government does not support the proposed amendment.

**The Hon. S.G. WADE:** In response to the minister's comments, I would just underscore the minister's explanation that these words would have no substantially different effect. Her accusation is that to use different words would somehow be taken by the courts as meaning something different. In other words, the minister is suggesting that the courts would not use the plain meaning because of a difference between acts.

I do not know why the courts would ever need, in interpreting the Therapeutic Goods Act as applied in South Australia, to be looking at the words used in another place. In terms of the source of the authority, the minister tells us that a national committee of parliamentary counsel has told us that that is the way that they would like each of them around the nation to use it. That is like saying that there is a group of therapeutic goods administrators who think that this is the way our laws should be and therefore we should just lay down as a parliament and take the advice of the bureaucrats.

As the Hon. Robert Brokenshire has said, and as I said in my comments, this council and this parliament have taken a fresh course. Since the last election, we are taking much more seriously our responsibilities in relation to national law. Who cares if this was the practice in the past? If this council, after due consideration, believes that we need to change each of these examples of national laws, then that is great; here goes another one. I would encourage parliamentary counsel and the bureaucrats to be mindful of the attitude of this council.

This council is saying that national law is a direct challenge to the authority of this council. It might be a relatively trivial matter for the bureaucrats and for the minister, but it is one small statement from this council that we are going to take our responsibility seriously. I accept that it is not a substantial change. The minister says that it will have no effect, so let it pass.

**The Hon. G.E. GAGO:** The honourable member is quite right in the respect that this has no substantial effect in terms of the substance of this legislation. It does not, but the unintended effect or the concern that we have is that using different wording unnecessarily could create confusion at a later date. There is nothing to be gained by South Australia having different wording. There is no benefit to us. It does not give us any increased powers to make changes at a later date or have any greater input.

Leaving the South Australian wording as different does not have any effect whatsoever in terms of our sovereignty. As I said, it does not empower us in any way to make any further changes or give us any further rights or expansion of our entitlements. It does not go to the issue of sovereignty. It has no substantial effect. What it can do, however, is create confusion, because we mean the same thing as what is being proposed in the common word usage, and yet we have words that say it in a different way. We are saying that there is a greater potential for that to lead to confusion and misunderstanding at a later date.

I very much respect parliamentary counsel's opinion and advice, and it is only that. It is only advice and opinion that parliamentary counsel and this committee have provided, but I respect that, and I think that it would be very foolish of this chamber to dismiss their considerations and deliberations because the honourable member dismissively refers to them as bureaucrats. They are technical experts whose opinions are very important. This committee is a team of experts who have incredibly valuable and important advice that governments and members of parliament should consider in their deliberations.

They should not be just dismissed as bureaucrats. These people are highly educated and trained to help us ensure that we make good laws that are unambiguous, and I respect that and value their advice. The fact that this committee has come together across jurisdictions says that there is a common view by these experts. It is a committee across jurisdictions, and all of them have landed on the same point, and that is that we are better off using some common words across the nation. As I said, I think it is important that members consider that in their deliberations.

**The Hon. R.L. BROKENSHIRE:** I will ask at this point—because we are giving our lawmaking powers away—does, or will, proposed commonwealth law prescribe, firstly, that a nurse, nurse practitioner or midwife will have an obligation to prescribe a drug to a patient upon request? Secondly, if they do not, according to their conscience as an individual, want to prescribe the drug to that person, can they refuse to do so? Thirdly, are they obligated to refer that person to another practitioner who will prescribe the drug? These are the questions I get from some nurses and nurse practitioners who want to reserve their right not to have to prescribe or administer certain drugs.

**The Hon. G.E. GAGO:** I am advised that nurse practitioners will have professional autonomy within the scope of the practice, which is approved by the national board. What is occurring now is that current legislation is a barrier to that. In terms of prescribing drugs according to their conscience, as I said, nurse practitioners have autonomy of practice within their scope.

In relation to their obligations to refer people to other specialists, there are guidelines and protocols around referral that apply to nurse practitioners, and, being a member of a health care team, they are bound to adhere to those particular protocols.

**The Hon. S.G. WADE:** The minister said that the application of these laws could be modified in South Australia to take account of South Australian circumstances. Could she explain how that might happen?

**The Hon. G.E. GAGO:** I have been advised that there is provision in the bill for applied provisions to be modified. For instance, the act enables us to make amendments through regulations if a matter is deemed to be so serious or significant that it might need change, so we can make those modifications through regulation. As I have already put on the record, there is also provision for persons or medicines or medical devices to be exempted from applied provisions and that it enables specific local issues to be taken into account if there is a significant problem presented by manufacturers.

**The Hon. S.G. WADE:** In relation to the first class of modification the minister referred to, is the minister referring to new section 11A(3)(d)?

**The Hon. G.E. GAGO:** I have been advised yes.

**The Hon. S.G. WADE:** Is there any limitation on the scope of the content that could be included in such a modification by regulation?

**The Hon. G.E. GAGO:** I have been advised no.

**The Hon. S.G. WADE:** To which section was the minister referring when she referred to the second class of modifications in terms of the exemption of manufacturing processes?

**The Hon. G.E. GAGO:** I have been advised new section 31(6).

**The Hon. S.G. WADE:** Would any modifications to the applied provisions achieved through regulation under new section 11A(3)(d) be regarded as part of the act?

**The Hon. G.E. GAGO:** I have been advised that the answer is yes, as applied in South Australia.

**The Hon. S.G. WADE:** That being the case, what would be the effect of new section 11A(4)? It provides:

> (4) To the extent of any inconsistency between the applied provisions and this Act, the applied provisions prevail.

On the basis of the minister's reply, the regulations would be deemed to be part of the act. To the extent that they are inconsistent with the national law, they are deemed not to prevail and, therefore, these South Australian variations would have no effect.

**The Hon. G.E. GAGO:** I have been advised that the inconsistencies the honourable member refers to are between the applied provisions as modified for South Australia and the rest of the South Australian Controlled Substances Act. I have been advised that if there is an inconsistency in the commonwealth trades goods law, as modified for South Australia, and a rule in our Controlled Substances Act, then the commonwealth trades goods laws must prevail to ensure consistency, as they must for constitutional reasons.

**The Hon. S.G. WADE:** For the sake of expediting the debate I presume the minister's reference to the trades goods law was reference to the therapeutic goods laws. That does not seem to me to be a plain reading of clause 5(1) which has a definition of 'applied provisions', as follows:

> applied provisions means the Commonwealth therapeutic goods laws that apply as a law of South Australia by virtue of section11A;

That does not allow for modifications. Would the government, for the sake of clarity, insert the words after section 11A in clause 5(1) 'as modified by the regulations and amendments to this act'?

**The Hon. G.E. GAGO:** I am advised that the clarification the honourable member seeks is already provided in the current bill, and I refer the member to clause 5(1), Interpretation, which states:

> applied provisions means the Commonwealth therapeutic goods laws that apply as a law of South Australia by virtue of section11A;

I then refer the member to new section 11A—Application of Commonwealth therapeutic goods laws:

(1) The Commonwealth therapeutic goods laws, as in force for the time being and as modified by or under this Part, apply as a law of South Australia.

**The Hon. S.G. WADE:** I thank the minister for the answer. That does allay my concerns. Could the minister also clarify that this parliament would be able to insert a new paragraph, let's say in new section 11A(3) to either replace paragraph (d) or insert new paragraph (e), whatever you would like to call it?

**The Hon. G.E. GAGO:** I can advise yes, effectively.

**The CHAIR:** We have been on this clause for a long time.

**The Hon. R.L. BROKENSHIRE:** I appreciate that, but it is our job to scrutinise. I was after an explanation from the minister because the minister said that, if the circumstance arose, they could look at a regulation and bring in that regulation. Would that regulation have to be checked with or passed by commonwealth authorities, or would that regulation simply be a regulation that would come through our house and we would have the jurisdiction and control of that regulation?

**The Hon. G.E. GAGO:** I have been advised that, no, it would not need to be vetoed or to go through commonwealth scrutiny.

**The Hon. S.G. WADE:** Just to clarify the response and the Hon. Mr Brokenshire's point about its being fully disallowable by this house in the normal way of sub-delegated legislation?

**The Hon. G.E. GAGO:** I have been advised yes.

The committee divided on the amendment:

AYES (13)

| | | |
|---|---|---|
| Bressington, A. | Brokenshire, R.L. | Dawkins, J.S.L. |
| Franks, T.A. | Hood, D.G.E. | Lee, J.S. |
| Lensink, J.M.A. | Lucas, R.I. | Parnell, M. |
| Ridgway, D.W. | Stephens, T.J. | Vincent, K.L. |
| Wade, S.G. (teller) | | |

NOES (6)

| | | |
|---|---|---|
| Finnigan, B.V. | Gago, G.E. (teller) | Gazzola, J.M. |
| Hunter, I.K. | Wortley, R.P. | Zollo, C. |

PAIRS (2)

| | |
|---|---|
| Darley, J.A. | Holloway, P. |

Majority of 7 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 7 to 12 passed.

Clause 13.

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

Page 13, line 15 [Clause 13(1), inserted subsection (2)]—Delete ', supply or administer'

Under the provisions of the bill, the prescribing, administration and supply of some specialist drugs—for example, some drugs used for the treatment of cancer—are restricted to a medical practitioner, usually a consultant medical practitioner. This is an unintended consequence of the bill.

It is intended that only the prescribing of these drugs is limited to a medical practitioner who holds this special prescribed qualification or who meets the requirements specified in regulation. This amendment would allow a nurse to administer these medications—not to prescribe them but

administer them. The unintended consequence was that we captured the ability of nurses to administer when that is unnecessary. Once these specialist practitioners prescribe these special medications, the nurses should be able to administer them. We are just fixing an unintended consequence.

**The Hon. S.G. WADE:** What was the source of the words which the minister now proposes to change? Was this bill agreed by a group of national bureaucrats, or was it the work of South Australian bureaucrats?

**The Hon. G.E. GAGO:** I have been advised that this provision is South Australian legislation. We are not adding in any new words, we are simply deleting 'supply or administer'. The advice has come from parliamentary counsel who has picked up this unintended consequence.

**The Hon. S.G. WADE:** I certainly appreciate that the advice for the amendment came from parliamentary counsel, and I am very respectful of that. Presumably, we have a national law which has a series of sets of provisions that different states and territories need to put in to make sure that it works as a whole; and, if that is the case, presumably this defect was in all the state laws and therefore similar procedures are being done by all different states and territories.

I presume, on the other hand, that a set of amendments will also be necessary for South Australia's specific circumstances. If you like, I am asking: is this a part of the national sister set of amendments, or is this a part of the South Australian specific amendments?

**The Hon. G.E. GAGO:** I am advised that, no, this provision is not part of commonwealth law and that it comes under specific South Australian controlled legislation, specifically the Controlled Substances (Poisons) Regulations 1996.

**The Hon. S.G. WADE:** Thank you, minister.

**The Hon. J.M.A. LENSINK:** On my reading, the words 'supply or administer' have been deleted, but the amendment affects the existing clause such that it will read, 'A person must not prescribe a prescription drug,' etc. If the supply or administration is removed, under what clauses will the supply and administration of this class of drugs be administered?

**The Hon. G.E. GAGO:** I have been advised that the aspects of the supply and administration of these prescribed prescription drugs are covered in the new commonwealth bill before us. The matter we are considering at the moment applies to only one very small group listed in schedule K of the regulations.

Amendment carried; clause as amended passed.

Clause 14.

**The Hon. R.L. BROKENSHIRE:** I ask the minister: will this bill make it possible for nurses to set up a drug rehab clinic or, say, a needle injecting program without a doctor's supervision, or is that already possible under South Australian law?

**The Hon. G.E. GAGO:** I have been advised no.

Clause passed.

Clauses 15 to 21 passed.

Clause 22.

**The Hon. R.L. BROKENSHIRE:** I just want to get some clarification on needle vending machines, because in the second reading explanation it was stated that the medical devices that would be permitted to be sold via automatic vending machines are, among others, injecting equipment with the condition that that the site and location of the vending machine are approved by the minister.

I ask the minister: is that form of vending machine possible under existing law, or is it currently banned; do other states have needle vending machines; and do we as a state legislature, giving away our powers, have any right to stop such vending machines being rolled out here?

**The Hon. G.E. GAGO:** I have been advised that currently pharmacists, medical practitioners and persons acting in the course of a declared health risk program, such as a clean needle program, can sell or supply needles and syringes to injecting drug users. This includes sale or supply via automatic vending machines. Supply via automatic vending machines can help

address gaps in the clean needle program service provision. It can enable drug users to access clean needles and syringes after hours, on weekends and in country areas.

It also enables injecting drug users who have been unwilling to engage with a clean needle program to access clean needles and syringes and can offer the staff of the program the opportunity to interact with drug users. Under the amendments of the bill, there would be an added control as the site and location of an automatic vending machine used for the supply of needles and syringes would have to be approved by the minister. This would ensure that the automatic vending machines are sited in appropriate locations such as existing clean needle program sites.

There are significant costs to the community through the transmission of blood-borne diseases such as hepatitis C and HIV. Providing access to clean needles and syringes has a public health benefit in helping to reduce the spread of blood-borne diseases. Needle and syringe programs are a cost-effective means of preventing transmission of these diseases.

The report entitled Return on investment 2: evaluating the cost-effectiveness of needle and syringe programs in Australia states that in South Australia it is estimated that for every one dollar invested in a needle and syringe program more than five dollars is returned additional to the investment in healthcare cost savings by preventing life-threatening infections. In South Australia $15 million was invested in needle and syringe programs between 2000 and 2009 resulting in a $93 million saved in downstream health-care costs.

Cost savings include the prevention of approximately 122 new HIV infections and 8,987 new hepatitis infections during the study period, so the research is quite compelling. As we know, a drug user who does not have access to a clean syringe is highly likely to use an already used syringe. Those people with drug addictions are often prepared to put themselves at great risk because of their addiction.

It is highly unlikely that they simply would not have their fix because a clean needle was not available to them. Unfortunately, it is common practice that, if a clean needle is not available, people will use dirty syringes, and we know that there are enormous health risks, enormous personal tragedies and financial costs to the community associated with that. So I think this is a positive move.

**The Hon. R.L. BROKENSHIRE:** I have a point of clarification. I acknowledge that there are clean needles and syringes made available, as the minister has said, in places like pharmacies and hospitals across the state, but I just want some further clarification. The minister said that the minister would have the decision about where further vending machines may be placed.

Can the minister assure the committee that there would not be a unilateral decision made with these powers being handed over to the commonwealth which the commonwealth then overrides and says, 'We're going to start putting these machines next to fast food outlets and other facilities, such as schools, preschools, etc.'? Could the minister give us some clarification on that? Whilst I acknowledge the benefits, I would be very concerned if, all of a sudden, we started having vending machines next to the Coca-Cola machines across Rundle Mall and other places.

**The Hon. G.E. GAGO:** I have been advised that the state currently has discretion as to the location of these vending machines. I have been advised that the bill before us does not erode the current state discretion to locate machines.

**The Hon. S.G. WADE:** In relation to the Hon. Mr Brokenshire's last point where, as I understand it, he was suggesting a hypothetical situation where the commonwealth might take a policy decision about the placing of automatic vending machines, if the commonwealth changed the national law, under clause 6, new section 11A(1) would apply in South Australia as the law of South Australia. But the modifications that we are permitted to allow to be considered as part of the law are only modifications by, or under, this part.

The elements in relation to vending machines are not within that part. So, my reading of new section 11A(4) is that that inconsistency would be overridden. In other words, a commonwealth provision in relation to automatic vending machines would be able to be overridden because it is outside new Part 2A.

**The Hon. G.E. GAGO:** I have been advised that the location of vending machines is completely outside of the scope of this bill.

**The Hon. S.G. WADE:** If that is the case, why does clause 15 provide 'Amendment of section 12—Prohibition of automatic vending machines'? In what sense is it completely outside the scope of this bill, if it is mentioned in this bill?

**The Hon. G.E. GAGO:** I have been advised that the discretion about the location of vending machines is outside the scope of this bill.

**The Hon. S.G. WADE:** That is of interest but the Hon. Robert Brokenshire is suggesting that the commonwealth, as I understand it—I might have misunderstood him—may make a policy decision enforced by legislation at the national law level in relation to what can happen with automatic vending machines. If they do that my reading is that no matter what we do in our bill it is outside part 2A and we are subject to overriding inconsistency.

**The Hon. G.E. GAGO:** I need to correct the record. The discretion to do with the location of the vending machines is outside the scope of the commonwealth therapeutic goods law.

**The Hon. S.G. WADE:** I am getting better informed all the time, but I am not fussed about the location: I am just fussed about their legislating. They could legislate to prohibit, for example, but apparently we are open to automatic vending machines. Let's not get too fixated about the particular example; I am just trying to understand the extent to which this parliament is keeping custody of its own law.

It seems that the only modifications we can make that will become incorporated into applied provisions are amendments that can be made under new section 11A. As I understand it, the rest of it is liable to be overridden by commonwealth law. If that is the case, I think that changes dramatically the complexion of the bill, and I indicate to the minister that that would certainly encourage the opposition to seek reporting of progress.

**The Hon. G.E. GAGO:** I have been advised that, in effect, the commonwealth can make laws on any matter within its constitutional powers. That is its prerogative: it could attempt to make any law on any matter within its constitutional powers. However, in the context of this bill, the commonwealth-applied laws have nothing to do with vending machines; only the South Australian section 20 of the Controlled Substances Act covers this.

**The Hon. S.G. WADE:** The minister seems to be fixated on automatic vending machines. I am trying to get fixated on the extent of the applied provisions. Picking up on the minister's assertion that the commonwealth can make any law on any matter, and the fact that the South Australian law is there, let's remember what we are doing here: we are applying a commonwealth law as South Australian law. As soon as it comes across the border it is not a commonwealth law any more; it is a South Australian law and it assumes all of our constitutional authority, so assurances from the minister about the limitations of commonwealth constitutional authority are all very interesting, but they are very concerning.

I would suggest to the honourable members who have been participating in this debate that the minister's recent remarks have suggested that the modifications to the regime that we were led to believe would be possible are only possible in relation to new section 11A amendments and the rest of the bill is completely at the mercy of an aggressive commonwealth parliament, so I suggest to honourable members—and I defer to other members, particularly the Hon. Michelle Lensink—that this might well be an appropriate time to report progress.

**The Hon. G.E. GAGO:** I think the honourable member is confusing matters. If we go back to basics, the commonwealth law is about the registration of medicines and medical devices and some matters that flow from that. The matters covered by the South Australian Controlled Substances Act cover different matters, unrelated to those covered in the commonwealth act. Any likelihood of inconsistency between those is absolutely minuscule, I am advised. New section 11A(4) was added out of an abundance of caution to ensure any potential for constitutional problems is avoided.

The modifications we have been talking about are related to topics covered by the commonwealth act, not by the South Australian Controlled Substances Act; they are two separate things that have been confused through the debate.

**The Hon. S.G. WADE:** Without wanting to reflect on where the confusion may have been fostered, I still see that there is a risk of inconsistency and that new section 11A(4) would give the commonwealth law the effect of South Australian law. The fact that the current national law is limited does not give us any reassurance that a future national law will not be limited. Putting aside the issue of self restraint by the commonwealth, I also have concerns about the extent to which

delegating legislative authority through national law (which is applied law) may well allow the commonwealth to assume some of our constitutional authority.

With all humility, and admitting I may be confused and eager to receive the learned counsel of the minister and any advisers she may offer, I submit that at a personal level I would like committee to report progress so that I can receive further briefings.

Progress reported; committee to sit again.

## SOUTH AUSTRALIAN PUBLIC HEALTH BILL

Adjourned debate on second reading.

(Continued from 24 November 2010.)

**The Hon. K.L. VINCENT (17:27):** I rise to indicate my support for the South Australian Public Health Bill. I was told by Mr Daniel Broderick, who provided a succinct briefing to me on behalf of the government (for which I thank him very much) that this bill, if passed into law, would become a toolbox of sorts that contains the tools that can be applied to any public health issue.

This toolbox replaces the Public Health and Environmental Health Act, which is quite prescriptive as to the specific types of public health issues regulated. Let's face it, when we are looking at an issue as important as the health and wellbeing of individuals and communities, our authorities should not be fettered or use outdated prescriptive legislation but should be allowed some scope in determining what constitutes a public health incident.

As individuals and members of the community, we have a right to be protected from public health risks, and the bill recognises this and provides a workable framework to protect us all. However, those people who may constitute a public health risk also have rights, such as the right to privacy, the right to appropriate care, the right to have his or her dignity respected, and the right to have a say in their treatment. These people should have restrictions placed on their liberty only as a last resort; again, this bill recognises those principles.

I note that Mr Wade has tabled amendments that allow for appeal rights additional to those already offered under section 96, and I will be supporting this amendment. It does provide for a 24-hour buffer zone, but people should have the right to appeal orders made by authorities.

**The Hon. S.G. Wade:** Hear, hear!

**The Hon. K.L. VINCENT:** I agree with myself also—somebody has to!

I take on board the comments by Ms Franks and advise that I will be supporting the amendments tabled by the Greens also. I will also be supporting the amendments tabled by the Hon. Ms Lensink, as it makes sense to review the operations of such a major act of parliament.

Of course, local government has a lot invested in this act, as local councils work in partnership with the state government to protect public health. I note that the LGA supports this bill and I have taken that into account when deciding to support the bill, although I must admit that I am at odds with the LGA as to the proposed amendments from Mr Wade.

**The Hon. R.P. WORTLEY (17:31):** I rise today to add my remarks to those already offered on the South Australian Public Health Bill. The provisions of the bill have been thoroughly canvassed, so I will refer only briefly to those later in my remarks. In considering this bill, I thought it valuable to reflect on the development of public health in our state. After all, the systems we apply and from which we benefit today did not come from nowhere. They are the result of thought and action over many, many decades and indeed over centuries.

In fact, the guardianship of our public health in Australia has a proud history. After the colonies were established, they gradually developed legislation similar to British laws, for example, the English Public Health Act 1848, whereby matters such as quarantine, clean air, the prevention and control of smallpox and other infectious disease, sanitation, child and maternal health, and clean water supplies were monitored and managed appropriately.

The rapid growth of settlements meant that deaths from infectious disease were at a high level and the development of proper housing, sewerage and disposal mechanisms, the growing and supply of healthy unadulterated food, and incremental public health laws, along with education, were the first weapons in the battle against infectious disease and its consequent mortality and morbidity rates.

Geoffrey H. Manning's *A colonial experience*, refers to recommendations made with regard to public health in Adelaide in the mid 19th century:

> Empty the cesspools, clean the yards and streets, cause the eaves of the houses to be furnished with gutters, the footpaths to be paved, the cesspools to be covered over and provided with stink-traps. Allow no slaughter of any description within the town and until proper sewers can be constructed let wells be sunk at the corners of each street, into which gutters containing the refuse water should be directed. Water should be laid on to each house as early as possible—Torrens water from near the Frome Bridge would be found the best and the cheapest—appoint an officer with power to inspect premises and enforce cleanliness, repairs of drains and gutters and burial of filth, etc, appoint public scavengers and night men to act under them.

This one sounds a bit suss:

> Require all future erections to have back as well as front entrances and to have at least one window and a chimney in each room and houses to be roofed with slate and to be furnished with proper drains, closets, etc.

Given these recommendations, it does not take much imagination to consider the dire situation prior to their implementation.

South Australia's first public health legislation was passed in 1873 to make provisions for the preservation and improvement of public health and was augmented a number of times during that century. Federation initially saw the commonwealth government concerned to only a limited degree with public health, save for quarantine matters. The states and territories held primary responsibility for health services and population-centred preventive initiatives, and the public hospital systems were set up in each state.

While a post-World War II constitutional amendment gave federal government a more decisive role in the area of health services provisions, the states and territories continued to have a primary role in surveillance and service provision. The Kerr White report into research and education in public and tropical health was released in 1986 and the National Aboriginal Health Strategy established in 1989. The first HIV/AIDS strategy was released and women's health programs, including BreastScreen, were also implemented around that time.

A later shift saw the Australian health ministers' conference in 1996 look away from the specific disease-based paradigm towards a new whole-of-system approach, and the rest became history; while NGOs, such as the Cancer Council and the Heart Foundation (among many others), have played a major role in large-scale public education programs about lifestyle changes aimed at better health outcomes. Among current examples are the 'smoker's cough' and the melanoma campaigns. We might characterise public health as being concerned with:

- the protection of the health of individuals and the population as a whole;
- illness prevention to reduce the amount and spread of disease or injury for individuals and populations;
- health promotion to empower people and populations to take control of their own health;
- and the development of law, policy and related systems to enable the achievement of the protection, prevention and promotion imperatives.

In spite of all the achievements made thus far, we still need to deal with emerging public health issues, such as:

- the obesity epidemic and the chronic diseases which can be the legacy of obesity;
- drug-resistant diseases;
- the effects of climate change;
- the advent of nanotechnology; and
- contaminants in our environment, including our water and our food.

The social determinants of health are defined by the World Health Organisation as follows:

> ...the conditions in which people are born, grow, live, work and age—including the health system. These circumstances are shaped by the distribution of money, power and resources at global, national and local levels, which are, themselves, influenced by policy choices. The social determinants of health are mostly responsible for health inequities—the unfair and the unavoidable difference in health status seen between countries.

These social determinants are present even within our own prosperous western society. They must be considered and dealt with to enable optimal outcomes for all.

An essential element in the delivery of public health service in South Australia is local government, which has a major role in health supervision and action. A prime example is, of course, our vaccination program, but, more broadly speaking, councils have frontline responsibilities for environmental management, planning and development of land amenities, community safety, community services and the provision of sporting and cultural facilities, all of which when you consider them have a bearing on public health. The bill before us today acknowledges and recognises the paramount role of local government by ensuring that councils as local public health authorities partner the state government in preserving and promoting health and preventing illness, and I will return to that a little later.

Let us not forget the non-government organisations I mentioned previously. Our universities and research institutions and, of course, the health professionals, the policy makers and the legislators all play a part in the provision of public health services. In fact, I found it quite fascinating to consider all the strands of endeavour that go to make up the public health system we enjoy and take for granted today—think of polio, SARS, meningococcal disease, Ross River fever and legionella. Public health people, bodies and infrastructure enable us to deal with pandemics and disease outbreaks which, indeed, makes us very fortunate.

I turn to the bill. The 2006 review of the Public Environmental Health Act 1987 has been invaluable in formulating—in partnership primarily with the Local Government Association of South Australia and the South Australian branch of Environmental Health Australia, among numerous other stakeholders—the bill before us. The bill strengthens powers for the prevention, control and management of infectious diseases, authorising public health officials to take swift action in preventing and/or dealing with disease outbreak and to work across jurisdictions and to exchange public health information.

Among these powers are those that may direct or curtail individual freedoms in the protection of public health. These powers have been codified to protect individual rights, and would be applied in an incremental and proportionate way with regard to the level of risk. The curtailment of liberty is, I need not add, a measure of last resort. The minister will administer the legislation in the context of protecting and promoting public health and in collaboration with local government.

The minister will, however, have ultimate responsibility, as is appropriate. The office of chief public health officer will be established to provide a single avenue for reference, expertise and advice in matters of public health. The chief public health officer will have the power to give direction and hand down orders, including detention orders, where there is a risk to others by way of actions of an individual with a controlled notifiable disease.

Review of such directions and orders will be carried out when necessary by the District Court. The bill further provides for an authorisation and review role of the Supreme Court. The bill replaces the Public and Environmental Health Council with the South Australian public health council, giving voice to key stakeholders in the context of 21st century public health practice. The council will have clear terms of reference and advise and monitor public health across South Australia.

In addition, a new public health review panel will hear appeals arising out of the exercise of part 6 of the bill, which establishes a general duty with regard to the protection of public health. The panel's decision may be referred to the District Court, thus ensuring transparency of operation. The bill allows the minister to assume the functions of the local council, should it fail to carry out a function prescribed by the act, until that matter is determined. The chief public health officer will play a decisive role there.

Provisions touching on the assessment of risk to public health have been both clarified and made more flexible, facilitating a more appropriate response to action and remediation, depending on the imminence and severity of the risk in question. Other provisions look towards penalties and expiations and to prosecutions. Additional new provisions aim to enhance strategic planning by councils by including public health elements in the planning process.

In an environment where infectious diseases have given way to chronic conditions in terms of mortality and morbidity, the latter now represents our major public health challenge. The bill aims to identify causes and their social and environmental underpinnings that can result in injury or illness and to prevent, monitor and manage their manifestations, as well as reduce and control their incidence. We must remain vigilant about infectious diseases, and the bill therefore retains the notifiable and controlled notifiable categories of disease, and this allows for rapid notification and appropriate intervention.

Contaminants to our food, other products and the environment are also of concern. The bill before us establishes the power to identify and monitor contaminants such as salmonella in food and to act appropriately in terms of preventing distribution or recalling products, for example. At the same time, the government aims to protect the food production, processing and manufacturing enterprises that are so important to our local economy. Consultation with these sectors has been extremely fruitful, and the bill commits the government to continue consultation into the future.

In conclusion, I must once again acknowledge the essential role of our local government authorities in ensuring the health of our communities. There is no doubt that this role will also continue into the future, and the bill we consider today makes that partnership even more valuable. It is my firm belief that public health is the responsibility of all who are concerned with the health of our communities: international bodies, all levels of government, non-government organisations, business communities, groups and individuals.

With this conviction in mind, I consider the South Australian Public Health Bill to be exemplary in its scope and content. I commend its intention and its terms and look forward to its passage for the sake of the health, safety and wellbeing of all members of our community.

**The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (17:43):** There being no other speakers in relation to the second reading contributions to this bill, I take this opportunity to make a few concluding remarks. I thank honourable members for the attention they have given to this important piece of legislation. A number of issues have been raised by the honourable members that I would like to respond to, the first being waste water, which was raised by the Hon. Michelle Lensink.

This bill does not propose to regulate or hinder the Salisbury wetlands or any similar stormwater schemes. The bill provides regulation-making powers for wastewater systems. The wastewater regulations, which will be enacted under this legislation, will regulate for the administration of sewerage and recycled wastewater, not stormwater. These regulations have already been developed in draft form and have been the subject of extensive consultation with all major stakeholders, including local government and other relevant state government agencies.

I turn now to the issue of climate change raised by the Hon. Tammy Franks. I understand that Doctors for the Environment (DEA) wanted a more explicit reference to climate change in the bill. This government has a deep and enduring commitment to taking action on climate change. Premier Mike Rann has taken direct responsibility for this as Minister for Sustainability and Climate Change.

The chamber will note that this public health legislation is flexible and broadly applicable to any foreseeable and unforeseeable public health risk or hazard. Unlike the current act, it does not limit itself or make reference to vermin, head lice, waterways, insanitary conditions or drainage. It provides a toolkit which, through proper and scientific risk assessment, can be applied to all traditional as well as emerging public health risks.

The public health implications of climate change constitute just such an emerging risk. Problems caused by climate change can be addressed by this legislation. For example, from a health protection perspective, the spread of dengue fever, which is a direct result of climate change, will be addressed by this legislation.

From a planning perspective, it is reasonable to contemplate that one of the public health priorities, which the minister may identify in the state public health plan under part 4 of the bill, may very well be the public health implications of climate change. Such a designation will provide a framework for local councils then to address this issue at a local level as much as the state government can address it for the state as a whole.

The issue of health impact assessment was also raised by the Hon. Tammy Franks, and it was considered in the development of this bill. The Department of Health continues to undertake health impact assessments and contributes to environmental impact assessments by providing expert advice on health implications of proposals.

The bill incorporates provisions similar to the Quebec Public Health Act which identify the minister as the chief adviser on health matters to the government and provide for the minister to develop procedures across government for the provision of that advice. Honourable members will note that Quebec is regarded as a global leader in public health legislation and in health impact assessments. We believe that these provisions in South Australia's bill provide this state with the

basis for continuing the development of the Health in All Policies approach as well as the conduct of health impact assessments.

I understand that the Local Government Association is seeking some clarification on a range of issues. The government is happy to provide that clarification. The bill, like all previous public health legislation, confers certain powers and responsibilities for public health on local councils in their area. In that regard, this bill follows a long tradition of ensuring local action and local responsibility for public health within a partnership.

The modern manifestation of this arrangement is the chief public health officer combined with the South Australian Public Health Council on which sit representatives of local government. Therefore, there is no fundamental difference in the role or responsibilities of local councils in this bill when compared with the current act. Where this bill is an improvement (for example, in clause 37) is that some strategic functions are made somewhat more explicit. It remains, however, council's responsibility to determine how they discharge those functions to respond to the public health issues in their areas.

The objects contained in clause 4 also elaborate further what the goals of the legislation are, including such things as the prevention of infectious diseases. This mirrors an existing function of councils as described in the current act. This is not an extension of councils' responsibilities; it simply confirms their already existing role. Councils will be assisted in the production of guidelines, policies and regulations as the bill envisages and, of course, these subsidiary instruments will be developed in full consultation with local government and other interested parties.

Honourable members will note that there are several places in the bill where there is an explicit reference that the minister or chief public health officer must consult with the Local Government Association and, through them, local government. These are happily inserted at the request of the Local Government Association and reinforce the government's recognition of local government as a true partner in public health.

Public health works best when there are partnerships between all levels of government and the community. Provisions in this bill reflect that. The minister has certain powers to intervene in a local public health matter should a council fail in its duties to contain or manage the incident. They are specific to public health issues and do not contradict any power to intervene that the Minister for State/Local Government Relations has under the Local Government Act.

The provisions in the bill are very similar to powers already in existence under the current Public and Environmental Health Act 1987 and are reserved powers used only in the event where a council has not fulfilled its responsibilities and there is a continuing material public health risk. My understanding is that these powers in the current act have never been used (such as the dedication and effectiveness of local government public health officials—that is a testament to them), however, they are a necessary insurance policy for the public should there be a breakdown in our system of management of public health events. So, it is just a safeguard.

In the rare event that the minister contemplates an intervention, there are a range of safeguards which will ensure natural justice and procedural fairness apply to any action taken. For example, in the first instance, the minister may consult with the council. If after consultation the minister considers the council's failure to be significant, he may, after further consultation with the South Australian Public Health Council, direct the local council to perform certain actions under the legislation.

The bill prescribes a scheme for how that direction is communicated and also includes that the direction must be published in the *Gazette.* If there is further withdrawal of powers, clause 41(6) sets out a procedure whereby local councils have the right to respond and make representations to the minister before an action is taken.

The minister in another place has already indicated that he understands that this implementation will require reasonable resources to bring the act into full operation. The Department of Health is also negotiating with the Local Government Association concerning a phased and reasonable introduction of certain provisions. Clearly, some of the provisions will require council staff to receive further training, guidance and orientation to ensure that they fully understand and can consistently apply them. The Department of Health stands ready to provide the necessary assistance over the implementation period to ensure the smooth transition from the current act to this new legislation.

I would again like to thank the opposition and honourable members for their positive support for this bill in both this place and another place. I note that this bill has been developed under the leadership of both the previous and the current governments and reflects the directions recommended in all the consultations in regard to how this legislation should be framed to promote and protect public health.

Support from all sides for this legislation reflects the level of consultation and support that exists in the community among key stakeholders—and I would especially like to acknowledge the support and participation of the Local Government Association, councils and Environment Health Australia—in this endeavour.

I again thank members for their second reading contributions and look forward to the committee stage.

Bill read a second time.

## HEALTH AND COMMUNITY SERVICES COMPLAINTS (MISCELLANEOUS) AMENDMENT BILL

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

## PUBLIC SECTOR LEAVE ENTITLEMENTS

**The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (17:54):** I table a copy of a ministerial statement relating to long service leave entitlements made earlier today in another place by my colleague the Treasurer.

At 17:55 the council adjourned until Tuesday 22 February 2011 at 14:15.