LEGISLATIVE COUNCIL

Thursday 10 March 2011

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

ADELAIDE CASINO

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:17): I seek leave to make a ministerial statement.

Leave granted.

The Hon. B.V. FINNIGAN: In recent days it has become apparent that SKYCITY Adelaide, the licensee of the Adelaide Casino, has been operating gaming machines in the southern atrium or Oasis, an open area located within the licensed casino area. I understand that the southern atrium is primarily used as a bar area. The casino allows smoking on the basis that the area complies with the requirements of the Tobacco Products Regulations Act 1997.

I asked the Liquor and Gambling Commissioner, Mr Paul White, to investigate this matter after it was raised with me on Wednesday, 9 March. Earlier today I spoke to the commissioner and he has advised me that, following a visit from his inspectors, the gaming machines in the outdoor area at the Adelaide Casino have been disabled. The commissioner's inspectorate will continue to monitor the area to ensure that the machines remain disabled.

As members would be aware, a full smoking ban in enclosed areas in clubs, hotels and the casino commenced on 1 November 2007. The Rann government has had a policy of smoke-free gaming areas since 2008. Last year the Gaming Machines Act 1992 was amended to reflect this policy position, and these amendments will take effect as of 1 July 2011. The Gaming Machines Act 1992 does not apply to the casino; nevertheless, I understand that the casino is required to have approval from the commissioner to install poker machines outdoors.

I am advised by the Office of the Liquor and Gambling Commissioner that this approval has not been formally sought. I am advised that approximately two years ago the casino approached the Office of the Liquor and Gambling Commissioner to seek approval for gaming machines in an outdoor area but approval was not granted.

I am not aware of any other gaming venues where a patron can smoke next to or whilst playing a gaming machine. I am disappointed that the casino has taken this action given the clear, smoke-free gaming policy of the government, a policy that is broadly supported by the community. I am seeking further advice on the steps necessary to ensure that casino gaming areas remain non-smoking. If this requires an amendment to the Casino Act 1997, then that is what we will do.

PSEUDOEPHEDRINE SALES

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) (14:20): I table a copy of a ministerial statement relating to pseudoephedrine sales made earlier today in another place by the Hon. John Hill.

QUESTION TIME

SOUTH AUSTRALIA POLICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question about missing police officers.

Leave granted.

The Hon. D.W. RIDGWAY: Recently the government built a new police residence at Kalangadoo—interestingly, using steel framing instead of the locally-grown timber. That was three years ago. The new police station was opened with great fanfare in 2009, and the Leader of the Government opposite may well have been invited, because it is only 40 kilometres from his home in Mount Gambier.

Both the residence and new station now stand empty, and I am told that they have been empty for some months. People there tell me that they are worried about their personal safety, and I am told that police could not even attend a brawl in the pub because of a lack of resources. It is not just the South-East. There has also not been a police officer in Burra since the last one left in 2010. My questions to the Minister for Police are:

1. The government says they have record police numbers. Where are the Kalangadoo police?

2. Why build a new police station and house and then leave it empty?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:25): In relation to the police station and residence in Kalangadoo, I will refer that to my colleague the Minister for Police in the other place. What I can advise the honourable leader is that there are 4,400 full-time equivalent police officers in South Australia, I am advised, which is 700 more than when Labor took office in 2002. The government plans to recruit an additional 313 police over the next 3½ years to meet its target of 1,000 more police since taking office.

This government is committed to the South Australia Police. We have increased the number of police and their resources. We have had a significant program of constructing new police stations and replacing police stations. How extraordinary that this question, from all people, should be coming from the honourable Leader of the Opposition. We know that the opposition no longer has confidence in the South Australia Police.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: It is very clear that the opposition no longer have confidence in the South Australia Police, but they do not have the courage to say that. They are quite happy for the Hon. Mr Wade to say that they will not listen to the police when it comes to criminal intelligence. They are quite happy for the Hon. Mr Lucas and Mrs Redmond from the other place to go out and question the integrity of the police in public. They are quite happy to do that, and then have the nerve to come in here and criticise this government, which has had record investment in police and record numbers of police in this state, and that is record of which we are proud.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. Holloway interjecting:

The PRESIDENT: Order! The Hon. Mr Holloway will come to order as well. The Hon. Mr Ridgway has a supplementary question, deriving from the answer.

SOUTH AUSTRALIA POLICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I have a supplementary question: will the minister ensure that one of the extra 300 to be recruited will be stationed at Kalangadoo?

The PRESIDENT: It is hardly a supplementary question.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:27): As I said, I will refer the matter relating to Kalangadoo to my colleague the Minister for Police in the other place. The government, of course, is committed to ensuring that the South Australian police force protects all the citizens of our community.

Members interjecting:

The PRESIDENT: Order!

LITTLE CORELLAS

The Hon. J.M.A. LENSINK (14:28): I seek leave to make a brief explanation before directing a question to the Minister for State/Local Government Relations on the topic of little corellas.

Leave granted.

The Hon. J.M.A. LENSINK: At the moment, residents of Strathalbyn, which is in the Alexandrina Council area, and of Noarlunga in the Onkaparinga council, are experiencing the effects of large populations of little corellas in their areas. The effects that are being described to me by constituents include sleep disturbance; destruction of their trees, plants and human structures; and large amounts of bird defecation, all of which residents of these towns say are affecting their quality of life.

It has been reported that the population of little corellas in Strathalbyn is 10,000 strong, and constituents believe that the number is even higher than that. The Alexandrina Council Little Corella Management Plan 2010-11 seeks to:

> Conduct strategic targeted control and management by Council in cooperation with community, but also seek greater support and involvement from the Department of Environment and Natural Resources...with the aim of improving the level of support and involvement in this issue.

However, it was reported in *The Courier* of 9 February that this support has been denied. My question to the minister is: given the recent signing of the State/Local Government Relations Agreement (South Australia) 2011, which the minister himself described as enhancing relations, will the minister mediate on this issue between the councils and DENR?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:30): I thank the Deputy Leader of the Opposition for her question. Again, the honourable member does not seem to understand the nature of the State/Local Government Relations Agreement, which is to set out the broad parameters of the relationship between state and local government.

It may well be that in the drafting of that agreement there was not a schedule covering little corellas. It may well be that there is not a little corella appendix to that agreement. That apparently is a major oversight and failure in the eyes of the members opposite.

It is extraordinary that the honourable member comes in here continually and speaks about local government programs as if I am responsible for everything that local government does in this state. As the honourable member indicated, this is a program that is overseen by the Department of Environment and Natural Resources, so I will certainly refer that to my colleague in the other place and bring back a response in relation to the particular issues that the honourable member has raised.

I would suggest that is not a very productive way to approach the state/local government relations portfolio; to expect that basically it is an opportunity to have a pot shot at every single council in the state in relation to anything they are doing. That is not the role of the minister and nor should it be. It is not the role of the minister to administer every single decision of every single council. If it were, then you would hardly need councils.

So, it is a rather mistaken assumption for the honourable member to think that her job is to bring any example of a local government program or initiative into the chamber and expect that it is the responsibility of the Minister for State/Local Government Relations to take immediate action regarding an individual matter of this nature. As she has indicated, this is a program involving the environment department, so I will refer the detail to my colleague in the other place and bring back a response.

FORESTRYSA

The Hon. S.G. WADE (14:33): I seek leave to make a brief explanation before asking the Leader of the Government a question relating to the South-East forests.

Leave granted.

The Hon. S.G. WADE: The forestry stakeholder group in the South-East this week released an independent community impact statement quantifying the effects on the South-East community of the government's proposal to forward sell the harvesting rights of ForestrySA plantations. The community impact statement undertaken by resource economist Dr Bob Smith finds that by 2027-28 the purchaser would have the option to sell 100 per cent of logs outside the South-East region, and there is the potential, by 2021, for around 40 per cent of logs from ForestrySA's softwood estate to be exported, reducing wood-based manufacturing jobs in the South-East area. The Mayor of the District Council of Grant, Mr Richard Sage, said:

The Community Impact Statement indicates that ForestrySA supports around 2,100 direct jobs and almost 1,000 indirect jobs in the Lower South East region. There is no doubt that this proposal would have a devastating effect on the local economy if up to 3,000 jobs were lost within this region.

The Mayor of the City of Mt Gambier, Mr Perryman, said:

If the State Government proceeds with a forward sale, in as little as 16 years every log harvested from our state owned forests could be exported out of Australia for processing leaving no logs for our local mills, and no jobs for our local community.

In statements to the council on 8 February, the minister gave a series of assurances which I would summarise as follows:

The government is committed...that the industry remains a viable, strong, important industry into the future that has at its core a strong employment base.

In the context of those statements, I ask the minister:

1. How is consideration of options of selling 100 per cent of logs outside the South-East by 2027-28 consistent with the government's commitment to the future of the industry?

2. Given the government's commitment to ensure a viable, strong, important industry into the future, how long is 'into the future' and is 2027 beyond the future?

3. Are the government's commitments to the communities of the South-East in relation to forests any more reliable than its commitments to no privatisations?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:35): I thank the honourable member for his question. I am happy to tell him that I agree with me entirely on this matter. What I have said is what the government has consistently said. We have commissioned a regional impact statement. We have commissioned consultants who are putting together the regional impact statement, and the government will consider that carefully, when it is made, in relation to the forward selling of the forests.

I am aware that another report has been commissioned and, as I think the Treasurer indicated on radio, he is happy to look at it, but essentially the regional impact statement has been commissioned by the government and we are paying for that. Obviously we would not be doing that if we did not have some confidence that the statement will be of great use and utility in putting together the government's response on whether or not the forward sale of the forest harvests would proceed.

What I have said is what the government has said: that we are committed to a sustainable, ongoing, healthy forest industry that will remain a major source of employment in the South-East and wherever else the forests are grown into the future. How extraordinary that the honourable member is a member of the party that sold off the processing—the sawmills—back when it was in government, yet here he is suddenly crying crocodile tears about the people of the South-East and their forests. We know very well that a lot of this is about who will become the next Liberal candidates for MacKillop and Mount Gambier at the next election, and that is the prism through which a lot of the activity in relation to this campaign has to be judged.

I welcome the people of the South-East expressing their views, and many have done that, but I will not accept the misrepresentation that has occurred from a number of people in relation to what the government is intending to do and what factors the government will consider in making a decision about the forward sale of the forests. We will make a decision in the best interests of the state and the best interests of the people of the South-East to ensure a stable, productive, long-term forest industry in the South-East.

WORKCOVER BOARD

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:38): I thank the honourable member for his question. The WorkCover SA board recently released its strategic direction for the years 2011-16. The board has confirmed WorkCover's mission is to achieve the best outcomes for injured workers, employers and the South Australian community. The 2011-16 strategic plan for WorkCover clearly articulates that its role is to administer and regulate the South Australian Workers Rehabilitation and Compensation Scheme.

WorkCover is also responsible for overall scheme performance and for ensuring that appropriate claims management and related services are provided. Following consultation with the

executive management and senior managers within WorkCover, four strategic goals have been set by the board, including:

- that injured workers remain at work or return to work to their maximum capacity;
- that employers, workers and providers meet their obligations and actively work together to deliver workplace injury prevention and injury management outcomes;
- a financially sustainable scheme; and
- a professional, achievement-focused organisation.

These goals illustrate what WorkCover will be working towards over the next five years. Four values have also been agreed by the WorkCover SA board following significant consultation with staff. Those four values are integrity, achievement, respect and professional excellence. These values will guide WorkCover's approach in its delivery of the strategic goals.

The WorkCover board has set a clear direction for WorkCover, and supporting strategies and performance measures are being developed. It is essential that we acknowledge that all parties in the scheme have a role to play in achieving the best outcomes for injured workers, employers and the community. This includes a shared commitment to keeping injured workers at work where possible or supporting them to get back to work as quickly and safely as possible. This approach provides the best outcomes for the injured worker, the employer and the WorkCover scheme.

GRANDPARENTS FOR GRANDCHILDREN

The Hon. J.A. DARLEY (14:40): I seek leave to make a brief explanation before asking the minister representing the Premier a question about funding for Grandparents for Grandchildren SA Incorporated.

Leave granted.

The Hon. J.A. DARLEY: Grandparents for Grandchildren is a not-for-profit organisation run by a dedicated team of volunteers who provide vital assistance to grandparents concerned about the welfare of their grandchildren. Among other things, the services GFG offer include assisting grandparents who are the primary carers of their grandchildren, liaising with federal, state and local governments and other organisations in relation to the welfare of children who are at risk of, or subject to, abuse within the family, and liaising and negotiating with government departments, hospitals, courts, police and many other service providers on behalf of grandparents.

In addition to offering guidance and support to grandparents, GFG also plays a pivotal role in raising public awareness about the struggles that grandparents caring for grandchildren face on a day-to-day basis. GFG has also established a strong relationship with Families SA and acts as a referral point for that agency. Indeed, were it not for the existence of GFG, Families SA would incur the additional workload of that organisation at a much higher cost, as has been acknowledged by the CEO of Families SA on more than one occasion.

In terms of funding, GFG receives some financial assistance from the state government, but this is limited to one-off grants from Community Benefit SA and assistance with rental payments. Coincidentally, I am aware of a number of instances where government agencies are wasting money on frivolous and unwanted expenditure when this money could have been redirected to a more worthy cause such as GFG. Even in the Department of the Premier and Cabinet, I am aware of a redundant executive-level position where the base salary alone equates to 12 times the amount of money that GFG is seeking in funding.

My question to the Premier is: given the important community service that GFG provides and given that GFG is the main, if not the only, referral for Families SA in relation to cases involving grandparents, why is the government not providing adequate ongoing funding for that organisation?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:42): As the honourable member's question seems to relate principally to funding overseen by Families SA, I will refer that question to the Minister for Families and Communities in another place and bring back a response.

RURAL WOMEN'S AWARDS

The Hon. I.K. HUNTER (14:43): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about rural women's awards.

Leave granted.

The Hon. I.K. HUNTER: With International Women's Day being held this week and with all the celebrations, breakfasts, lunches and marches in the city celebrating 100 years of IWD commemorations, I would like to shift the focus for a moment here today to the sisters in rural and regional SA. Will the minister advise what is being done to recognise women living in rural areas?

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) (14:43): I thank the honourable member for his most important question. As Minister for the Status of Women and also Minister for Regional Development, I am obviously very committed to ensuring that women are able to gain expertise and necessary skills to contribute as key decision-makers and leaders in our community.

It is particularly important to support rural and regional women as they do indeed make a very significant contribution to their communities and our state, often under very difficult circumstances and often with very little recognition. The Rural Industries Research and Development Corporation's Rural Women's Award is Australia's pre-eminent award that recognises and encourages rural women's contribution to primary industries, resource development and rural Australia.

Supported by the Department for Primary Industries and Resources, the award is a leadership and capacity-building initiative that is designed to help build skills and assist women to contribute more effectively to leadership decision-making in primary industries. A $10,000 prize is the major award for each state and territory winner to support their own professional development. It provides them with the resources to develop their vision into a new project or initiative that will benefit primary industries and rural Australia. Award winners and runners-up are also invited to attend the Australian Institute of Company Directors course in Canberra, and I understand that those recipients who have attended that course speak very highly of it and state that they have gained a great deal from it.

I am very pleased to advise that the South Australian Rural Women's Awards for 2011 were announced early this year. South Australia's Rural Woman of the Year is Kim Blenkiron. Kim is the state coordinator with Partners in Grain and is based in Strathalbyn, where she helps run the family farm. She will use the award to attend Essential Conservations for Developing Others, a four-day training program to learn coaching skills, which she will then pass on to others. I am advised that she then intends to offer this workshop to the three Partners in Grain groups in South Australia.

The runner-up for this year is Ms Rebecca Williams. Ms Williams' name may be familiar to many members here, as she is the daughter-in-law of Mitch Williams, Deputy Leader of the Opposition. Ms Williams lives in Koolunga with her family and works for the Future Farmers Network. I understand that the Future Farmers Network is Australia's national network for young people in rural industries, functioning since 2002. The network operates primarily online, providing members with monthly email correspondence and also opportunities to discuss agricultural issues via those online discussions.

State and territory winners will be interviewed by a national selection panel for the title of the Australian Rural Women's Award 2011, winner and runner-up, which will be announced at the awards national dinner in May 2011 in Canberra during the week of the company directors course. Events such as the Rural Women's Award highlight the important roles that women play in our communities, and I wish the winners success with their continued leadership journey and I look forward to hearing the announcement of the national winner in May. I also wish them lots of luck and hope that South Australia is able to win at a national level.

PORT LINCOLN WASTE DUMP

The Hon. M. PARNELL (14:48): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Urban Development and Planning, a question about contaminated land at Port Lincoln.

Leave granted.

The Hon. M. PARNELL: For the best part of a century a site in Windsor Avenue, Port Lincoln was home to a waste refuse dump that was the repository for night soil, general waste and industrial waste. The dump, whilst now closed, pre-dates modern waste management techniques and, as a consequence, poses an ongoing threat of pollution from both leachate and methane gas leakage.

Current zoning of this land prohibits urban development. However, there are plans to extend the Port Lincoln marina towards the boundary of the former rubbish dump. There are also plans to rezone deferred development land for urban development, including housing. Given the likely extent of land contamination and the likely continuing spread of that contamination through the soil, there are serious concerns within the community that future residents and the marine environment could be put at risk if this issue is not resolved before further development takes place.

As the minister is shortly to consider rezoning the current deferred development zone for urban development, I ask the following:

1. What leachate and gas monitoring is currently being undertaken on and around the former Windsor Avenue waste dump site?

2. What assurance can the minister provide to the people of Port Lincoln that no land will be rezoned for urban development until the extent of land contamination and other pollution emanating from the old Windsor Avenue landfill site is properly understood and managed?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:50): I thank the honourable member for his questions. I will refer them to the honourable Deputy Premier in another place and bring back a response.

TREVORROW, MR G.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:50): I table a copy of a ministerial statement relating to the late Mr George Trevorrow made earlier today in another place by my colleague the Premier.

SOUTH AUSTRALIAN AQUATIC AND LEISURE CENTRE

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:50): I table a copy of a ministerial statement relating to the South Australian Aquatics and Leisure Centre made earlier today in another place by my colleague the Minister for Recreation, Sport and Racing.

QUESTION TIME

WORKCOVER BOARD

The Hon. R.I. LUCAS (14:50): I seek leave to make an explanation before asking the Minister for Industrial Relations questions about WorkCover.

Leave granted.

The Hon. R.I. LUCAS: On 4 January the former minister for industrial relations announced what was to be an independent review of the Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008 (or WorkCover) which was required by the passage of the 2008 legislation. The former minister announced two people: Mr Bill Cossey, and Mr Chris Latham, who he described as a senior partner at PricewaterhouseCoopers with more than 20 years' experience in providing advice on the operation of accident compensation schemes both here in Australia and internationally. If one goes to the website of PricewaterhouseCoopers, Mr Latham is described as a Partner, Actuarial in the Sydney office.

I have been informed that the WorkCover board in recent months has commissioned a secret report into WorkCover, and a copy of that has recently been given to the WorkCover board. I am further advised that the WorkCover board appointed Mr John Walsh to undertake that secret report and secret review of WorkCover. When one goes to the PricewaterhouseCoopers website—surprise, surprise—one finds that Mr John Walsh is also listed as a Partner, Health Actuarial in the Sydney office of PricewaterhouseCoopers.

What we have in summary then is the government announcing an independent review being conducted by an independent reviewer from PricewaterhouseCoopers in Sydney, and the WorkCover board having commissioned a secret report from a partner in exactly the same company (exactly the same office) in Sydney. One of the issues being reviewed is obviously the return-to-work performance of the scheme and the performance of the various rehabilitation providers.

Members will be aware in recent years of issues relating to the high profile WorkCover board member Sandra De Poi, and in particular there are those of us who can remember the last state election and her involvement in the dodgy how-to-vote cards supporting her partner the member for Mawson, Mr Bignell.

Last year's Auditor-General's Report shows a huge increase (an almost doubling) in the value of contracts received by two of Ms De Poi's companies from WorkCover. The total value of the contract has jumped from $3.1 million to $5.9 million. Industry concerns have been put to me that, in the current year 2010-11, they understand that number will increase significantly again when the audit accounts are produced in a few months, and that this has led to the closure of a number of long-term quality smaller rehabilitation providers here in South Australia. My questions are:

1. Have any concerns been expressed to the minister about the recent significant increase in the value of contracts being awarded to Ms De Poi's companies and, if yes, what action, if any, did he take?

2. What evidence, if any, is there that the return-to-work outcomes or other outcomes being achieved by Ms De Poi's companies are better than the scheme average and most other providers for each of the 2007-08, 2008-09 and 2009-10 financial years?

3. When was the minister first advised of the Walsh review commissioned by the WorkCover board? Has he been provided with a copy of either a draft or the final report?

4. How much money was paid by WorkCover to PricewaterhouseCoopers for the Walsh review?

5. Given the announced review of WorkCover was supposed to be independent, how does the minister justify the commissioning of a secret report by WorkCover from a partner in the same company of the independent reviewer appointed by his government?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:54): I thank the Hon. Mr Lucas for his question. It was a typical question from the Hon. Mr Lucas which starts off on one subject, covers two or three subjects and all is overlain with an nice bucket of mud thrown at people who are going about their business, implying that they are, somehow, involved in some sleazy or corrupt activity and that they are not legitimately going about their lawful business. That is the Hon. Rob Lucas's playbook: when in doubt throw mud and put out accusations of sleaze, barely sourced (if at all) or simply off the top of his head and hope that enough of the disparaging and unfair imputations that he throws out will stick to individuals. That is clearly the modus operandi—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington and some others sat there and listened to a long-winded explanation by the Hon. Mr Lucas, so they will sit there quietly and listen to the answer from the minister.

Members interjecting:

The PRESIDENT: If you listen you might learn something.

The Hon. B.V. FINNIGAN: That is a typical sort of question that one expects from the Hon. Mr Lucas. He has mentioned the review of the legislative changes that happened in 2008. As my predecessor (the Hon. Mr Holloway) announced, the government initiated a review of the 2008 reforms as required by the amendments that were made at that time. It is important to note that the review is not a review of the entire scheme.

The review will assess the impact of the 2008 reforms on workers who have suffered compensable disabilities and who have been affected by the operation of the reforms; the impact of the 2008 reforms on levies paid by employers under Part 5 of the Workers Rehabilitation and Compensation Act 1986; and the impact of the 2008 reforms on the sufficiency of the

compensation fund to meet its liabilities. That is the scope of the review. It is looking at the 2008 reforms and what impact they have had. It is not a general review of the entire scheme.

As the honourable member has pointed out or, certainly, as my predecessor has pointed out, Mr Bill Cossey AM and Mr Chris Latham have been appointed to conduct that review and finalise their report within four months. The honourable member—

Members interjecting:

The PRESIDENT: Order! If you will listen to the minister you will learn something.

The Hon. B.V. FINNIGAN: Thank you, Mr President. The Hon. Mr Lucas spent a lot of time talking about a whole range of issues and I am responding to them. The review is into the 2008 reforms. It is not some sort of comprehensive review of the whole scheme; it is for a specific purpose. The government has appointed two experienced people who are able to conduct that review, including Mr Chris Latham, who is an experienced actuary.

I assume the Hon. Mr Lucas is talking about—although it is always hard to know because he might just be muckraking; you never quite know the basis of his allegations or stories, but I assume his is talking about in late 2010 when WorkCover engaged PricewaterhouseCoopers to undertake a review of the provision of rehabilitation services within the South Australian workers compensation scheme.

I am advised that the board did engage PricewaterhouseCoopers to undertake a review of the provision of rehabilitation services in late 2010. I am further advised that the final report is currently being considered by the board and that it will need an opportunity to consider the content of the report and agree to a proposed course of action.

The Hon. Mr Lucas suggested that this was a secret report and that there was some sort of underhand process whereby WorkCover was commissioning secret reviews which were in competition with the review that is being undertaken in accordance with the legislation. I have just put forward that it is very simple. There is the review required by the legislation. People have been appointed to conduct that independent review, and the report will be finalised within months. That review will assess the 2008 reforms and the impact they have had on the scheme. I assume what the honourable member is referring to when he talks about some secret, underhand report is WorkCover having engaged PricewaterhouseCoopers late last year to undertake a review of the provision of rehabilitation services within the WorkCover scheme.

WORKCOVER BOARD

The Hon. R.I. LUCAS (15:00): I have a supplementary question. How much was paid to PricewaterhouseCoopers Sydney for that review to which the minister has just referred? When was he advised of that review, and has he been provided with a copy of the report or been briefed about it?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:00): In relation to the costs, I will need to obtain that from WorkCover SA and then provide a response. I have not seen the report or any draft of it.

WORKCOVER BOARD

The Hon. R.I. LUCAS (15:00): I have a supplementary question arising out of the original answer. Given that the minister has now conceded that the same company—

The PRESIDENT: Without explanation.

The Hon. R.I. LUCAS: It is just a question. Given that the minister conceded that the same company has been appointed to review both the rehabilitation services component and also the government's supposed independent review, how does he justify the fact that the government claims this is to be an independent review when WorkCover has paid a considerable sum of money to the same company, a partner of the same independent reviewer, to conduct its own review?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:01): I dealt with that in my answer. It is typical of the honourable member to try to bring everyone into disrepute, because that is what he does. Basically, he is trying to say to anyone in this state or this nation who wants to deal with the government of South Australia, 'I am going to accuse you of dishonesty, of having no integrity, of being involved in some sort of corrupt activity.'

He is trying to say to any business that might have any cause to do business with the South Australian government, or any part of it, or any statutory authority attached to the government, that he thinks they will be engaged in some illicit, corrupt behaviour by even entering into a normal business contractual arrangement with this government. That is the approach the Hon. Mr Lucas takes. He is simply trying to say that anyone who does any business with the government is some sort of crook. That is an outrageous slur on companies and those who are doing business in this state and providing services to the government.

I imagine the honourable member is aware that PricewaterhouseCoopers is a very large company. There is a small number of very senior and large auditing companies that are involved in auditing and corporate consulting and so on. We know who they are, and PricewaterhouseCoopers is certainly one of them. To suggest that having two people who work at that company engage in completely separate reports—one commissioned by the government, which will report to the government, and one commissioned by the WorkCover board, reporting to the WorkCover board, on different topics—is some sort of conspiracy—

The Hon. R.I. Lucas: They're not different topics; you know that. That's a deceit; you know that.

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: To suggest that that is some sort of conspiracy is just a nonsense.

WORKCOVER BOARD

The Hon. R.I. LUCAS (15:03): I have a supplementary question arising out of the answer to the original question. What probity protocols were insisted on by the government—the former minister, that is—or the WorkCover board to ensure that there was no overlap between the work of two partners from the same office in the same firm in Sydney?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:04): I have answered all the questions in relation to this matter.

The PRESIDENT: If the honourable minister considers that he has answered the question there is no more to do.

FLOOD DAMAGE

The Hon. P. HOLLOWAY (15:04): I seek leave to make a brief explanation before asking—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —the Minister for State/Local Government Relations a question about flood damage.

Leave granted.

The Hon. R.I. Lucas: He might do better if the answer were written for him.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Like many members of this council, in recent weeks I have watched, with a mixture of horror and amazement, the media coverage of the catastrophic floods in southern Queensland, northern New South Wales and Victoria. The cyclonic winds and huge downpours of Cyclone Yasi across Queensland followed shortly after. Here in South Australia we have not been spared these forces. In early December, a massive downpour in the Clare and Gilbert valleys deluged some communities in that area, creating havoc and destroying important infrastructure. Will the minister update the house on developments following the unwelcome storm and flooding damage to those areas north of Adelaide before Christmas?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:05): Honourable members may recall that, on 7 and 8 December last year, heavy thunderstorm activity, including extremely heavy rains and strong winds, had an impact on much of the settled areas of South Australia. Lower Eyre

Peninsula, northern Yorke Peninsula, the Riverland, Murraylands, Flinders Ranges, Mount Lofty Ranges and metropolitan Adelaide all received unseasonably heavy rains.

As the honourable member indicated, significant storm damage was experienced in some areas in the Gilbert and Clare valleys, and the towns of Stockport, Rhynie and Tarlee all bore the brunt of the storm's impact. I understand the previous minister, my honourable colleague, met with His Worship Allan Aughey, the Mayor of Clare & Gilbert Valleys Council, and the Chief Executive, Roy Blight, last month to get a first-hand update on the steps taken since the deluge in early December.

I am told the Mayor and the Chief Executive vividly described the extraordinary events of late last year, when late at night water levels rose very rapidly and came into people's houses, which must have been a complete shock for the people of Stockport where such events are certainly rare and unexpected. I am told the immediate emergency response was ably handled by the SES, with the help of police and local council officers. A trail of damage and destruction was left behind to houses, roads and local infrastructure such as bridges and culverts. In addition to the damage to council infrastructure, there was also damage to approximately 120 houses in the towns of Stockport, Riverton, Rhynie, Tarlee and surrounds.

I am please to report that the Local Government Disaster Fund was able to advance an emergency payment to the council of $250,000 on 13 December 2010 in response to the 7 and 8 December storms. The Local Government Disaster Fund was established in 1990 to help councils remediate damages sustained to infrastructure such as roads, bridges, culverts, etc., as a result of uninsurable, severe and extreme weather events and natural disasters, including flooding and bushfires. Claims must exceed 5 per cent of a council's general rate revenue to qualify and council is expected to commit the equivalent of 10 per cent of their works budget towards the restoration bill.

Claims made to the disaster fund are assessed on their individual merits and each council is expected to contribute towards the restoration costs. More than $7.6 million has been made available to councils in the past two financial years, much of it linked to the widespread storm which swept the Mid North in late 2007.

This week, I have a scheduled meeting with Nick Champion (the local federal MP), the member for Frome in the other place, and mayor Allan Aughey to discuss the flood recovery effort in the affected Clare & Gilbert Valleys Council area. I understand that, resulting from the recent meeting of the Council of Australian Governments, the question of commonwealth support for the flood recovery effort has been referred to the federal government for its consideration.

I commend the Hon. Jennifer Rankine in the other place and the disaster recovery committee for the work they undertook in the wake of this event in providing emergency relief and assistance to affected individuals and families. The state government, through the Department for Families and Communities, provided emergency grant assistance to some families who suffered loss or damage as a result of the flooding. This was in the form of a $700 grant for immediate assistance, a $5,600 grant for loss of personal effects and a $5,600 grant for house repairs.

During the recent December 2010 storm, the Clare & Gilbert Valleys Council area sustained an estimated $10 million of damage to its road infrastructure. The emergency payment provided an immediate cash flow to allow the council to engage contractors and get machinery and resources into areas to begin cleaning up, as well as commence repairs to vital infrastructure in Stockport.

This has been followed up so that, at its February 2011 meeting, the management committee of the Local Government Disaster Fund considered further avenues of assistance to the Clare & Gilbert Valleys Council and approved a payment of up to $150,000 to engage an independent consulting engineer to assist the council with the assessment and prioritisation of works to be completed. This is an important step because the reconstruction needs to be done in a measured and logical sequence so that the funds spent to repair roads and bridges can provide the maximum benefit for the people and the economy of the area. The reconstruction also needs to be carried out with an eye to mitigating further damage from future storms.

The council's application to the Local Government Disaster Fund estimated the damage sustained at approximately $10.85 million, including crossings damaged or destroyed, including loss of culverts and pipes; shoulders washed out; kerbing and footpath damage; damage to and loss of pavement base; parks and garden damage; extensive silt deposits; loss of extensive road

sheeting; loss of road signage; severe scouring and rutting of road sections; and extensive water sheeting over infrastructure.

I am advised that the management committee of the disaster fund, the Director of the Office for State/Local Government Relations and the Chief Executive of the Local Government Association met on 4 February to finalise the expert engineers' engagement and put together a project team. I understand it was agreed that a multiskilled team would assist the council in addressing the engineering aspects of the disaster, as well as the longer term infrastructure renewal issues and the asset and financial management planning issues faced by council.

I understand the agreed project team is to comprise a project manager, an engineer, a financial and asset consultant and representatives from the Office of State/Local Government Relations and the LGA. The LGA has contributed $20,000 to the project over and above the disaster fund contribution, and I commend it for this.

The project scope includes assessment and prioritisation of works to be completed, time lines for completion, funding options and models available, assessment of the implications on the council's asset and financial management plans and preparation of guidelines and resource documents that can be used by other councils facing similar events.

The disaster fund has assisted in a number of other areas following damage over recent years. For example, the Anangu Pitjantjatjara Yankunytjatjara lands communities will receive up to $1.145 million in 2010-11 (subject to repair work being completed during this financial year) following significant damage to roads as a result of storms in the area in late November and early December 2008.

This builds on an initial payment of $500,000 made in December 2010 paid to the APY lands as a first tranche payment. I am advised that the balance of $645,000 is due to be released upon receipt of a progress report in June 2011, detailing works completed and the remaining works to be undertaken.

Another regional council which has benefited from this fund in the past is the District Council of Orroroo Carrieton which, following flooding in February 2010, prepared a submission to the disaster fund. The management committee approved a payment of $319,800 to the council, and I am advised that payment was made in December 2010.

The Local Government Disaster Fund has made a significant contribution to assisting our resourceful and resilient rural communities to deal with whatever slings and arrows nature throws at them. I commend members and officers in local government for the calm, steady and professional manner in which they faced those challenges.

FLOOD WARNINGS

The Hon. J.S.L. DAWKINS (15:13): Will the minister discuss with the relevant councils the need for warning systems to alert local communities when the Gilbert and Light Rivers peak at similar times, severely impacting people living on the lower portions of the Light River, below its junction with the Gilbert River?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:13): I will be happy to talk to council representatives about whatever issues they wish to discuss in relation to how we can address whatever damage has been sustained. As I said in my answer, part of that will be trying to put in place measures to mitigate any future incidents.

CRIMINAL ARREST WARRANTS

The Hon. D.G.E. HOOD (15:14): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question regarding outstanding criminal arrest warrants.

Leave granted.

The Hon. D.G.E. HOOD: Recently I received a freedom of information response from the Courts Administration Authority indicating that our courts now have active criminal arrest warrants out on suspected offenders for a staggering 13,515 offences, including 308 District Court warrants and 37 Supreme Court warrants. This number means there is potentially an active arrest warrant for one in every 120 South Australians, on average.

When the article appeared today in *The Advertiser* regarding this information, the Minister for Police replied that the number of active warrants had halved in the past four years. Today, *The Advertiser* quotes the minister as follows:

'In 2007…there were 30,498 court issued warrants outstanding, the most recent (figures) show this has fallen to just over 13,500. That is a significant reduction…'

However, I have the data from 2007. In fact, it was my freedom of information request back then. The 2007 data was for all outstanding warrants, which would include various types of warrants, whereas the 2011 data only requested the number of outstanding criminal arrest warrants.

In short, the 2011 figure requested was a restricted data set and was limited to offenders who are evading justice and who are possibly dangerous to the community. The numbers are therefore not comparable. I am prepared to accept that the minister's contention that the number of active criminal arrest warrants has halved in the last four years was an inadvertent error on his part. My questions to the minister are:

1. Will the minister do the right thing and correct the record following this apparently inadvertent error?

2. Will the minister consider providing additional resources, allowing the implementation of a dedicated police task force to track down the thousands of potentially dangerous offenders in the community who are currently evading justice?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:16): I thank the Hon. Mr Hood for his question. I will refer it to my colleague the Minister for Police in another place and bring back a response. I point out that, as we know, the day-to-day operations of the police, including matters such as forming a task force for a particular task or project, is the role of the police commissioner. We do not tell our police commissioner how to do his job. Obviously it is important that the police commissioner and the police be independent and be able to go about their work without political interference, despite the grubby allegations that sometimes come from members opposite.

I certainly assure the house, as I did earlier today, that we have record numbers of police in South Australia and we will be recruiting more over the next three years. The police make day-to-day decisions about prioritising tasks and about chasing down people with outstanding warrants—that is part of the work they do—and I am sure that, if there is any particular task force or project that needs to be implemented, that is something the police commissioner would consider. In relation to the particular numbers the honourable member has cited, I will refer the question to the Minister for Police.

WASTE LEVY

The Hon. J.S. LEE (15:17): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the increase to the solid waste levy.

Leave granted.

The Hon. J.S. LEE: Local Government Association Chief Executive, Wendy Campana, stated on ABC radio on 1 March that councils will face a double hit when new dumping fees come into play.

Members interjecting:

The PRESIDENT: The honourable member does not need help from her colleagues—she is doing fine.

The Hon. J.S. LEE: From July the solid waste levy for Adelaide will rise from $26 to $35 a tonne. In country areas it will jump from $13 to $17.50 per tonne. She stated:

The fee is actually going up because the state government has increased it;…we are really concerned because not only is it an extra cost for communities and councils, it also potentially increases dumping on the side of the road...

She also mentioned:

What we see with the waste levy is that only half of the levy collected actually goes to the Zero Waste organisation…the other half goes to the EPA and we're struggling to see what the EPA actually spends that money on when it comes to waste.

On 1 March, the Chief Executive of SA Waste Management went on ABC radio and said:

EPA has tried on many occasions to actually take people to court and fine them...they can't successfully fine people or sue them very easily.

My questions to the minister are:

1. As the Local Government Association Chief Executive said, 'Experience tells us that as soon as the levy goes up there is more increased dumping of waste on the side of the road or in a paddock because people are trying to avoid the costs at the actual tips.' If the LGA and EPA are unable to successfully fine people from illegally dumping waste, what monitoring system will the government introduce to prevent illegal dumping?

2. Can the minister please explain how extra funds raised by the solid waste levy contribute to SA waste organisations?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:20): It is a good day for any independent organisations linked to the government. We have had the police being called into question and the WorkCover Corporation, and now it is the Environment Protection Authority. Apparently, it does not matter what organisation or authority you are involved in, if it has any connection to the state government, apparently you are in strife as far as members opposite are concerned.

The Environment Protection Authority is an independent agency of government and it does a whole range of things in relation to environment protection. Quite often we have the Hon. Mr Parnell or others saying that the EPA is not doing enough or is not being tough enough, but here we have the honourable members of the opposition saying that the EPA is out there like cowboys rounding people up at will. In relation to the EPA and Zero Waste, as I understand it, they are the responsibilities of the honourable Minister for Environment in another place and I will refer those questions to him for some detail.

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

The Hon. B.V. FINNIGAN: Members opposite seem to believe that I am the minister for everything. It is extraordinary that, for some reason, they should expect that I am able to answer every question in every portfolio. It is an interesting approach to question time. It is, of course, the usual practice in both houses indeed, and in parliaments around the commonwealth, that questions that relate to portfolios of other ministers are generally referred to them for further information, and I am happy to do that, of course.

In relation to what the Local Government Association has had to say in regard to the solid waste levy, I can obtain further details in relation to the quantums and so on but, of course, as I recall, this was a budget measure. It was well understood. Part of the purpose of having the solid waste levy is as a disincentive for people to increase their quantity of solid waste. Obviously it is important that we try to encourage people in the community not to have as much waste, to recycle, and to be thoughtful about how they use their resources and whether they end up with large quantities of waste.

We all have our household waste and I am sure that all of us are aware that in recent years we have paid a bit more attention to waste rather than just lumping it all together in the bin as we used to do generally. Most of us would now split our rubbish and our waste into recyclable or other solid waste, compostable items, green items and so on.

It is important that we continue to achieve that sort of change in the community in regard to the processing and management of waste. That includes the solid waste levy, which is a driver for ensuring that people manage their waste in the most responsible way—

Members interjecting:

The Hon. B.V. FINNIGAN: Members opposite are interjecting so much that it is difficult for me to conclude my answer.

The PRESIDENT: Order! It is very important.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: The solid waste levy plays an important part in encouraging people to be more responsible and careful with their waste. As we know, over the years people

have become more conscious, thankfully, about how they manage waste and we want that to continue. We cannot go back to the old days where we just lumped everything in a pile somewhere and kept those dumps full of rubbish without properly addressing the management of it.

ANSWERS TO QUESTIONS

CHILD ABUSE AND NEGLECT

In reply to the **Hon. D.G.E. HOOD** (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 Families and Communities has provided the following information:

1. The Information Sharing Protocol between the Commonwealth and Child Protection Agencies outlines procedures on how agencies can share information in order to provide more responsive care and protection services to children and young people. Arrangements under this protocol are in operation with Centrelink, Medicare and the Child Support Agency.

Information sharing between agencies is based on the existing concerns of Families SA. Automatic cross-referencing is not undertaken on all notifications.

Under the National Framework for Protecting Australia's Children 2009-20, further arrangements are being developed with Commonwealth agencies that may hold information of use to child protection agencies.

2. In order to protect the privacy of the children and young people involved, specific comments in relation to the families in question will not be made. This is an extremely complex case, one that has recently appeared before the Courts.

Families SA responded immediately when notifications about the families were raised with the Families SA Crisis Response Unit.

WATER SUPPLY

In reply to the **Hon. J.A. DARLEY** (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 Water has been advised that:

1. The original site selected was approximately 800 metres upstream of Clarendon Weir. The estimated capacity was 39.6 gigalitres with the tail waters reaching the dam wall of the Mount Bold Reservoir.

2. No water has been 'wasted' to the sea as there are environmental benefits to the ecological systems from water releases to the Onkaparinga River and estuary. It is estimated that in 2009-10 approximately 7.4 gigalitres was provided to the environment and approximately 18.2 gigalitres in 2010-11, as at 10 January 2011, over the Clarendon weir.

DISABILITY VACATION CARE

In reply to the **Hon. K.L. VINCENT** (23 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 Education has advised that:

1. There are four special schools that have an on-site vacation care program offering up to 124 places for students during school holiday periods. One of these programs also offers twenty five before and forty after school care places.

In addition, 13 Department of Education and Children's Services (DECS) schools with Special units or Disability units provide up to 257 before school care, 506 after school care and 591 vacation care places.

2. OSHC and Vacation Care services which receive Australian Government subsidies must fill child care places using the Australian Government's Priority of Access Guidelines. These Guidelines set out the following priorities:

- Priority One—children at risk of abuse or neglect;
- Priority Two—child of a single parent or parents who both satisfy the work study and training test; and
- Priority Three—any other child

Within each of these categories, priority is given to children in families which include a person with a disability.

3. OSHC services are approved by the Australian Government Department of Education, Employment and Workplace Relations to provide care for school age children. School age children are defined as those attending a primary or secondary school. As such, secondary students with disabilities are able to attend any approved OSHC or vacation care service.

At June 2010 there were 331 OSHC services and 253 vacation care services across South Australia offering 22,471 OSHC places and 13,206 vacation care places.

There are two services that cater for the specific needs of teenagers with physical and intellectual disabilities in the 12 years to 18 years age group.

4. The number of children with a disability attending OSHC and vacation care services has doubled over the past 10 years. Attendance data from 2009 indicates that 2,220 children with disabilities attended OSHC each week and 1,860 children with disabilities attended vacation care.

DECS provides funding to facilitate the inclusion of children with additional needs or disabilities in approved OSHC services. In 2009-10, 94 OSHC services accessed this funding to provide extra support to 352 children, representing 24,096 hours of subsidised care.

Further care is available through the Home and Community Care Respite Program in addition to OSHC services.

MEN IN COMMUNITY PROGRAM

In reply to the **Hon. J.S.L. DAWKINS** (25 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 Health has been advised that:

1. The SA Drought Response Team secured 2010-11 funding through the Premier's High Level Drought Task Force. The program will again be given funding consideration towards the end of this financial year.

2. The program has up-skilled many rural men to assist other men during difficult times. Several of the presenters are employed within Health Service Units across the State and they will continue to share their knowledge of the Men and Communities Program, in small to medium sized communities.

CHILD EMPLOYMENT BILL

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:26): Obtained leave and introduced a bill for an act to provide for the care and protection of children working in South Australia, and for other purposes. Read a first time.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:27): I move:

That this bill be now read a second time.

The Rann government is committed to ensuring safe, fair and productive working lives for all South Australians. Young workers under the age of 18 years are among our most vulnerable workers and this bill, which introduces stand-alone child employment legislation, will enhance their protection in the workforce by filling gaps where existing laws have proven inadequate. The Child Employment Bill 2011 is the culmination of several years of consultation and development and gives effect to this government's longstanding commitment to promote greater protection for South Australian children at work.

Despite South Australia's referral of certain industrial relations powers to the commonwealth from 1 January 2010, the regulation of child employment remains within the state's jurisdiction. This means that the proposed legislation will apply to all employers in South Australia, whether they are in the private sector, public sector or local government. I should stress that the commonwealth industrial relations laws make it clear that child labour laws made by a state or territory jurisdiction cannot deal with matters that are provided for in the national employment standards or that may be included in a modern award or agreement, for example, rates of pay.

This bill will not duplicate general industrial regulation already provided by industrial awards and agreements, statutory minimum employment standards, unfair dismissal laws, occupational health and safety statutes, workers compensation laws and anti-discrimination legislation. ABS data demonstrates that a large number of children and young people in South Australia are participating in the workforce. Recent data indicates that close to 50,000 young workers aged 15 to 19 are presently employed, with the majority employed in the retail, accommodation and food service industry sectors.

More remarkably, data from 2006 showed that over 12,000 children aged five to 14 had performed work for some form of reward in the previous 12 months. These figures include work in a family business or farm but exclude domestic chores. There are no exact figures for total persons employed under the age of 18. However, the ABS data highlights the existence of significant numbers of children in the South Australian workforce. The Child Employment Bill 2011 does not aim to restrict the employment of young workers and is principally concerned with protecting children against potential exploitation and harm at work.

It will achieve this by complementing existing workplace legislation and providing clear parameters for employers, children and their parents through the bill's regulation and code of practice making powers. These laws will ultimately strike an appropriate balance between the natural interest and inclination of young people to seek employment (particularly part-time and casual work) whilst recognising the importance of their schooling, education and social development.

This bill has been developed after considerable consultation over a period of two years. Preliminary consultation commenced in September 2008 with the release of a discussion paper. Comments were sought from key stakeholders and the general public, and most feedback supported the need for the greater protection of children in South Australian workplaces.

During 2009, a draft bill was developed and has since been subject to further consultation with the Industrial Relations Advisory Committee, a statutory committee established pursuant to the state's Fair Work Act 1994, whose membership includes peak bodies such as Business SA, SA Unions, and other major employer and employee associations. Recent consultation has also occurred by way of a direct mail-out to more than 60 key stakeholders along with the opportunity for public comment via the SafeWork SA and Youth at Work websites.

SafeWork SA has also hosted a youth forum to find out what the critical issues are for young people in the workplace. This was attended by secondary school students with workforce experience, the Young Workers Legal Service, young business representatives from the Master Builders Association and Business SA, and staff from the Office for Youth. The comments and opinions expressed at the forum will be analysed and considered for the development of any future regulations and codes.

The consultation process has highlighted business caution over too much prescription and red tape; however, there is also strong support for greater legislative guidance in the employment of children. Concerns have been addressed by providing non-prescriptive legislation that enables the creation of specific child employment provisions where they are most needed, and only after further consultation with the Industrial Relations Advisory Committee and key industry groups.

The bill laid before us is an enabling bill which contains the 'machinery' for the establishment of particular employment arrangements through regulations and industry-driven codes of practice. These regulations and codes will be developed in consultation with industry sectors, employers and employees as required in the future.

The bill defines 'child' as a person under the age of 18 years. However, future regulations and codes of practice may make different provision according to the classes of children or types of work to which they are expressed to apply. Other key features of the bill are:

- clear definitions of the terms 'child', 'employer' and 'work';

- application of the laws to children working as employees; working under a contract (that at common law may not be deemed to be employment) to perform work for labour only or substantially labour only; and unpaid or voluntary work;
- general exclusions from the laws for contracts involving children operating their own business; performing domestic chores; acting as a carer or charity collector; working for their guardian; and work that is part of an approved learning program such as an apprenticeship, traineeship or bona fide work experience as part of the secondary, TAFE or tertiary education systems;
- regulation-making powers that are generally limited to provisions that are permissible under the scope of state child employment laws that will operate in conjunction with the commonwealth's Fair Work Act 2009;
- adoption of codes of practice subject to ministerial approval and parliamentary disallowance;
- a clear definition of 'work in the entertainment industry' with an intent to make regulations specific to an industry that is unique in the ways children can be hired or engaged;
- employers' duties provisions underpinned by the use of approved codes of practice in proceedings for an offence against the act;
- enforcement through inspectors defined as those who are inspectors under the Fair Work Act 1994 (SA), with functions and powers consistent with that act;
- restrictions relating to nudity;
- clarification regarding the interaction of this act and the Education Act 1972 to ensure that exemptions provided under that act are recognised and that there is no duplication of potential prosecutions of employers under both pieces of legislation.

With regard to regulations and codes of practice, the government has made a commitment to our stakeholders that these will be developed through extensive and inclusive consultation and will be brought back to this place in accordance with normal protocols.

It is envisaged that further consultation on the need for regulations and specific codes of practice will occur this year with the Industrial Relations Advisory Committee, other employer and employee representatives, and those interested in youth employment generally. I commend the bill to members. I seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure is to commence on a day to be fixed by proclamation.

3—Object of Act

The object of the measure is to provide for the care and protection of children working in South Australia. This is to be achieved by ensuring that children are not required to undertake work that may be harmful to their health, safety or development and that work does not adversely affect schooling.

4—Interpretation

This clause provides definitions of a number of terms used in the measure. A *child* is a person under the age of 18 years. An *approved code of practice* is a code of practice approved by the Minister. The term *approved learning program* is given the meaning that it has in section 75D of the *Education Act 1972*. Under that section, a learning program is an approved learning program if it complies with certain requirements set out in regulations and—

- consists of secondary education provided under the *Education Act 1972*; or
- counts towards, or is otherwise required for, the award of a degree, diploma or other award provided by a university declared to be a university or class of universities that is within the ambit of the definition; or

- consists of technical and further education provided by a college (within the meaning of the *Technical and Further Education Act 1975*); or
- consists of an accredited course provided by a training organisation registered under the *Training and Skills Development Act 2003* or a corresponding law (other than a course or training organisation excluded from the ambit of this definition by the regulations); or
- is an apprenticeship or traineeship undertaken with an employer approved as an employer who may undertake the training of an apprentice/trainee under an approved contract of training under the *Training and Skills Development Act 2003*; or
- is a program of a class declared by the Minister by notice in the Gazette to be an approved learning program.

An *employer* is a person who engages a child, or arranges for a child, to perform work at the direction of the person, whether the child works for gain or reward or on a voluntary basis. A child's *guardian* is a parent of the child or a person who is the legal guardian of the child or has the legal custody of the child or any other person who stands *in loco parentis* to the child and has done so for a significant length of time.

5—Meaning of work

Work in relation to a child means, for the purposes of the Act, any of the following:

- work under a contract of service;
- work under a contract (whether or not the contract is a contract of service) to perform work for labour only or substantially for labour only;
- work under a contract (whether or not the contract is a contract of service) to perform work, other than work where a personal services business determination is in effect for the child under section 87-60 of the *Income Tax Assessment Act 1997* of the Commonwealth;
- participating or assisting in a business carried on for profit (whether or not the child receives payment or other reward for the child's participation or assistance);
- unpaid or voluntary work.

Work does not include—

- domestic chores relating to the child's place of residence; or
- acting as a carer (within the meaning of the *Carers Recognition Act 2005*); or
- acting as a collector (unless the child is acting as a collector in prescribed circumstances); or
- work that is undertaken as part of an approved learning program.

6—Application of Act

The Act is in addition to, and does not derogate from, any other Act or law. If there is an inconsistency between the Act and another Act or law, the provisions of the *Child Employment Act* prevail.

The Act does not apply to employment of a child by the child's guardian or employment excluded from the ambit of the Act by regulation.

Part 2—Duties relating to employment of children

7—Employers' duties

This clause requires an employer to ensure, so far as is reasonably practicable, that each child employed by the employer is not required to undertake work that may be harmful to the child's health, safety or development or that adversely affects the child's schooling. The maximum penalty for a breach of this requirement is a fine of $20,000.

Work undertaken by a child in accordance with an exemption granted under section 81A of the *Education Act 1972* will not be taken to adversely affect the child's schooling.

Subclause (2) prohibits an employer from requiring or permitting a child—

- to undertake prescribed work; or
- to undertake work in a prescribed manner; or
- to work at a time when the child is prohibited under the Act from undertaking the work; or
- to work unless appropriately supervised by an adult.

Again, the maximum penalty is a fine of $20,000.

The clause includes a defence to a charge against the section. If the defendant proves that the alleged offence was not committed intentionally and did not result from a failure to take reasonable care to avoid the commission of the offence, he or she has a defence.

8—Restrictions relating to nudity etc

This clause prohibits an employer from requiring or permitting a child to work if the child is naked or the child's sexual organs or anus are visible. If the child is a female aged five or more, the employer cannot require or permit her to work if her breasts are visible. The maximum penalty is a fine of $20,000.

The prohibition does not apply to work in the entertainment industry if the child is under the age of 12 months and a guardian of the child (who is not the employer) has consented in writing to the child working in the manner required or permitted by the employer.

For the purposes of this clause, *work* includes work that is undertaken as part of an approved learning program.

9—Employer must provide child worker with certain information

Under this clause, if an employer is to employ a child in work of a prescribed class, the employer is required to provide the child with a written notice of the child's employment rights and obligations. The notice must be in the form, and must contain information, specified by the Minister by notice in the Gazette.

Part 3—Codes of practice

10—Codes of practice

This clause authorises the Minister to approve codes of practice that are to apply for the purposes of the Act. A code of practice may contain provisions designed to prevent harm to the health, safety or development of children undertaking specified work or work of a specified class or designed to prevent adverse effects on children's schooling. A code may also regulate children's working hours.

The Minister is required to give notice in the Gazette of—

- the approval of a code of practice; or
- the approval of a revision of the whole or a part of a code of practice; or
- the revocation of a code of practice.

Copies of codes of practice are to be made available to the public without charge. Codes of practice, and revisions of codes of practice, are subject to disallowance by Parliament and are therefore to be laid before both Houses of Parliament.

11—Use of codes of practice in proceedings

This clause provides that if it is proved in proceedings for an offence against the Act that the defendant failed to observe a provision of an approved code of practice dealing with the matter in respect of which the offence is alleged to have been committed, the defendant is, in the absence of proof to the contrary, to be taken to have failed to exercise the standard of care required by the Act.

Part 4—Enforcement

12—Functions of inspectors

An inspector under the *Fair Work Act 1994* has the following functions under the *Child Employment Act 2011*:

- to investigate complaints of non-compliance with the Act;
- to conduct audits and systematic inspections to monitor compliance with the Act;
- to conduct promotional campaigns to improve the awareness of employers, guardians and children of their rights and obligations under the Act and any other Act or law relating to children working;
- to do anything else that may be appropriate to encourage compliance and, if appropriate, take action to enforce compliance.

13—Powers of inspectors

This clause sets out the powers of inspectors under the Act. An inspector may, for the purposes of the Act, at any reasonable time—

- enter premises where the inspector has reasonable cause to believe that a child is or has been employed; and
- require an employer to produce records relating to the employment of a child; and
- examine and copy or take extracts from such records or require an employer to provide a copy of any such records; and
- require a person to answer, to the best of the person's knowledge, information and belief, any question relevant to the administration or enforcement of the Act.

It is an offence to hinder or obstruct an inspector or a person assisting an inspector in the exercise of a power, or to refuse or fail, without lawful excuse, to comply with a requirement of an inspector. The maximum penalty is a fine of

$5,000. A person is not required to answer a question under the section if the answer would tend to incriminate him or her.

Part 5—Miscellaneous

14—Confidentiality

This clause prohibits the disclosure of information obtained in the course of carrying out functions in, or related to, the administration, operation or enforcement of the Act if the information is about the contents of records kept by an employer or about commercial or trading operations or was provided in return or in response to a request for information under the Act. The maximum penalty is a fine of $5,000. This prohibition does not apply in relation to a disclosure of a kind listed in subclause (2).

15—Proceedings for offences

A prosecution for an offence against the Act must be heard and determined by a magistrate assigned by the Governor to be an industrial magistrate.

16—No double jeopardy

If an act or omission is an offence under the *Child Employment Act 2011* as well as the *Education Act 1972* or the *Occupational Health, Safety and Welfare Act 1986*, the offender cannot be punished twice in respect of the offence.

17—Conduct by officers etc of body corporate

This clause relates to the conduct of bodies corporate. If it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—

- that an officer, director, employee or agent of the body corporate engaged in the conduct within the scope of his or her actual or apparent authority; and
- that the officer, director, employee or agent had the state of mind.
- For the purposes of the Act, conduct in which—
- an officer, director, employee or agent of the body corporate engages within the scope of his or her actual or apparent authority; or
- another person engages at the direction or with the consent or agreement (express or implied) of an officer, director, employee or agent of the body corporate, who gives the direction, consent or agreement within the scope of the actual or apparent authority,

is conduct of the body corporate.

18—Offences by body corporate

If a body corporate commits an offence against the Act, and a member of the governing body of the body corporate intentionally allowed the body corporate to engage in the conduct comprising the offence, the member commits an offence and is liable to the same penalty that could be imposed for the original offence. Prosecution and conviction of the person may occur irrespective of whether the body corporate has been prosecuted or convicted of the principal offence.

19—Regulations

This clause authorises the making of regulations. The matters about which regulations may be made include (but are not limited to) the following:

- prohibiting children from undertaking prescribed work or work of a prescribed class;
- prohibiting children who are of or below a specified age from undertaking a specified class of work;
- regulating children's working hours;
- permitting children, or children of a specified class, to undertake a specified class of work subject to prescribed conditions;
- providing exemptions (which may be conditional or unconditional) from specified provisions of the Act;
- providing for the keeping of records under the Act;
- prescribing fees in respect of any matter under the Act and their payment, recovery or waiver;
- fixing fines, not exceeding $2,500, for offences against the regulations;
- providing for the facilitation of proof of the commission of offences against the regulations.

Debate adjourned on motion of Hon. Carmel Zollo.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

In committee.

(Continued from 8 March 2011.)

Clause 90.

The Hon. G.E. GAGO: A series of questions was posed by honourable members to which I have some answers. This was dealing with clause 90 and the Hon. Ann Bressington's amendment, which goes to the issue of requiring or mandating treatment. I was asked whether any other jurisdictions have these emergency management powers.

I have been advised that in Tasmania the Emergency Management Act 2006 schedule 1 section 3 provides a specific power for compulsory treatment; the commonwealth Quarantine Act provides for emergency measures including compulsory vaccination and other prophylactic treatment for travellers arriving in Australia; the New Zealand Health Act 1956 provides for a range of emergency powers including section 70, special powers, including preventive treatment; and the Western Australian draft Public Health Bill proposes that during an emergency a range of powers come into play including compulsory treatment.

This bill has been supported by both sides of politics. The application of this power to compulsorily treat is clearly well established, so South Australia is not doing something new or extraordinary. I am aware that honourable members have expressed a desire to have some examples of where and when these powers may be used. Again, I caution the chamber that what we are seeking to deal with here are powers that will be very rarely used and in circumstances which are very difficult to predict.

However, if one wishes to examine South Australian history for likely events I am advised that a severe outbreak of smallpox occurred in this state in 1913 and, if this outbreak occurred today, it may well be a circumstance where compulsory treatment may be used. Looking forward, other possible examples could be as follows:

- a school where a student who has been exposed to a new or powerful strain of TB is not identified before they come into contact with the school population and families. We would be dealing with a highly infectious disease with a high mortality rate potentially affecting a widescale population. Current powers may not be sufficient, and we would need to compulsorily treat to save and protect lives and contain the further spread of the disease, if isolation powers alone were not sufficient;
- a plane-load of passengers with a virulent strain of pneumonic plague arrives, who are already beyond the reach of commonwealth quarantine powers and must be dealt with by the state. There is sufficient supply of the target antibiotic to treat those on the plane but not enough for the protection of the broader population, or the health workers, for instance, who may be assigned to care for them. All efforts would be made to isolate the passengers; where isolation could not guarantee against the spread of the disease prophylactic treatment would be provided, if necessary using these powers.

In summary, these powers are needed and necessary. They have also been put in place to look forward, given the potential for the proliferation of disease very quickly in the future. As we know, strains can quite quickly become identifiable and, because of population density and the level of travel between communities, that puts communities at considerable risk, risks we have never had to face in the past. So, this legislation is also about enabling us to legislate for potential future problems.

They form part of a suite of emergency powers which would be used only in rare and exceptional circumstances. We have already talked about the guidelines around that which provide guidance as to when we would use those powers and how they would only be used—fundamentally, as a last resort. There are clear precedents interstate and overseas of these powers being written into statute, but the overall issue here is to ensure that we have the necessary powers to protect our community.

It is not an over-dramatisation to say that lives are at stake here, and removing this power can, and will, have serious consequences around our capacity to protect people in this state. I have been thinking about this, and I guess it is not so much about the government providing examples that have occurred in the past that might warrant this (which we have attempted to do), but rather to look at the changes in our community and the potential for much more serious spread in and quite devastating effects on that community.

I think the real question is not whether the government can provide examples: the real question is whether the Liberal Party, the Greens, Family First, the Hon. Ann Bressington, the

Hon. Kelly Vincent and the Hon. John Darley can, each and every one of them, guarantee, here today and on record, on the *Hansard*, that their decision not to support mandatory treatment will never result in the loss of a life of any South Australian.

I challenge each and every honourable member here who is not prepared to support this to stand up in this house today and guarantee to South Australians, put it on the record, that they guarantee that their position not to support mandatory treatment will never result in the loss of a life of a South Australian.

The Hon. A. Bressington: Can you guarantee that your policy won't either?

The ACTING CHAIR (Hon. R.P. Wortley): Order!

The Hon. G.E. GAGO: This bill is about trying to maximise the protection of our community. That is what we are trying to do. To portray this as some sort of conspiracy against South Australians is, quite simply, idiotic; it is bizarre. This is a measure that is used elsewhere, so there is a precedent set. As I said, we are not doing something that has never occurred before. Even so, I do not think South Australia should be afraid to lead anyway, but that is not the case here. There is precedent.

We have parameters around this that provide the framework within which these decisions will be made. I will put this on the record: I challenge each and every one of you to stand here today and put on the record that your decision, if it is not to support mandatory treatment, will not ever result in a loss of life. I want you to guarantee to those mums and dads out there—

The Hon. A. Bressington: You do the same.

The Hon. G.E. GAGO: I guarantee that this provision maximises protections for the lives of South Australians. That is what it does.

The Hon. A. Bressington interjecting:

The ACTING CHAIR (Hon. R.P. Wortley): Will the Hon. Ms Bressington please desist and allow the minister to finish her contribution. You will have plenty of time to give a contribution after.

The Hon. G.E. GAGO: Without this provision, I guarantee you are putting the lives of South Australians at risk. That is the guarantee I give you here today. That is the pledge that I give. I give my pledge that I can guarantee mandatory treatment helps increase the protections of the lives of South Australians. By not doing this, I guarantee you are putting lives at risk. There will be blood on your hands.

The Hon. S.G. WADE: It is an unusual event today. Normally, it takes a contribution or two from the non-government members to prompt minister Gago to move into hysterics, but we have seen it today coming unprompted. Can I remind the minister where we actually left the committee stage of this debate. As I understand it, the clear statement from the Hon. Dennis Hood and myself was that we were inclined to the government amendments. What is the first thing we get? We get abuse from the minister, suggesting that we are putting the lives of South Australians at risk and that we are being reckless in terms of the public health provisions available in this state. All we are asking are simple questions, and we only got half the answers.

Let me remind the minister the questions that we did ask. We did ask whether the minister could name the provisions in the Emergency Management Act that she was referring to when she was telling us that the Emergency Management Act would operate at a later stage. We also asked what is the definition of preventative treatment? We have not had an answer to that one either. We got sort of an answer on the fifth question about where treatment was not a possibility. Instead, we got an answer to 1½ or perhaps two questions, plus a hectoring speech.

If the minister wants the Hon. Dennis Hood and myself, and those members who are associated with us, to support the government and remain sympathetic, she might make a better effort at trying to defend the government's position. We take a strong view that South Australian's deserve the best of public health care. They also deserve the best respect of their rights. As the minister claimed on Tuesday, she is being respectful of the right of people to refuse treatment. We would appreciate it if the minister would focus on the issues and avoid personal abuse of members, particularly those members who might be inclined to vote with the government.

The Hon. G.E. GAGO: I have been reminded of a further issue that we agreed to provide information on, and I am happy to put that on the record now. That is in relation to the health

emergency declaration versus the Emergency Management Act declaration. The key point about having the public health emergency powers available to exercise is that they provide the ability for health to get in early and respond to an emerging public health threat, when the problem is smaller and the window of opportunity to manage or contain the problem is greatest.

As I have indicated previously, the other key point is the need to have flexibility, to be able to tailor responses appropriate to the severity of the pandemic. As the Australian Health Management Plan For Pandemic Influenza, updated December 2009, observes:

> It is likely that the development of a pandemic will move through a number of different phases as the virus becomes more adept at infecting humans, spreads around the globe, and throughout Australia.

Each of these phases requires a different set of actions. The plan provides a guide to decision-making, with the aim of enabling the most appropriate action to be taken: alert, delay, contain, protect, sustain, control, recover, etc.

The health sector has responsibility under the state's emergency management arrangements for identifying and managing the response to human disease outbreak. The early recognition of warning signs of a pandemic by the Department of Health make it best placed to respond to such a situation in the first instance.

It is critical that it has adequate powers to do that, and that is why the 2009 amendments to the Public and Environmental Health Act were made and why they are included in this bill. If the situation warranted it, a public health emergency could be declared. The legislation ensures that this would not be done in isolation. There must be consultation by the Chief Executive of Health with the Chief Public Health Officer and the state coordinator, and approval by the minister before the chief executive can declare a public health emergency.

If the situation escalated in severity and magnitude such that a whole-of-government state emergency response was necessary, then the state coordinator would be approached, seeking a declaration under the Emergency Management Act. This may be at the stage when the situation has deteriorated to the point where the emphasis needs to shift to the retention of priority products and services, the maintenance of essential services and where coordination of a number of agencies is required.

There is no specific trigger provision in the legislation to move from a public health emergency declaration to an EM Act declaration. Each public health emergency would need to be considered separately. Given that the features would most likely be different and may have the potential to change rapidly, as the Australian Health Management Plan for pandemic influenza emphasises, all of the planning must incorporate a high level of flexibility.

As members may be aware, there is a state emergency management committee of senior officials from a range of agencies which includes the State Coordinator, the Chief Executive of Health and an emergency management council of ministers, including the Minister for Health. When there is an emergency situation developing or occurring they meet frequently, so there is a sharing of information as the situation develops and evolves.

It would be reprehensible for members to assume the position that we can downgrade the powers called up in this bill simply because we have preserved them in an emergency management act. This is equivalent to saying to the community, 'Don't worry, we will let the problem get worse before we will intervene.' A worsening problem means a problem where there is more widespread disease, injury, disruption and even deaths. So, that is what we face by delaying and allowing the situation to worsen.

Inevitably, it is likely to end up in more widespread disease, injury and, as I said, even deaths. I cannot believe that this chamber could seriously contemplate such a position. To deny these necessary powers would restrict the health system's capacity to deal quickly and early with an outbreak. The consequences for the community's health should, I believe, be apparent to all members.

The Hon. A. BRESSINGTON: I want to go back to a comment that the minister made about a TB outbreak in a school being one of the triggers for implementing vaccination of all children in schools. I remind the minister—and I ask if this protocol would still be in place—that when I was going to school and I was vaccinated against smallpox and TB, first of all, I had to have a test to show that I needed that vaccination. We had to have the test and then we had to wait for seven days, I think, and it came up positive or negative, and, if you needed it, you got it.

Under the provisions in this bill, is that going to happen? Are people going to be tested to see if these vaccinations or this preventative treatment is a necessity for that person or is it just going to be straight to vaccinations or preventative treatment of another kind?

Secondly, what will happen to a parent who knows and who has been told medically that her child being vaccinated with a range of vaccinations will have a detrimental effect on her child, and she absolutely refuses to allow that child to be vaccinated? What will happen in that sort of situation?

The Hon. G.E. GAGO: In relation to the first question, with the example given of TB infection and the vaccination against TB, in this bill we are looking at emergency treatment provisions. So, in the case that the Hon. Ann Bressington just referred to, the vaccination against TB would not be considered an emergency treatment.

The Hon. A. Bressington: You used the example; that is why I brought it up.

The Hon. G.E. GAGO: It is most important that we listen to each other.

Members interjecting:

The Hon. G.E. GAGO: It is important that you listen as well. In an emergency situation, for instance, where there has been an outbreak of TB (which we know can be highly contagious and can have a very high mortality and morbidity rate), where we know people have been exposed, where we know there is a high chance of infection, in this case the treatment would be the administration of antibiotics, because we know that if we do not administer prophylactic antibiotics within a 48-hour period people are at a high risk of mortality or morbidity in relation to TB, or certainly some strains of it. That is the sort of case we are looking at. In that case we would not be vaccinating but giving an emergency treatment of prophylactic antibiotics to a group of people who we have good reason to believe have been exposed and are highly likely to be infected.

In relation to the second issue the honourable member raises, public health workers will be assessing the individual needs and requirements of those people they are in charge of caring for. For instance, in this case, it might be that an individual is allergic to antibiotics, so they cannot receive them, or may have some other adverse reaction to that treatment or medication. That would be taken into consideration, and appropriate action and care and treatment would be taken. Of course, we are not going to administer medication to people who might have an anaphylactic reaction to the medication. That is how that particular situation is most likely to fall out, I have been advised.

The Hon. A. BRESSINGTON: I am still not satisfied with the answer that the minister gave about the protocols that will be in place. When I was vaccinated for TB, it was because TB was around. They did not just do it because they had spare vaccines; there was a risk, and it was coming through the milk. We were tested and, if it showed that we needed that vaccination, we would get it; if we did not need it, we would not get it. That is what I am asking: are those sort of protocols going to be in place to make sure that the people who get the vaccinations—and we are talking vaccinations here, forget antibiotics—are the people who need those vaccinations?

Secondly, the minister stated that Tasmania and the ACT had these provisions in their acts for compulsory treatment. She did not mention that, I think it is, New South Wales, Queensland and the ACT actually have open clauses. It is my understanding that the states have a bit of a wishy-washy clause in their bills about people having to comply with the directions of the chief health officer, but it does not state specifically that they must comply with compulsory treatment or that the government has a right to impose compulsory treatment.

According to our legal advice, the reason for that, referring to the Consent to Medical Care and Palliative Treatment Act, is that a physician is required, firstly, to explain the condition that is being treated. They are required to give details of the medication and of any possible side effects that could be caused by this medication.

Once a state bill is specific about the state having the right to impose mandatory treatments for any of these conditions that we may be talking about, it also removes the responsibility of the physician to give those explanations that are required in order to give people the right to refuse medical treatment. That is a serious ramification of being so specific in our bill about compulsory treatment, and it is one that we should think long and hard about in here.

We are not only removing but we are also giving the state the right to mandatorily treat people who are not going to be diagnosed or tested for these illnesses (they are just going to be

treated), and the doctors and healthcare professionals are also not compelled to discuss with these people who are going to be receiving this treatment what ill effects they may suffer, what they are actually being treated for, what is in these medications—all the information that they would be required to be given under law in any other circumstance. That is what worries me about this.

The Hon. G.E. GAGO: In relation to the first part of the question, I had already clearly put on the record that, in relation to TB, the vaccination for TB is not an emergency treatment so it would not be covered by this provision. The emergency treatment for TB is the administration of antibiotics within 48 hours of exposure. The vaccination for TB in this situation would not be captured by this provision.

I have already put on record those jurisdictions that have provision for compulsory or mandatory treatment so I do not need to repeat that. But, in terms of the approach of other jurisdictions to this issue of compulsory treatment, I think it is important to remind honourable members that the public health law is in a state of flux and development, and has been since the turn of the century. Various jurisdictions have taken a range of approaches to address public health risks, including emergency public health provisions.

In reviewing the Public and Environmental Health Act, the job of our public health officials was to examine the range of legislative responses and consider their application for South Australia. Their principal task was to identify what was going to be the best range of powers and provisions to deal with public health challenges to this state. That is what is being presented in this bill.

As legislators, it is our job to confirm that and ensure that our state has the best chance to deal with public health challenges and meet genuine public health threats with robust and necessary powers. Whether or not some other jurisdictions may or may not have similar explicit powers is, in fact, immaterial to that, I believe.

The test is: what is best for South Australia? The government is not going to propose a watered down set of powers just to conform to what some other jurisdictions may or may not be doing if it weakens our capacity—particularly under a lens of contemporary analysis—to protect our citizens, and I believe that it is necessary to have that test as the superior test. That is the measure.

Regarding the Hon. Ann Bressington's questions around consent to treatment, it is about individual care. What we are dealing with here is a public health bill which is about the protection of the health of the public at large. I remind members that these are emergency powers, exercised very rarely, and in a framework of principles, as we have already discussed, which includes patients being involved in discussions about themselves and being given clear reasons for any decisions made. So, those aspects are incorporated within that framework of principles.

The CHAIR: I intend to put this amendment, because it was moved some time ago. But, the Hon. Mr Wade can have a crack.

The Hon. S.G. WADE: I am still waiting for answers to questions I put on notice during the previous session. I had questions arising from the answers that were given, so I do not think I will be in a position to vote on any amendments until I have sought further clarification. I am happy to restate No. 4, which is: could the minister define what is preventative treatment?

The Hon. G.E. GAGO: I have been advised that preventative treatment is designed to prevent the onset or development of a disease when there has been known (or there has been reason to believe or presume) exposure to a contaminant. The example is the prophylactic use of antibiotics within 48 hours of exposure to TB.

The Hon. S.G. WADE: Could I clarify, minister, and it will not take me long to show the limits of my understanding of health technology. So preventative treatment, if you like, is in the short-term prevention of disease? Normal vaccinations outside of an emergency context presumably are to manage long-term risks whereas preventative treatment in this context is very much in the short term—in other words, before a person could resume their normal life, engage their normal medical practitioner and so forth.

The Hon. G.E. GAGO: Preventative treatment can be short, medium and long-term, but we are talking about it in the context of this bill. This bill is about emergency treatment only. It only deals with preventative treatment in relation to emergency situations, not the long-term; that would be dealt with under health management plans, GPs and other measures. This only deals with the

emergency preventative measures, particularly to do with the mass spread of a highly contagious disease where there is a high risk of large amounts of people being exposed and put at risk.

The Hon. S.G. WADE: To be clear, an officer who purported to impose compulsory treatment for a risk that was not immediate would be acting beyond the powers of this bill.

The Hon. G.E. GAGO: That was not part of the emergency declaration.

The Hon. A. BRESSINGTON: I am seeking clarification here. The minister, in her first example, gave the example of a plane-load of people infected with bubonic plague—because we will get over TB—and that they would be identified and mandatorily treated for bubonic plague. We are assuming here that these people have got off the plane, gone home, and it has been discovered that bubonic plague is an issue. Those people are then recalled and treated with a prophylactic antibiotic for bubonic plague.

What about all the people they have been in contact with? If you have 300 people on a plane who have been exposed to this, and they have gone home and mixed with other people and they may or may not be contagious, how does this not equate to a serious emergency? Why would you not be bringing these people in, isolating and detaining them until you can see the extent of what the infection would be? Is that still an option? That is what I am not clear on. I am referring to isolation and detention to make observations and then declare a public health emergency.

The Hon. G.E. GAGO: I have been advised that there is a wide range of possibilities and circumstances that could occur in emergency situations and each one would be dealt with on a case-by-case basis. The bill before us is particularly focusing on those powers to be provided in an emergency situation to prevent the mass spread of disease. The honourable member is referring to a situation where the horse has bolted.

For instance, we might receive advice that someone on board a flight coming from overseas has been identified as having pneumonic plague. What could happen is that, when the flight lands at Adelaide Airport, all the people on that flight might be separated and isolated. They might be just separated for a period of time for testing and assessment. If there is a high risk of TB, for instance—I know you do not like me talking about TB—we know that they have to be treated within 48 hours, so they would be treated, but not necessarily always treated—only where we know that it is going to be an effective means of preventing spread. We would contain that plane-load of people, isolate and separate them and manage the situation in that way.

These powers really would have very little effect once a plane-load of 600 people had gone home to their kids and then their kids had gone off to school. These provisions would be very difficult to apply in that sort of situation—unless it was the sort of disease where we would close down Adelaide and prevent all people in and out of Adelaide, so that the containment would be the whole of Adelaide. Now, I doubt that we would have enough antibiotics to treat them, even if that were an appropriate treatment. It depends on the extent of the pandemic, the availability of medication and facilities, etc. That would be assessed on a case by case basis.

The Hon. A. BRESSINGTON: Will the minister guarantee that, in this emergency public health act we are talking about, and in the example she just used of the plane-load coming over and being identified and isolated, we would be talking about the use of antibiotics and not vaccinations, with forced or mandated treatment?

The Hon. G.E. GAGO: This bill would apply to any form of treatment that is assessed to be appropriate to meet only those emergency needs—and only emergency prevention needs—so it could apply to nearly any form of treatment.

The Hon. S.G. WADE: I want to go back to the minister's answer to an earlier question relating to the interaction between the Emergency Management Act and the South Australian public health act. I understand that your advice is that the South Australian public health act is likely to be activated earlier than the Emergency Management Act, but I am not clear as to whether that is because of the government's understanding of the nature of public health emergencies or whether it is reflected in the acts. So, to reframe the question I asked on Tuesday, are there any triggers in the Emergency Management Act that would suggest that that act would not be able to be engaged as early as the South Australian Public Health Bill?

The Hon. G.E. GAGO: I have been advised that the Emergency Management Act has powers that deal with an emergency which would involve a large part or the whole of the state. The Public Health Act relates to specific emergencies. If I go back to the analogy of the plane-load of people coming in with pneumonic plague, whilst they are still in the plane they would potentially be

captured by the public health act. Once they have all gone home, the kids have all gone off to school and the thing has spread around most of the state, it would then come under the auspice of the Emergency Management Act. I have put on record already that there are not specific triggers. That is a situation that does help delineate the difference in powers.

The operational protocol is for health to have powers via the Public Health Bill to deal early and effectively with emergencies before it has that widespread effect. The State Emergency Coordinator is involved in the declaration of an emergency under the Emergency Management Act, and it is their decision (on their expertise and the advice that they are given) as to whether to escalate from a public health provision to an emergency act provision.

The CHAIR: Hon. Mr Wade, we have been on this amendment for a fair while.

The Hon. S.G. WADE: It is a very important amendment, Mr Chair.

The CHAIR: We are still on the clause. We can deal with the amendment and stay on the clause.

The Hon. S.G. WADE: Sorry; this does relate to the amendment. You are right, Mr Chair, I should explain why I am asking this question.

The CHAIR: There have been no questions asked of the mover of the amendment.

The Hon. S.G. WADE: It takes us back to Tuesday's discussion where the minister was assuring us that the Emergency Management Act was not a relevant act under which to enforce treatment powers. That question was being asked because the Hon. Ann Bressington's amendment—so it specifically relates to the amendment—only deletes the treatment powers in relation to the South Australian Public Health Bill.

So, the Hon. Dennis Hood and I, as we were exploring this issue, were somewhat reassured. I should speak for myself only, but I imagine honourable members were somewhat reassured that, even if this treatment power was deleted, there would still be a treatment power available. Concerns were raised in that context because the minister was suggesting that the Emergency Management Act might be late coming.

This is at least the second occasion I have asked this question and I have not been given any references to the statute. On my cursory look, I can see no differential in the trigger between the two. My understanding is that the Emergency Management Act was brought into play in relation to the Port Lincoln fires. That is hardly a statewide emergency; that is a localised emergency, and I do not criticise anyone for bringing it in there. I would have thought that there would be very localised but very serious non-health-related emergencies that would justify the engagement of the Emergency Management Act.

I stress to the minister again that the relevance of this line of questioning is: why would we not delete from a health act a provision that requires mandatory treatment, when in our health legislation we have a high regard for a person's right to refuse treatment, when, if it is needed, it could be activated under the Emergency Management Act?

The Hon. G.E. GAGO: I believe that question is answered in the example I gave with the pneumonic plague and the plane-load of people. If you remove this provision, it would not allow for the instant preventative treatment of people on that aircraft. It would take some time for the provisions in the emergency act to be applied to that situation.

I am advised that there could be circumstances where it might not be able to be applied, so there are circumstances where, potentially, situations could fall through the gaps. So, this is making absolutely categorically sure that those matters that are captured by the public health powers, where assessed to be necessary; that early, instant, preventive mandatory treatment can be applied as a last resort, in those circumstances, to protect public health. I cannot be any clearer than that.

The CHAIR: I am not going to put up with this for much longer.

The Hon. A. BRESSINGTON: Then we will not vote on it. We have to be clear on this. This is a very important amendment, and it is a very important provision in this bill.

The CHAIR: You have tossed it around for a fair while now.

The Hon. A. BRESSINGTON: We are not getting the answers we want, obviously.

The CHAIR: It is your amendment.

The Hon. A. BRESSINGTON: I know.

The CHAIR: Perhaps somebody should be asking you some questions on it; I do not know.

The Hon. A. BRESSINGTON: Fire away!

The CHAIR: That is what usually happens to people who move amendments.

The Hon. A. BRESSINGTON: It is the minister who is objecting to it. Minister, can you give us an example of what would be a situation that would fall through the cracks, if we are talking pneumonic plague or whatever? What is the evidence that shows that if you tell somebody they have pneumonic plague and you are offering them an antibiotic that they would refuse that treatment?

The Hon. G.E. GAGO: I will start with the second part of the question first. We are sort of going over and over a lot of old ground. The example I gave in relation to the second part of your question was in relation to that incident with the gentleman who was infected with HIV.

The Hon. A. Bressington: That's a totally different situation, and you know it.

The Hon. G.E. GAGO: It is not a totally different situation.

The Hon. A. Bressington: That's mischievous.

The CHAIR: Order!

The Hon. G.E. GAGO: It is not. You asked for an example where people could refuse treatment. This is an example of a person—

The Hon. A. Bressington: That was a criminal act.

The Hon. G.E. GAGO: —who was completely irresponsible in terms of his behaviour. He could prevent the spread of HIV.

The Hon. A. Bressington: That doesn't apply to this bill, and you know it.

The Hon. G.E. GAGO: It does not apply to this bill and I did not suggest—

The Hon. A. Bressington: No, so don't use it as an example.

The Hon. G.E. GAGO: I can use it as an example because you asked me—

The Hon. A. Bressington: It doesn't apply to this bill.

The CHAIR: Order! The Hon. Ms Bressington will put a sock in it.

The Hon. G.E. GAGO: It is an example, and it is a reasonable example to give in relation to some individuals who hold very different and sometimes irresponsible beliefs and views about themselves and the world that are not consistent with ours and who may refuse treatment, just as that particular person refused to prevent the spread of HIV.

Anyone here in this chamber would think that is a reasonable thing. Once a person is aware that they are contagious or infected, any reasonable person would not proceed to have unprotected sex, yet we know of examples where that occurs. So, we know that different individuals have different views of the world, so the legislation needs to be able to cater for those emergency situations, like the example I have given with TB, where you have a 48-hour window of opportunity, so I have been advised, and where treatment has to be given immediately. That is a real-life example.

In relation to the second part of the question, I will beg the indulgence of the committee. I want to put something on the record just for clarification, because I did talk about instances 'falling through the cracks' and that is not a good analogy. I have been advised that it is not so much 'falling through the cracks' when we are talking about the Emergency Management Act and the public health act, but rather the Emergency Management Act has these extremely broad powers that, once they become operational, apply across agencies, so it actually harnesses every agency in a huge overall effort. It is basically applying a sledgehammer, when you do not really need it, to crack a nut.

The public health bill applies to a specific health emergency. We do not need to harness every agency across the state and set up committees and all sorts of things to coordinate services across that particular disaster like the fires. It was not a specific health emergency. It was an

emergency that involved housing, water, sewerage and roads. It was appropriate in that case that, across government, efforts be coordinated.

However, the public health bill only pertains to a health emergency—so why bring out a sledgehammer when you do not need it—and in that health emergency, it is applying the principles of being able to mandate treatment. I just wanted to correct the record because I had given an analogy that was not perhaps as helpful as it could have been.

The Hon. S.G. WADE: I think both on Tuesday and today that the committee—all members, including the government members—is concerned to make sure that we maintain respect for medical self-determination, if I could use that term. The Hon. Ann Bressington referred to the Consent to Medical Treatment and Palliative Care Act as a key piece of legislation in this state that upholds that value.

I put to the minister: would the government consider an amendment to clause 14 of this bill, being the clause that deals with specific principles, so that clause 14(5) might pick up the key objects from the Consent to Medical Treatment and Palliative Care Act? In particular, I draw the minister's attention to section 3(a)(i) which talks about a person's right 'to decide freely for themselves on an informed basis whether or not to undergo medical treatment'.

I appreciate that the minister is representing the Minister for Health and may need to consult, but I suggest that that might provide reassurance to the committee that we will maximise the person's right to refuse treatment within the circumstances of the public health emergency.

The Hon. G.E. GAGO: I think that that might provide a way through this. I am not the minister responsible and obviously I would need to consult with the Minister for Health (Hon. John Hill) and see if he is amenable to that, but it does certainly hold some promise. On that note, I might seek leave to report progress.

Progress reported; committee to sit again.

HEALTH SERVICES CHARITABLE GIFTS BILL

Adjourned debate on second reading.

(Continued from 8 March 2010.)

The Hon. D.G.E. HOOD (16:46): I rise to indicate Family First's view regarding this bill. It is important for me to put on the record our concern for the proper handling of charitable gifts to services (whether they be health services or otherwise) and their proper perception in the community, and that those gifts (specified in wills or otherwise) are being dealt with in a fair and transparent manner.

Commissioners under the bill will be tasked with receiving assets which are gifted to public health and research services, administering those assets (which I understand are currently in the order of $80 million) and ensuring that the assets are appropriately distributed. It is an important and undervalued task because, if done wrongly, those gifts will no doubt dry up to some extent and, of course, the vital medical research and health services in our state will enjoy less funding than currently. Gifts given to medical research are a vital resource of funds and the generosity of our community in this regard should be applauded.

It is clear that the current act requires updating to meet community expectations. The government has quite rightly pointed out that the current act has not been substantially amended since 1935. Much of the language used in the current act is clearly in need of updating. I note that the definition of an institution in the current act has been advanced, as one example. The current definition is expressed to include, 'any public hospital, destitute asylum, lunatic asylum, hospital for the mentally defective, orphanage, reformatory or other institution of like character'. That definition includes some words that are considered quite inappropriate and insensitive in today's day and age and, for that reason, Family First welcomes the amendment of those terms.

The government notes that one of the prime purposes of this bill is that it removes some uncertainty surrounding the legal capacity of commissioners acting as individuals and acting as a body corporate. This is resolved by establishing the Health Services Charitable Gifts Board upon which the commissioners will sit. In this regard I note the recommendations of the Auditor-General, who has advised that gifts received on behalf of these institutions do not currently vest with the commissioners. From my understanding, this was the advice that precipitated the current amendment and delayed the 2008-09 annual report of the Commissioners of Charitable Funds.

The bill also does several other things, including the removal of the current restrictions on investment by the commissioners and the establishment of an investment advisory committee. However, there is certainly a concern that donors want their gifts to go directly and immediately into medical research—which is usually the request, of course—and not gambled over-zealously on the share market, for instance. I certainly hope that the new investment powers are not taken too far.

Of concern from Family First's perspective, and I suspect other members' as well, the bill widens the current powers of the commissioners to direct gifts to entities other than those entities specified by the donors. One immediate question that comes to my mind concerns gifts that may be directed to the Royal Adelaide Hospital, for example.

On notice, I ask whether it is envisaged that gifts directed to the RAH will continue to be directed to the new hospital (the new rail yards hospital). The two hospitals certainly will share the same name, but I wonder whether donors who may have had a particular experience at the hospital on its current site actually intended gifts to be distributed to the hospital that has now taken on the RAH name at the rail yards site. I am not saying they will not: I am just saying I wonder whether some of them may, and that is just one example of course.

Until a relatively short time ago, the new hospital had a different name—the Marjorie Jackson-Nelson Hospital, as I recall—and the argument for a connection between the old and new would have been more tenuous. The connection still may be somewhat tenuous in some regards at least. The new legislation at any rate requires the board to consider the intent of a donor, and perhaps nothing more than that can be done. Many funds in any event, it seems, may be redirected to the South Australian Health and Medical Research Institute.

Family First would have preferred a regime whereby relatives were consulted in the event that the board wishes to give the whole or part of a gift to another public entity. In fact, we had considered drafting an amendment but, given that we are told that this bill is seeking rapid access, we have decided not to do that in the interests of not holding up the legislation. We are operating with our usual spirit of cooperation in the chamber.

Having said that, it is an important issue. As members may recall, in early 2009 there was debate—or lack thereof—about the Mount Gambier hydrotherapy pool, and the donations that had been made towards that cause. Similar arguments apply in regional communities when fundraisers occur and bequests are sought to refurbish or build, say, an obstetrics unit in a country hospital, for example, or to buy new equipment.

If the fundraising falls short, where do the donations go? There can be considerable angst if donations intended for a local community end up absorbed in a general fund or redirected to somewhere else in the health service. Why leave a loophole for bureaucracy to decide what would be the intent of donors? We feel the wording of the clause, as presently drafted, leaves that loophole for the government or a bureaucracy to do as they wish with what can be sizeable gifts, sometimes given with great deliberation by testators in wills or by philanthropic individuals. If that gift is frustrated, in our view, it would be a positive requirement within reason to consult with the family or the body giving that particular amount of money.

I do not say that to be mischievous; I think it is a genuine issue. All of us when we give donations to individual bodies expect that money to go where we intended it to go. In the case of the Mount Gambier hydrotherapy pool, there was some angst because the pool never proceeded, as members are no doubt aware. There was some angst among people who had given quite considerable amounts of money or had been involved in fairly extensive fundraising efforts. A lot of their own time, energy, sweat and whatever else went into raising that money, yet it did not go to the pool in the end.

I am not criticising anyone for that; these things happen. The question is: where does that money go? I think that is the thing that is missing to some extent in this bill. I place that question on notice for the government. I am really looking for an adequate response to that question in the summing up.

Having said that, this is a bill that will receive the overwhelming support of this house, including Family First's for the second reading at the very least. It is a sensible move, it would seem, and we look forward to seeing its impact.

The Hon. K.L. VINCENT (16:54): I will speak briefly to this bill. Firstly, I wish to thank the Department of Health's Mr Andrew Thompson and Mr Rob Smetak for the briefing that they

provided. I appreciate that there is a need to update what appears to be somewhat outdated legislation that deals with charitable gifts in this state.

One only needs to look at the language of the Public Charities Funds Act 1935, which refers to 'destitute asylums, lunatic asylums, hospitals for the mentally defective and orphanages', to realise that the language is outdated. I am glad that this bill refers to the more palatable and more politically correct terminology in the Health Care Act 2008 to describe health services, particularly as a disability advocate who therefore appreciates the role that terminology plays in how we operate as a society.

But this bill is about more than semantics. It also provides the commissioners of the Health Services Charitable Gifts Board with wider discretion in the management of funds, which will in turn provide more scope for growing these charitable donations. Of course, this discretion is offset by the requirement that the commissioners prudently manage funds and deliver annual reports on the operation of the board.

I note from what the Minister for Health in another place has said that the commissioners are currently holding $53,000 in trust funds on behalf of the Intellectual Disability Services Council, which was dissolved in 2006, as well as $435,000 for the metropolitan domiciliary care, which was dissolved in 2007. Schedule 3 of this bill provides for these funds to be transferred to the Minister for Families and Communities, who may apply the funds as she sees fit, taking into account the intent of the donor.

Once the Minister for Families and Communities has taken into account the intent of these donors I suggest that she consider, among others, people who have been deemed fit for discharge but remain in institutions such as Hampstead, waiting for the minister to fund their in-home support needs. When I visited Hampstead in December last year I was told that there were dozens of people waiting for discharge, many of whom were waiting for funding from Disability SA. Since that time I have been approached by two of these people and, in the past few weeks, I have received responses from the Minister for Disabilities.

The first was in response to a plea for an additional 15 hours per week of in-home support for a woman who has been waiting in Hampstead since July last year; the other was in response to a plea for additional in-home support for a woman who also found herself in Hampstead waiting for funding from the minister to provide an additional 21 hours of in-home support. Both of the minister's responses indicated that these women would continue to wait as the funding was simply not available. All that it would have taken was for the government to put a bit more into disability funding to allow these women to get out of Hampstead—an additional $70,000-odd in total.

Of course, there are many other people who are stuck in our health institutions waiting on the government to provide funding for in-home support, and it may well cost $1 million to address this unmet need—but is that really a lot of money when we are talking about the right of people to independence and dignity in their own homes? In any event, I ask that the Minister for Families and Communities to consider people such as these who are on the unmet needs list when considering how to spend the funds transferred by virtue of schedule 3 of this bill. In conclusion, I wish to put on the record that the government must not rest on its laurels here. It cannot rely on charitable donations and must dig deep to fund public health institutions and prioritise the people who need it most.

The Hon. J.A. DARLEY (16:57): I rise to speak briefly about the Health Services Charitable Gifts Bill 2010. Members may be aware that I served as a commissioner of charitable funds for some 20 years between 1987 and 2007, so I have taken a keen interest in this particular bill. At the outset I would like to express my appreciation to minister Hill for introducing this bill, bearing in mind that the current act has remained virtually unchanged since 1935 despite repeated requests for amendments to antiquated provisions by the Commissioners of Charitable Funds since 1994. There is simply no question that the bill is in desperate need of legislative reform. Having said that, there are some provisions in the bill that I do not support and that I will be seeking to amend which I will address during the committee stage.

As we all know, the Commissioners of Charitable Funds was established to manage donations to public charitable institutions in South Australia. Historically, when I was first appointed as a commissioner in 1987, the only investments that the CCF had were shares that had been given to the hospitals as a result of bequests, cash and Town Acre No. 86 (otherwise known as the city centre site in Rundle Mall) which was part of the Thomas Martin bequest. Incidentally, Thomas

Martin was so fed up with land tax in South Australia at the time that he left Adelaide and returned to the UK in the late 1880s.

Over the next 20 years, however the CCF diversified their investments into a balanced portfolio of real estate, cash and shares after taking legal advice on the interpretation of the Public Charities Funds Act. There were, and still are, some limitations in what the commissioners could invest in, and one of the main reasons for the push for legislative reform by the commissioners is that they wanted to have the same powers as provided in the Trustee Act in relation to investments by similar non-government organisations and statutory authorities.

On the issue of investment, I might also briefly comment on something minister Hill mentioned during his second reading speech relating to the commissioners speculating on the sharemarket. There is a major difference between speculating on the sharemarket and investing in the sharemarket, and I can say that the commissioners have generally only ever invested in the top 50 Australian companies and, more particularly, in the top 10 Australian companies. Even this is done only after taking advice from at least two companies specialising in investment advice for not-for-profit organisations and adopting best practice principles in relation to that advice.

All in all, the commissioners have demonstrated their ability not only to manage donations made to South Australian public charitable institutions and to manage them well, but to diversify the way they do this, particularly in a changing economic environment. They have managed to do this despite criticism that has been levelled at them in the past.

For instance, as mentioned by the Hon. Carmel Zollo in her second reading contribution, in 1998 the Statutory Authorities Review Committee, then chaired by the Hon. Legh Davis, inquired into the Commissioners of Charitable Funds. The commissioners' understanding at the time was that the SARC inquiry was initiated because the annual report of the commissioners was late in being presented to the minister; from memory it was presented in December when in fact it should have been presented in September, as required by the act.

The reason for the delay was that the Auditor-General was late in finalising his report on the statement of accounts. As a result of that, the commissioners gave a direction to the Auditor-General that in future they wanted their accounts to be completed no later than 31 August in any year, otherwise they would take steps to have the audit prepared by a private firm of auditors. As far as I am aware, up until 2007 the Auditor-General complied with the 31 August deadline.

Both the current President of the Legislative Council and I are aware that there may have been other reasons for the SARC inquiry, but I am not prepared to go into those on this occasion. The end result of all this was that the committee recommended that the Commissioners of Charitable Funds be abolished. Despite this recommendation, the minister of the day, the Hon. Dean Brown, decided that the CCF should be retained, and that decision was reaffirmed by the current minister when he took up the position of Minister for Health. This just goes to show that sometimes committees can make the wrong decision. Incidentally, the Public Trustee made a submission offering its investment services. In my opinion, that would have been tantamount to putting Dracula in charge of the blood bank.

Overall, if you compare the investment results of CCF with those of the Flinders Medical Foundation (which, in evidence to the SARC inquiry, indicated that it invested cash at 24-hour call) and the QEH Foundation (which, amongst other things, invested in lotteries), and even with the advent of the global financial crisis, the investment returns achieved by the CCF are far superior. As I said before, what this demonstrates is that, contrary to the recommendation of the SARC inquiry in 1998, the CCF has served, and continues to serve, an invaluable role, as recognised by the government.

In addition to bringing the Public Charities Funds Act 1935 into the 21st century from a drafting point of view, the bill also addresses a number of concerns about the powers of the commissioners and the way they have been exercised in the past. Generally speaking the commissioners themselves have welcomed the changes. As I mentioned earlier, there are a couple of aspects of the bill relating to the establishment of an investment advisory committee and the application of charitable assets which I am concerned about and which I intend to deal with by way of amendments.

One of these amendments is particularly complicated, and for that reason I will not be ready to deal with it until the next week of sitting. I understand that the government would have liked to progress this bill this week; however, I think it is more important to get the bill right first,

bearing in mind that the Commissioners of Charitable Funds have been asking for amendments since 1994. I doubt whether one more week will make much difference.

The Hon. R.P. WORTLEY (17:04): I stand today to make a few brief remarks about the Health Services Charitable Gifts Bill. Philanthropy and compassionate giving is an interesting field that is integral to our research and development sectors and one in which it is important to keep our legislation contemporary. This is especially the case in view of the application of charitable gifts to a changing hospital and research environment.

According to the Philanthropy Australia website, individual taxpayers claimed $2,346 million worth of gifts in 2007-08, an increase of 24 per cent since the previous year. The Giving Australia report of 2005, which is the most recent such document available, put individual and household giving in Australia at $7.7 billion, which came from 13.4 million people, or 80 per cent of adult Australians in the year to January 2005.

The report adds that this figure includes donations that were not tax deductible, in addition to moneys raised at charity events, lotteries, raffles and the like. Meanwhile, the report indicates that the total value of goods, services and money donated by businesses and individuals to the not-for-profit sector was an estimated $11 billion per year, excluding donations related to the tsunami in late 2007.

What this tells me is that Australians are great contributors to charity. Indeed, when the UK Charities Aid Foundation compared individual giving in countries, the wealth of which covers more than half of the complete global economy, we came out fourth on the list. The United States, with its great wealth, came first, as one would expect, with 1.6 per cent of GDP; next was the UK, with 0.73 per cent of GDP; third was Canada, with 0.72 per cent of GDP; and then Australia, with 0.69 per cent of GDP.

While there is always a call for greater levels of giving, I think we can be proud of our charitable responses to local and global needs, so it makes even more sense that we ensure that the legislation governing charitable gifts to hospitals and medical research is up to date and reflects the current powers and obligations of those charged with the management of donations and bequests.

The current Public Charities Funds Act 1935 is itself based on the old Public Charities Act of 1875, which established the Commissioners of Charitable Funds. The commissioners were to be independent of government in their responsibility for the allocation of the funds. This remains the case, but the current act is now outdated in language, in the scope of the powers and responsibilities of commissioners, and in some areas that could result in uncertainty as to the establishment of the commissioners and/or some of the decisions they may have taken in the past. I understand also that the commissioners are happy with the proposed provisions, which will:

- maintain the independence of the commissioners with regard to their decision-making powers;
- preserve the current powers and augment these;
- establish the Health Services Charitable Gifts Board (commissioners of which are nominated by the minister to the Governor) and advisory committees, including an Investment Advisory Committee;
- maintain the act's application to hospitals, as per the Health Care Act 2008;
- enable the commissioners under certain circumstances to apply a gift to a hospital or related institution not identical to that nominated by the donor; and
- validate past actions of the commissioners that were made by them in good faith.

All these measures will enhance the transparency of the commissioners' deliberations and decisions. The new act will apply to all public hospitals in South Australia, save for a few exceptions. The main exception relates to the health advisory councils responsible for country hospitals. This exception is in accordance with the government's commitment to rural and regional electors that the health advisory councils in these areas would retain responsibility for local assets, including local donations.

Should a council wish the board to take over responsibility for such property, however, the bill will enable this to occur with the minister's agreement and that property will remain exclusively for the benefit of that local hospital. The decision will be that of the local health advisory council and

can be reversed should the minister revoke his or her decision. Donations made to a hospital by a local auxiliary or foundation will be exempt from investment in the board, where the minister, on application from the hospital, grants the exemption. In addition, gifts of property which can be classified as chattels—for example, a television, furniture or equipment given for the use of patients and staff—will be exempt from investment in the board.

The commissioners hold trust, the total value of which exceeds $75 million. Funds held for the benefit for those requiring domiciliary care or disability care services will now be transferred to the responsibility of the Minister for Families and Communities. The minister will take all reasonable steps to ensure that the funds are allocated in accordance with the wishes of the donor—which is just as it should be. Further, gifts will now vest with the board rather than the commissioners. This means that the commissioners will administer the charitable assets of the board rather than themselves acting as trustees of the asset, though that role will be permissible should the commissioners be so named or if such request is made.

They will, of course, retain their independence in both the investment and dissemination of the funds, and while the intention of the donor as to the application of a bequest will remain one of their paramount considerations, the commissioners will be empowered to apply funds to the South Australian Health and Medical Research Institute should this appear to be more beneficial in terms of health and research outcomes.

It will no longer be the case that the income from an investment will be the sole source of funds available for application. Under the provisions before us today, the commissioners will be empowered to apply the complete value of a gift to a particular purpose. This added flexibility is a particular feature of the bill, as is the advisory body to the commissioners that it envisages. This body will provide advice as to research proposals, another way in which the transparency and accountability of the process can be ensured.

These and related provisions will enhance the operation of the board and the commissioners, enabling them to allocate charitable gifts in an environment of change and innovation in hospital and research spheres. We will all be the beneficiaries, thanks to the generosity and public spirit of the donors, whose gifts are so crucial to our South Australian research bodies and programs. With these few remarks, I commend the bill.

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) (17:12): There being no other speakers, Mr President, I would take this opportunity to make a few concluding remarks. First of all, I want to thank all members for their second reading contributions. The Minister for Health undertook to find out some further information in response to questions asked in the other place, and I now want to provide those answers to questions.

In relation to whether an investment advisory committee exists, the Department of Health is not aware of a body equivalent to the Commissioners of Charitable Funds established under the statute that has an investment advisory committee, other than the Public Trustee. The Public Trustee has, of its own volition, established an investment advisory committee to advise on the investment of funds held by the trustee and to ensure that a sound and efficient system of client investment is maintained. The investment advisory committee has a role somewhat similar to the Public Trustee. To provide certainty that such a body is established for the Health Services Charitable Gifts Board it is a requirement of the bill.

A question was asked about the amount of funds held for the Hanson Institute and IMVS. The commissioners have advised that they hold approximately $1.9 million that has been directly given to the Hanson Institute or the IMVS. They hold approximately a further $5.7 million that has been given to the Royal Adelaide Hospital for its research fund, for the purposes of the Hanson Institute.

A further question was asked in relation to whether the commissioners had ever sold property they held. The commissioners have advised that they have not, under the life of the current act, made any request to the minister for permission to sell any land. The bill makes it clear that charitable assets will be used as much as possible for the intended purposes. The changes that this bill introduces should only increase public confidence and trust in the commissioners, who will now be known as the Health Services Charitable Gifts Board.

In the management and application of gifts, donations or bequests given to hospitals, it never ceases to amaze me how we seem to come up with longer and longer titles for these bodies, but anyway, there we go. Given that, I commend the bill to the council.

Bill read a second time.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

In committee (resumed on motion).

Clause 90.

The Hon. S.G. WADE: Could I respectfully suggest to the Hon. Ann Bressington that she might consider withdrawing her amendment in the context of discussions between members with the government to enhance the principles. That would need to be recommitted once the consideration of this bill has been concluded but, if the Hon. Ann Bressington was amenable to that approach, I would be happy to read the amendment on to the record now. No?

The CHAIR: This amendment is in the hands of the Hon. Ms Bressington. I do not know whether she has been part of the discussions but, if she has, then she will decide whether or not she needs to withdraw her amendment.

The Hon. A. BRESSINGTON: Yes, I am agreeable to that, so I withdraw my amendment.

Members interjecting:

The CHAIR: Order! Let's move along. Let the Chair run the show and we will get a lot better, because you get confused, you start walking around the floor and sometimes I think I am in a dance hall. The Hon. Mr Wade has another amendment (amendment No. 2) to clause 90.

The Hon. S.G. WADE: I think I should inform the Chair that the opposition will not be supporting the passage of this clause until we get a commitment from the government in relation to the amendment that we recommitted at the end of this bill. So, the matter is in the hands of the government and the chair; but that is the state.

The CHAIR: It is always in the hands of the Chair. I really do not know what we did before you were elected to this place.

The Hon. G.E. GAGO: The government has seen the amendment the Hon. Stephen Wade has proposed. We support that amendment and give a commitment to recommit this section of the bill at an appropriate time to deal with it.

The Hon. S.G. WADE: I thank the minister for her patience and for her guarantee. I move:

Page 56, after line 1—Insert:

(3) An authorised officer may only exercise a power of direction under section 25(2) of the Emergency Management Act 2004 applied under subsection (1)—

(a) that the person be isolated or segregated from other persons; or

(b) that the person must remain in a particular place,

if—

(c) there is no cause, or no reasonable cause, to act under Part 10 or under the Mental Health Act 2009; or

(d) there are significant public health advantages in acting under the Emergency Management Act 2004 as applied under this section rather than under Part 10 or under the Mental Health Act 2009.

(4) If—

(a) a person is subject to a direction under section 25(2) of the Emergency Management Act 2004 applied under subsection (1)—

(i) that the person be isolated or segregated from other persons; or

(ii) that the person remain in a particular place; and

(b) an authorised officer is satisfied that the person is no longer an immediate risk to public health, or is no longer at risk on account of a public health incident or public health emergency, (as the case requires),

the direction must be revoked in relation to the person.

(5) If—

(a) a person is subject to a direction, or a series of directions, under section 25(2) of the Emergency Management Act 2004 applied under subsection (1)—

(i) that the person be isolated or segregated from other persons; or

(ii) that the person must remain in a particular place; and

(b) the direction has effect, or the directions together have effect, for a period exceeding 24 hours,

the person may apply to the Magistrates Court for a review of the direction or directions.

(6) An application under subsection (5) may be instituted at any time during the currency of a direction (and, subject to subsection (7), more than one application may be made while a direction is in force).

(7) If a second or subsequent application is made with respect to the same direction or directions, the Magistrates Court must first consider whether there has been a significant change in the material circumstances of the case and should, unless the Magistrates Court in its discretion determines otherwise, decline to proceed with the application (if it appears that the proceedings would simply result in a rehearing of the matter without such a change in circumstances).

(8) Subject to complying with subsection (7), the Magistrates Court may, on hearing an application under subsection (5)—

(a) confirm, vary or revoke a direction;

(b) remit the subject matter to the person who gave a direction for further consideration;

(c) dismiss the matter;

(d) make any consequential or ancillary order or direction, or impose any conditions, that it considers appropriate.

(9) The Magistrates Court may only revoke a direction under subsection (8) if satisfied that the direction is no longer reasonably necessary in the interests of public health.

(10) The Magistrates Court is to hear and determine an application under subsection (5) as soon as is reasonably practicable.

(11) A party to proceedings on an application under subsection (5) may appeal against a decision of the Magistrates Court under subsection (8).

(12) An appeal under subsection (11) will be to the District Court.

(13) The District Court may, on an appeal under subsection (11)—

(a) confirm or vary the decision of the Magistrates Court, or substitute its own decision;

(b) make any consequential or ancillary order or direction that it considers appropriate.

(14) The District Court is to hear and determine an appeal under subsection (11) as soon as is reasonably practicable.

(15) An appeal under subsection (11) will be heard in the Administrative and Disciplinary Division of the District Court (but will not be subject to the application of Subdivision 2 of Part 6 Division 2 of the District Court Act 1991).

(16) In this section—

Magistrates Court means the Magistrates Court of South Australia.

I would suggest to the committee that this amendment has three parts, and to assist the committee in the consideration of the amendment, I propose to address them as three themes. The first theme is about preserving other regimes, and this is dealt with by subclause (3) in particular.

Part 11 of the South Australian Public Health Act deals with the management of significant emergencies, but health authorities already have access to two sets of detention powers for emergency-type situations (for example, controllable notifiable diseases, under clauses 77 to 99 of this bill) and the Mental Health Act 2009. The regimes have been developed with the particular context of those health challenges in mind.

I appreciate that there is no intention on the government's part that public health emergency provisions under part 11 would be used as an alternative to the primary regimes;

however, that is clearly a risk under the current wording of the act. In fact, in a letter to me dated 4 March 2011, minister Hill said:

> Advice from the Public Health and Clinical Coordination Division of the Department of Health is that directions for isolation and/or segregation can apply to individuals, classes of persons or entire geographical areas to contain immediate public health threats that may be the subject of a declared emergency.

Let me underscore the key quote: the minister confirmed that directions for isolation or segregation can apply to individuals. My concern is that it is not appropriate for public health authorities to have access to public health emergency provisions in the context of needing to deal with an individual threat that does not represent a public health threat. In fact, minister Gago herself underlined this risk in the debate in this committee on Tuesday night when she was addressing the Hon. Ann Bressington's amendments. She said:

> ...the bill before us allows us powers that focus on a much smaller scale specific health emergency, whereas I have been advised that the Emergency Management Act provides much broader, if you like, umbrella provisions. So, it would mean that a small contamination would have to escalate into a much larger emergency before it could actually trigger the Emergency Management Act...

However, in defending the government's proposal for mandatory treatment, the minister said:

> You might not be able to detain a person, though, forever. We have had the situation with the HIV chap who had a very strong personal view about his rights to have unprotected sex. How long does the state have the right and the responsibility to detain, feed and care for, etc...

The minister was arguing for mandatory treatment, but she was also highlighting the point that there is nothing in this legislation that means it will not be available against a person.

We will deal with the issues of judicial review shortly, but we have a very strong view that the Mental Health Act and the controlled notifiable diseases provisions and so forth were developed very carefully with those particular situations in mind. It would be inappropriate to create a situation where a health bureaucracy was finding it difficult to tick all the boxes under those regimes and instead resorted to public health emergencies.

I know the government will stand up and tell us that we are reflecting on the integrity of public officers and it would never be done. However, with health officers faced with what they believe is a significant risk and legislation which they believe this parliament has put on them which they believe is inconvenient, I have no doubt that they would use powers that could be read to give them power to deal with an individual situation.

So, this amendment says that if a person is proposed to be isolated or segregated from other persons, or that the person must remain in a particular place, the powers under this act cannot be used if there is a cause or a reasonable cause that the controlled notifiable provisions or the Mental Health Act provisions should be used.

There is a caveat to that, namely, if there are significant public health advantages. In other words, I am quite open to the possibility that a public health emergency could start with one person. That is quite conceivable and, in a context of a particular incident, if officers can justify, to themselves even—it is not as though they have to get the sign off from anyone—that there are public health advantages in using this act, then the opposition is willing for them to use it. Our view is that those particular regimes have been established for a purpose and we should protect them from being circumvented by a potential loophole, so I submit that subclause (3) is useful.

Continuing on with clause 4, it relates to the duration of the order. If a person is subject to a direction under section 25(2), and let us say that the direction is time limited and then for some reason the emergency passes (I lose track of the acronyms used for different viruses, but one recently was not as bad as it was expected to be), and perhaps an order was put on that was longer than in fact the period of risk, this clause would put a duty on the officer to withdraw the direction if it was no longer necessary in terms of the risks to public health. We believe it is a sensible amendment.

The government might well say that it is implicit in the act, that if the emergency is passed then the direction should be removed. However, we believe that it is good to state it in black and white and, even if a direction has not been lifted under the bill, the officer is under an obligation to revoke the direction. It may well be that a legal representative of the person subject to the order, or the person subject to the order themselves, will remind the officer of their duty.

Sections 5 to 16 of my amendment relate to judicial review. The genesis of the party of which I am a member is in the protection of the rights of individuals, so we are always dubious of

provisions that could be used to isolate, segregate or detain people without some form of external oversight.

In the briefings with the officers in relation to this bill we were told that there was no need to have a review process here because we could have trust and confidence in the public officers. But I remind this parliament that we have a number of provisions in state legislation that relate to powers to detain people. I am yet to find one of them, including in health legislation, that does not provide for some element of judicial review. I assure members, considering I am married to a psychologist, that I do not lack trust and confidence in psychiatrists and psychologists dealing with the Mental Health Act.

I assure members that I do not distrust the police when applying the Summary Offences Act. I do not distrust the public health officers when they are using the controlled notifiable disease provisions of this act even, but in all those cases the parliament has felt that it is appropriate that powers that involve serious incursions into people's liberty should be subject to review. Compared with some of those provisions in other acts, the amendment before you today is pretty weak, to be frank. It is a very thin review process. It is a process where you can go to a magistrate and have the order reviewed.

Even more unusual, if you like, is that public health officials under my proposal would have a 24-hour free period. In other words, they can put an order on you for a detention and it would only be reviewable if it was for longer than 24 hours. A number of jurisdictions have public health emergency provisions which have appeal provisions, and I am not aware of any that give public health officers the first 24 hours free.

In the context of public health emergencies, the officers suggested that it was unreasonable to think that officers involved in a public health emergency could find the time, if you like, to respond to a direction. First, we are assured that these powers would be very rarely used. Secondly, it will be very rare, I suspect, that we would have isolation, segregation or detention orders imposed on people. These are not everyday events.

The ability of the government to manage an appeal process in relation to a public health emergency is evidenced by the fact that other jurisdictions have them, and I have heard of no reports that they are not working. The issue was raised in the briefings that our original amendment which proposed an appeal to the District Court may have been unworkable because of the difficulty of getting a District Court judge. In that context, we have altered the amendment such that the appeal in the first instance is to go the Magistrates Court, and we have taken the opportunity to do what happens in a number of other jurisdictions and allow for an appeal against the magistrate's order to be made to the District Court.

In the context of how reasonable this is, I will quote from a report from the Centre for Public Health Law on Emergency Powers and Cross-Issues Regarding Outbreaks of Communicable Diseases. It states:

> Appealing orders made
>
> As a general rule coercive powers and emergency powers are subject to appeal provisions.

I say: why not ours? In terms of the workability, I have also added specific statements to say that both the Magistrates Court (this is clause 9) and the District Court (clause 14) will be under a duty to deal with matters as soon as reasonably practicable. Having made it more accessible by making it accessible through the Magistrates Court I think will probably more than double the number of judicial officers who would be able to deal with the matter.

I would remind the parliament that this is not a matter of waiting until Monday when the court resumes. Courts under mental health provisions and under controlled notifiable diseases provisions already need to respond to matters out of hours. They do that through the telephone; there is no need for a court to convene in a formal sense. So, I submit to the government and to the council that these provisions are eminently manageable and are, in fact, the least that we should be able to provide for people who are going to be required to be isolated, segregated or detained.

The Hon. G.E. GAGO: The effect of the amendments in subclause (3) is merely to state the obvious, which is that you would only use emergency powers if they were necessary in a declared emergency. That is exactly the point. Subclause (4) also states what is obvious; that is, once a public health risk has passed, the direction to isolate or segregate a person or direct a person to remain in a particular place would be revoked. Once again, the reason for the emergency has passed and there is no need, desire, nor basis to continue such a direction. The remaining

clauses of this amendment simply restate the appeal provisions the honourable member has previously presented, although, I should say, this version establishes the Magistrates Court as the first court of appeal.

We believe that this presents significant dangers to the capacity to protect public health in this state during an emergency. The government has already pointed out to the honourable member the risks of diverting vital public health resources to arguing appeals during an emergency when they need to be totally dedicated to containing and controlling the cause of an emergency. In an emergency, there is every possibility that a direction to isolate or segregate, or a direction to remain in place, may be applied not simply to a small number of people but to whole classes of people, or to a population in a particular suburb or community.

We could be facing potentially several hundred appeals occurring during an emergency should this amendment the successful. You can imagine the resources associated with that when they could be better used actually dealing with the emergency. I also note that there is no mention of whether directions continue to have effect during the appeal, and as such, then the court may suspend their operation, raising the risk of the spread of a public health threat. I have already given an example in relation to TB where the window of opportunity is 48 hours. To a court that would be an extremely difficult time frame, I would imagine, for it to be able to work within, particularly if we are looking at large numbers of appeals being dealt with at the same time.

If the opposition truly has the interests of the health of the public at heart, I would urge them to think again about this amendment. These amendments have the effect of putting an individual's liberty above the protection of the public's health. If the resources needed to manage a public health threat are diverted from their primary protective task during an emergency and if their powers are in effect weakened, the potential damage that could be done to our community's health could be profound.

In terms of the honourable member's reference to the paper prepared by the Centre for Public Health Law, I think it is important to be clear about the status of that document. The paper that the Hon. Mr Wade referred to is entitled 'Emergency powers and cross-jurisdictional issues regarding outbreaks of communicable diseases'. It was prepared by the Centre for Public Health Law for the National Public Health Partnership.

This document is simply a discussion paper which, in several places, stresses that it has been prepared to further the discussion and consideration of broad principles and proposals. It is not a policy position as such. It is a contribution by public health experts to further their deliberations. In fact, staff from the Department of Health also contributed to this paper.

The paper was prepared, as I have said, for the National Public Health Partnership in 2006. This body was established by the Australian governments in the 1990s to provide advice particularly to ministers for health. Perhaps the honourable member is unaware of the regard that the former Howard government had for this particular partnership. If he is not aware, I would like to remind him that the Howard government had such a high regard for the National Public Health Partnership's advice that it abolished it in favour of other advisory structures.

As I have said previously, this amendment does not strike the right balance. The government has offered several suggestions for how the honourable member may advance his interest in making public health decisions more transparent and accountable. We offered a balanced approach—a balance between the rights of the individual to liberty and the rights of the community to be protected—and I say again that these amendments do not provide such a balanced approach. Clause 90 needs to be straightforward and simple to undertake and follow, and the opposition's proposed amendment will only serve, we believe, to confuse the public further and therefore we oppose the amendment.

The Hon. S.G. WADE: I want to respond to a couple of points the minister made in relation to the amendment. The minister was trying to suggest to the committee that you can have a situation where the Magistrates Court would somehow interfere with the operation of the powers while it was considering a matter. I draw the committee's attention to proposed subclause (9), which provides:

> (9) The Magistrates Court may only revoke a direction under subsection (8) if satisfied that the direction is no longer reasonably necessary in the interests of public health.

So there is an onus on the court to give priority to public health. Secondly, proposed subclause (10) states:

(10) The Magistrates Court is to hear and determine an application under subsection (5) as soon as is reasonably practicable.

The minister also referred to the government's alternative amendments—and I should take the opportunity to thank the government for both sets of briefings with the police and with health. It was certainly helpful to understand the issues better. The amendments that were discussed in that context all related to parliamentary accountability of some form. I think, for example, there was a suggestion that, after 14 sitting days, there would be a report to this house. There might be an investigation by the Social Development Committee, and I think another suggestion was for a review by an independent judicial officer.

I welcome those suggestions from the government, but the opposition would not be supporting them if the government put them because it is not our concern. Parliamentary accountability, or the general accountability of the government for the discharge of public health emergencies or, for that matter, any emergency, is not our current concern. We have seen in the Victorian bushfires and in the Queensland floods that the Australian parliaments are extremely responsive to the need to account for emergencies, and we have no doubt that, with or without those provisions, that accountability would persist.

It gives no comfort to a person who has been inappropriately detained to know that in 14 sitting days, there will be a report going to parliament. We do not want our public health officers bogged down and writing reports that may not even be needed. We want to leave appeal provisions in the act which we hope will never be needed. In every other case where we have had detention powers, we have put in judicial review because if in fact they are needed, they are there. It would give me no comfort to know that, being detained for whatever period I am detained, at least parliament will find out in a couple of months.

The Hon. D.G.E. HOOD: I have a couple of quick questions for the mover. With respect to the amendment, Family First has no problem with proposed subclauses (3) and (4), that is, essentially the emergency itself and the time allocated in the situation but, specifically, the section on judicial review is one that I am struggling with.

I understand—correct me if I am wrong, and maybe the minister can clarify this in a moment—that the time allowed for potential detention is a maximum of 14 days anyway under these provisions. Correct me if I am wrong, but that is my understanding. That is the first issue but, specifically, my questions for the Hon. Mr Wade are more looking for his comment on the fact that, as he would no doubt be aware, there has been some what we might call 'high level' lobbying from the LGA opposing the amendment and also from police and health; I guess health is not a surprise.

I think he would accept that lobbying from such organisations should be taken seriously by all members and, indeed, that includes myself. They certainly do not support what is being proposed here, and I can understand why. I think the minster outlined the reasons fairly succinctly previously. I would just like to hear what the Hon. Mr Wade's response is to those two groups.

The Hon. S.G. WADE: The minister may want to correct me, but the 14 days to which I think the honourable member is referring is the initial period for a public health emergency declaration, after which I think the minister's declaration needs to be ratified by the Governor, but the minister's officers might correct that.

In that sense, I suppose if an initial direction, a detention order, was to be made in the first 14 days I presume it could only be made for up to 14 days. But, still, 14 days of isolation, segregation or detention is an inconvenience and I would have thought worthy of an appeal to a Magistrates Court. I should say, beyond that, if the public health officers can persuade the Governor to sign an extension, I do not think there is any limitation on that extension so, after your 14 days, you could be there for an awfully long time.

I would remind members that the minister suggested that in relation to an HIV risk, she pondered how long we would be willing to detain them before we gave them mandatory treatment, so this minister is willing to concede that we would detain them indefinitely. I think even people infected by HIV deserve the right to appeal to a court. If the risk is too high, courts are pretty conservative bodies and do not lightly disregard the advice of health officers.

The honourable member made the point in relation to three groups, particularly the health department, the police and the LGA. It does not surprise me that officers will want to minimise their accountability. That is a natural reaction for people who are planning for the worst case scenario.

In terms of managing the unexpected, it is our view, as a Liberal opposition, that managing your risks is not best done by overriding or even obliterating the rights of individuals to have their situation reviewed. The fact of the matter is that courts have continued to operate in all sorts of emergencies in English law countries over the years. They have shown great responsibility in terms of respecting the unexpected events, and I have no doubt that, particularly with clause 9 to say that the magistrate cannot remove a direction if it is necessary for the protection of public health, the courts would continue to give priority, if you like, to the overriding rights of the community.

After all, the health bureaucracy has within it the leadership of the public health sector in this state and their review would be given extremely high weight. But the fact that they are highly respected and trusted members of our community does not mean they should not be subject to review.

As I hinted earlier, an officer was suggesting that this came down to a matter of trust and confidence. I do not accept that. I believe that we as a parliament have a responsibility to respect the rights of our citizens, and that includes putting in appeal provisions. I actually hope and trust that these appeal provisions will never be used, but we have appeal provisions in all other isolation, detention and segregation provisions: why would we not have it here?

The Hon. G.E. GAGO: I will deal with a number of matters that have been raised by the Hon. Stephen Wade and the Hon. Dennis Hood. In relation to the point the Hon. Stephen Wade made about the courts' powers to suspend or revoke orders, which they have, he is right that they would only do that if it could be demonstrated that it was not adverse to public risk. However, public health officers would have to be in court arguing that case, that it was or was not adverse to public risk. We talk about the plane load of people, and you can imagine that you might have 500 or 600 appeals that a court is dealing with, and we know it would be extremely difficult for a court to deal with that number of appeals in a very timely way with respect to some of the dangers.

The example I give is that window of opportunity to deal with infectious TB. Again, I was saying that health officers would have to be in court arguing this when health officers are needed to deal with emergencies; so, it is a diversion of resources during a time of emergencies that we can ill afford. In relation to the questions the Hon. Dennis Hood asked about maximum detention, he is right: it is a maximum of 14 days unless extended by the Governor; and, yes, the Hon. Dennis Hood is correct: the LGA and police do oppose this amendment, and they are agencies that are affected by this.

The Hon. S.G. Wade: That's not true.

The Hon. G.E. GAGO: It is true. I have been advised that the LGA and the police do oppose this amendment.

The Hon. S.G. Wade: There's no detention order for 14 days; that's the duration of the declaration. You're saying I'm wrong, and I'm not.

The Hon. G.E. GAGO: You are right: it is the emergency declaration that can be extended for 14 days—I beg your pardon—unless extended by the Governor. Yes, the LGA and the police do oppose the Hon. Stephen Wade's amendment. The Hon. Stephen Wade is confused about segregation, isolation and detention. The Hon. Stephen Wade's amendment deals only with segregation and isolation. The Hon. Stephen Wade's amendment does not deal with detention. Detention is a higher order and it is dealt with earlier in the bill. I think it is under clause 77.

Although not present myself, I am aware that the honourable member indicated at briefings with public health officials that his thinking was informed by the provisions of the Queensland Public Health Act 2005, as well as by a paper prepared by the Centre for Public Health Law for the National Public Health Partnership. Even though those comments were in relation to his previously lodged amendment to this clause, this current amendment has a similar effect, in that it imposes appeal provisions on the exercise of isolation and segregation powers.

I am advised that it has been pointed out to the honourable member that his interpretation of the Queensland act is not correct; however, he seems to persist in his view. Allow me just very quickly explain to the chamber. I understand the Hon. Stephen Wade indicated that he was relying on section 361 of the Queensland Public Health Act as the basis of the need to include appeal provisions. Section 361, however, deals only with appeals against detention orders made by an emergency officer (medical) under section 349 of the act.

For the information of honourable members, detention, as I said, is a much higher form of quarantine, which is applied to those who have been exposed to a prescribed condition and whose

behaviour and lack of compliance with other directions poses a clear risk to the public. Section 345 of the Queensland act contains emergency provisions similar to our provisions to isolate, segregate or directions for a person to remain in a place. It must be noted that there is no explicit appeal powers for these powers.

I believe the honourable member is conflating all these types of quarantine into one case, which is inaccurate and misleading. Segregation and isolation are much lower levels of quarantine and may potentially be applied to large groups of persons for the duration of an emergency. Detention would be contemplated only for those whose exposure status, noncompliance and behaviour pose a clear risk to the public. They would then conceivably be detained under clause 77 of the bill. It should be noted that clause 77 detention orders already have strong judicial review provisions. So, detention already has strong judicial review provisions, which are, in fact, I am advised, stronger than those that Queensland provides.

The Hon. S.G. WADE: I was wanting to respond to some of the assertions that the minister made. She asserted that the potential for whole classes of people—

The CHAIR: You may not debate it.

The Hon. S.G. WADE: No, I'm sorry; I am trying to correct the record. The minister suggested that whole classes of people could be subject to these orders, which would lead to hundreds of cases before the courts. The fact is that courts already have processes to deal with a range of similar matters together. That was a particular issue I discussed with parliamentary counsel, and they assured me that this would not lead to a flood of cases.

Secondly, health officers would not need to attend. It is common practice for government law officers to take statements from relevant experts and present them to the court as their legal representative, just as a person who is subject to the order does not need to attend. In relation to the semantic game about isolation, segregation or detention, if I am told that I need to remain at a place for a certain period, that sounds awfully like detention to me. I would submit that my amendment does enhance the bill and I would ask the committee to support it.

The committee divided on the amendment:

AYES (8)

Bressington, A.	Franks, T.A.	Lee, J.S.
Lensink, J.M.A.	Parnell, M.	Ridgway, D.W.
Vincent, K.L.	Wade, S.G. (teller)	

NOES (7)

Darley, J.A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Hood, D.G.E.	Hunter, I.K.
Zollo, C.		

PAIRS (6)

Dawkins, J.S.L.	Holloway, P.
Lucas, R.I.	Brokenshire, R.L.
Stephens, T.J.	Wortley, R.P.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

Second reading.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (16:02): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill makes amendments to various State laws consequent upon the enactment of the Commonwealth *Personal Property Securities Act 2009*.

In October 2008 the State agreed to a *National Partnership to Deliver a Seamless National Economy*. The PPS scheme is one of the priority items on the Council of Australian Government's business regulation reform agenda. In accordance with the Agreement, South Australia, along with several other States, introduced referral legislation last year that would allow the Commonwealth to establish a national Personal Property Securities scheme under which there would be one set of laws and a single, nationally accessible register. The Commonwealth *Personal Property Securities Act 2009*, known as the PPS Act, will replace around 70 Acts regulating personal property securities. The single 24 hour online register will replace 40 separate electronic and paper-based registers throughout the States and Territories. On commencement of the scheme the State registers held under the *Goods Securities Act 1986*, the *Bills of Sale Act 1886*, the *Co-operatives Act 1997*, the *Liens on Fruit Act 1923* and the *Stock Mortgages and Wool Liens Act 1924* will no longer register personal property securities. The data contained on them will be transferred to the national register which is scheduled to go live in October 2011.

Broadly speaking, this Bill will facilitate the establishment of the national register by amending States Acts to:

- Provide for closure of State registers of security interests;
- Allow data on the Registers to be migrated to the national Register;
- Repeal provisions in State Acts that are inconsistent with the PPS Act, and
- Repeal Acts once the national system is fully functional and the State Registers and registry functions are no longer required.

The Bill will provide for petroleum, mining, fishing and aquaculture licences to be excluded from the PPS scheme. These licences are covered by industry specific regimes so it is appropriate and convenient for them to remain on State registers where other relevant information about the licences is also recorded. There are currently a number of registered Bills of Sale over fishing, aquaculture and water licences and irrigation rights. Arrangements are being made to provide for these interests to be registered on the Fishing, Aquaculture and Water registers and it is anticipated that these will be in place when the PPS register commences operating. However, as a precaution, the Bill provides for transitional regulations to be made so that, if necessary, Bills of Sale over excluded licences can be retained on the Bills of Sale Register until they can be transferred to the appropriate State registers. All other registered interests will be migrated to the PPS Register. Gas and electricity services are also to be excluded from the PPS scheme as they are currently subject to COAG national energy market reforms. The Bill will amend the *National Parks and Wildlife Act 1972* to clarify that certain permits and licences are not transferable and therefore do not fall into the category of 'personal property' for the purposes of the PPS Act. These amendments have been the subject of consultation with relevant Departments and are consistent with consequential amendments made by the other States and Territories.

Although section 73 of the PPS Act allows State law to determine the priority between security interests in personal property to which that Act applies and interests in the property created under a law of the State, the Bill also amends the *Criminal Assets Confiscation Act 2005* to remove any doubt about the operation of State laws relating to forfeiture and disposal of criminal assets and proceeds and the operation of the PPS scheme.

Personal property does not include land, water or fixtures. Whether fixtures will be included at some point is currently being considered by the States and the Commonwealth. Further consequential amendments may be required.

These amendments will clarify the interaction of State law with the PPS Act and will facilitate the move to a more consistent, less complex national scheme for persons and businesses involved in personal property transactions.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure is to commence on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Aquaculture Act 2001*

4—Insertion of section 6A

This clause inserts a new section into the *Aquaculture Act 2001*.

6A—Licence or other right is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 6A states that a right, entitlement or authority granted by or under the *Aquaculture Act 2001* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences and other rights, entitlements or authorities granted under the Act will not be personal property for the purposes of the Commonwealth Act.

Part 3—Amendment of *Bills of Sale Act 1886*

5—Amendment of section 2—Interpretation

The clauses of this Part amend the *Bills of Sale Act 1886* so that certain provisions of the Act will cease to have effect on the commencement of the operation of provisions of the Commonwealth Act relating to registration of securities.

This clause inserts a number of necessary definitions. The *PPS Act* is the *Personal Property Securities Act 2009* of the Commonwealth. *Registration commencement time* has the same meaning as in that Act. That is, the registration commencement time is at—

- the start of the first day of the month that is 26 months after the month on which the PPS Act is given the Royal Assent; or
- an earlier time determined by the Commonwealth Minister.

6—Amendment of section 10A—Assignment of future crops

Section 10A is amended so that it only applies in relation to bills of sale executed before the registration commencement time.

7—Amendment of section 11—Covenants and powers implied in bills of sale

Section 11, which sets out certain covenants and powers implied in bills of sale, is amended so that it only applies in relation to bills of sale executed before the registration commencement time.

8—Amendment of section 11A—Standard terms and conditions in bills of sale

Section 11A allows people to deposit terms and conditions for incorporation as standard terms and conditions of bills of sale in the General Registry Office. New subsection (1a) will provide that such documents cannot be accepted by the Registrar-General following the registration commencement time.

9—Amendment of section 12—Implication of certain words

10—Amendment of section 12A—Joint and several liability under bill of sale

11—Amendment of section 12B—Joint and several entitlement of grantees

These sections are amended so that they only operate in relation to bills of sale executed before the registration commencement time.

12—Amendment of section 15—Bills of sale to be registered in General Registry Office

Section 15 provides that all bills of sale, and every subsequent dealing capable of being registered, must be registered in the General Registry Office. The section as amended will provide that a bill of sale or subsequent dealing is not to be registered following the last business day before the registration commencement time.

13—Amendment of section 19A—Renewal of registration of bills of sale

Section 19A provides for the renewal of bills of sale registered under the Act. Under the section as amended, renewal of a bill of sale will not be permitted under the Act after the registration commencement time.

14—Amendment of section 21—Bills of sale may be extended, varied or corrected

Section 21 provides for an extension of time for the repayment of money secured by a bill of sale. The section also allows other variations or corrections to bills of sale. The amended section will only allow extensions, variations of corrections of bills of sale executed before the registration commencement time. An extension of time, or any other variation, or any correction, will continue to have effect after the registration commencement time.

15—Amendment of section 23—Registration of dealings with registered bills of sale

The Registrar-General is required under section 23 to register any dealing with a bill of sale on the application of a party or holder of the bill of sale or any other person. As amended, the section will provide that a dealing is not to be registered following the registration commencement time.

16—Amendment of section 38B—Minister may discharge bill of sale in certain circumstances

Section 38B authorises the Minister to execute a discharge of a bill of sale in certain circumstances (e.g. the grantee is dead or cannot be found). Under the section as amended, the Minister will not be able to execute a discharge of a bill of sale after the registration commencement time.

17—Insertion of Parts 7 and 8

This clause inserts two new Parts into the *Bills of Sale Act 1886*. Part 7 includes provisions necessary to give effect to the registration scheme under the Commonwealth Act.

Part 7—Provisions relating to PPS Act

42—Certain provisions of Act to cease to have effect

This proposed section lists a number of provisions of the Act that are to cease to have effect at the registration commencement time.

43—Provision of information to Commonwealth

Section 43 authorises the Registrar to provide information concerning bills of sale registered under the Act, and other information recorded by the Registrar in connection with registration, to the Registrar of Personal Property Securities in order to assist the Commonwealth in establishing the Register of Personal Property Securities under the PPS Act.

44—Immunity

This section provides that liability is not incurred by the State, or an officer, employee or agent of the State, for anything done or omitted to be done in good faith—

- in the exercise of a power or the discharge of a duty under section 43; or
- in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 43.

45—Registrar may refuse to exercise functions

Section 45 permits the Registrar to refuse to exercise functions under the Act during the pre-PPS transitional period. This is the period commencing at the migration time (unless an earlier time is prescribed by the regulations) and ending at the registration commencement time. *Migration time* is defined in section 306 of the PPS Act as the start of the first day of the month that is 25 months after the month on which the Act is given the Royal Assent (or an earlier time determined by the Commonwealth Minister). This is one month before the registration commencement time.

46—Registrar may dispose of certain documents

If the Registrar is of the opinion that the retention of a bill of sale or other document or record kept in connection with a bill of sale would serve no useful purpose, the Registrar may, following the registration commencement time, destroy or otherwise dispose of the bill of sale or document or record.

47—Regulations

Under proposed section 47, the Governor may make regulations containing provisions of a savings or transitional nature related to the enactment of the PPS Act and the *Personal Property Securities (Commonwealth Powers) Act 2009*.

Under this section, the Governor may, by regulation, provide that the Act is to apply to certain bills of sale as if it had not been amended by the *Statutes Amendment (Personal Property Securities) Act 2010*. This provision also authorises the Registrar to provide information concerning bills of sale to persons responsible for other registers so long as the information is provided in accordance with an arrangement entered into by the relevant Ministers.

Part 8—Repeal of Act

48—Repeal of Act

This section provides for the repeal of the *Bills of Sale Act 1886* by proclamation following the registration commencement time.

Part 4—Amendment of *Coast Protection Act 1972*

18—Amendment of section 24—Temporary occupation

Section 24(1) of the *Coast Protection Act 1972* provides that a person authorised in writing by the Coast Protection Board may occupy and use land that is part of the coast. The amendment made to that section by this clause makes it clear that an authorisation is not transferable (which means that the authorisation does not fall within the definition of *personal property* in the PPS Act).

Part 5—Amendment of *Co-operatives Act 1997*

19—Amendment of section 9—Exclusion of operation of Corporations Act

Section 9 of the *Co-operatives Act 1997* declares a co-operative to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth. Some exceptions to this exclusion are listed in section 9(2). The exceptions currently include provisions that relate to securities of a co-operative and provisions relating to registers of interests in securities. This clause amends section 9 to remove both of those exceptions.

20—Amendment of section 46—Lodgment of documents not to constitute constructive knowledge

Under section 46(1) of the *Co-operatives Act 1997*, a person is not to be considered to have knowledge of a co-operative's rules or another document merely because the rules or document have been lodged with the Corporate Affairs Commission or are referred to in a document lodged with the Commission.

Subsection (2) currently provides that subsection (1) does not apply in relation to a document lodged under Part 10 Division 2 to the extent that the document relates to a charge that is registrable under that Division. The consequential amendment made by this clause is necessary because documents will no longer be registered under Division 2 of Part 10 (which states that Schedule 3 has effect). Charges will be registered under the PPS Act rather than Schedule 3 of the *Co-operatives Act 1997*. New subsection (2) will therefore provide that the principle set out in subsection (1) of section 46 does not apply to a document filed under the PPS Act to the extent that the document relates to a charge that may be the subject of registration under that Act.

21—Amendment of section 239—Registers to be kept by co-operatives

The amendment made by this clause is consequential.

22—Amendment of Schedule 3—Registration etc of charges

Schedule 3 of the *Co-operatives Act 1997* deals with the registration of, and the priorities of, charges. This clause amends Schedule 3 by inserting two new Parts containing a number of provisions relating to the PPS Act. Under proposed clause 50, a number of clauses in Schedule 3 will cease to have effect at the registration commencement time because from that time charges will be registered under the PPS Act, which will also deal with priorities. Clause 51 authorises the Corporate Affairs Commission to provide information concerning charges registered under Schedule 3 to the Commonwealth. Other clauses in the new Part deal with matters such as the liability of the State and officers and employees of the State, the ability of the Commission to refuse to exercise a function under Schedule 3 during the pre-PPS transitional period and the making of regulations of a transitional nature. Part 5, which is also inserted by this clause, provides for the repeal of Schedule 3 by proclamation after the registration commencement time. Part 10 Division 2 of the Act, which provides that Schedule 3 has effect, will also be repealed on the same date.

Part 6—Amendment of *Criminal Assets Confiscation Act 2005*

23—Insertion of section 11A

Under section 73(2) of the PPS Act, the priority between an interest in collateral that arises by being created, arising or being provided for under a law of the State and a security interest in the same collateral is to be determined in accordance with that law of the State only if the law declares that section 73(2) applies to interests of that kind. This clause therefore inserts a new section into the *Criminal Assets Confiscation Act 2005* to ensure that the priority between an interest in collateral that arises under that Act and a security interest in the same collateral is determined in accordance with that Act.

11A—Application of Personal Property Securities Act

Proposed section 11A provides that section 73(2) of the PPS Act applies to an interest in property that arises by being created, arising or being provided for under the Act.

Part 7—Amendment of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

24—Amendment of section 7—Extension of clamping period

25—Amendment of section 12—Court order for impounding or forfeiture on conviction of prescribed offence

26—Amendment of section 20—Disposal of vehicles

27—Amendment of section 21—Credit provider may apply to Magistrates Court for relief

The amendments made by these clauses are consequential. The amended provisions of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* currently refer to holders of registered security interests under the *Goods Securities Act 1986*. These clauses amend the provisions so that reference is made instead to persons registered under the *Personal Property Securities Act 2009* of the Commonwealth as secured parties in relation to a security interest.

Part 8—Amendment of *Electricity Act 1996*

28—Insertion of section 30A

This clause inserts a new section into the *Electricity Act 1996*.

30A—Licence is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 30A states that a licence under Part 3 of the *Electricity Act 1996* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences granted under the Part will not be personal property for the purposes of the Commonwealth Act.

Part 9—Amendment of *Fisheries Management Act 2007*

29—Insertion of section 5A

This clause inserts a new section into the *Fisheries Management Act 2007*.

5A—Licence or other right is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 5A states that an authority granted under the *Fisheries Management Act 2007* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that authorities granted under the Act (such as licences) will not be personal property for the purposes of the Commonwealth Act.

Part 10—Amendment of *Gas Act 1997*

30—Insertion of section 32A

This clause inserts a new section into the *Gas Act 1997*.

32A—Licence is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 32A states that a licence under Part 3 of the *Gas Act 1997* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences granted under the Part will not be personal property for the purposes of the Commonwealth Act.

Part 11—Amendment of *Goods Securities Act 1986*

31—Amendment of section 3—Interpretation

The clauses of this Part amend the *Goods Securities Act 1986* so that certain provisions of the Act will cease to have effect on the commencement of the operation of provisions of the Commonwealth Act relating to registration of securities.

This clause inserts a number of necessary definitions. The *PPS Act* is the *Personal Property Securities Act 2009* of the Commonwealth. *Registration commencement time* has the same meaning as in that Act. That is, the registration commencement time is at—

- the start of the first day of the month that is 26 months after the month on which the PPS Act is given the Royal Assent; or
- an earlier time determined by the Commonwealth Minister.

32—Amendment of section 4—The register

Section 4 of the *Goods Securities Act 1986* as amended by this section will provide that no information is to be added to the register of security interests in prescribed goods kept under the section following the last business day before the registration commencement time.

33—Amendment of section 5—Application for registration

Under section 5 as amended, an application for registration of a security interest in a prescribed good will not be permitted following the last business day before the registration commencement time.

34—Amendment of section 6—Change of particulars

Section 6 as amended by this clause will not permit an application for variation of the particulars of registration following the last business day before the registration commencement time.

35—Amendment of section 7—Cancellation of registration

Under section 7 as amended, the holder of a registered security interest will not be permitted to apply for cancellation of the registration following the last business day before the registration commencement time.

36—Amendment of section 8A—Interstate arrangements and registration of security interests under corresponding law

Section 8A requires the Registrar to enter into the register particulars of security interests registered under corresponding laws. Under this section as amended, no information is to be added to the register following the last business day before the registration commencement time.

37—Amendment of section 9—Certificate of registered security interests

Under section 9 as amended, an application for a certificate of registered security interests will not be permitted following the last business day before the registration commencement time.

38—Repeal of section 19

This clause repeals section 19, which makes it an offence for a person to sell or purport to sell prescribed goods that are subject to a security interest without the consent of the holder of the security interest.

39—Insertion of Parts 6 and 7

This clause amends the *Goods Securities Act 1986* by inserting new Parts containing a number of provisions relating to the PPS Act.

Part 6—Provisions relating to PPS Act

23—Certain provisions of Act to cease to have effect

Under proposed section 23, a number of provisions of the *Goods Securities Act 1986* will cease to have effect at the registration commencement time because from that time charges will be registered under the PPS Act, which will also deal with priorities

24—Provision of information to Commonwealth

Section 24 authorises the Registrar to provide information concerning security interests registered under the Act to the Commonwealth for the purposes of assisting in the establishment of the PPS Register.

25—Immunity

This section provides that liability is not incurred by the State, or an officer, employee or agent of the State, for anything done or omitted to be done in good faith—

- in the exercise of a power or the discharge of a duty under section 24; or
- in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 24.

26—Registrar may refuse to exercise functions

Section 26 permits the Registrar to refuse to exercise functions under the Act during the pre-PPS transitional period. This is the period commencing at the migration time (unless an earlier time is prescribed by the regulations) and ending at the registration commencement time. *Migration time* is defined in section 306 of the PPS Act as the start of the first day of the month that is 25 months after the month on which the Act is given the Royal Assent (or an earlier time determined by the Commonwealth Minister). This is one month before the registration commencement time.

27—Cancellation of registration 7 years after registration commencement time

This section provides that the registration all registered security interests will expire on 1 May 2018.

28—Regulations

Under proposed section 28, the Governor may make regulations containing provisions of a savings or transitional nature related to the enactment of the PPS Act and the *Personal Property Securities (Commonwealth Powers) Act 2009*.

Part 7—Expiry of Act

29—Expiry of Act

This section provides for the expiry of the *Goods Securities Act 1986* on the third anniversary of the day on which the section comes into operation. However, the Act may expire on an earlier day fixed by proclamation following the registration commencement time.

Part 12—Amendment of *Historic Shipwrecks Act 1981*

40—Insertion of section 15A

This clause inserts a new section into the *Historic Shipwrecks Act 1981*.

15A—Permits not transferable

Proposed section 15A makes it clear that a permit granted under the Act is not transferable (which means that the permit does not fall within the definition of *personal property* in the PPS Act).

Part 13—Amendment of *Legal Practitioners Act 1981*

41—Amendment of section 21—Entitlement to practise

Section 21(1) of the *Legal Practitioners Act 1981* prohibits a person from practising the profession of the law unless the person is a local or interstate legal practitioner, or unless the person is a company holding a practising certificate. Subsection (3) makes it clear that the prohibition in subsection (1) does not prevent certain activities. One of those activities is the preparation by a conveyancer of an instrument registrable under various Acts, including the *Bills of Sale Act 1886*, the *Stock Mortgages and Wool Liens Act 1924* and the *Liens on Fruit Act 1923*. As instruments will not be registrable under those Acts following the registration commencement time, this clause substitutes a new paragraph that refers instead to the preparation by a conveyancer of a bill of sale, stock mortgage or lien over wool or fruit.

Part 14—Amendment of *Liens on Fruit Act 1923*

42—Amendment of section 2—Interpretation

The clauses of this Part amend the *Liens on Fruit Act 1923* so that certain provisions of the Act will cease to have effect on the commencement of the operation of provisions of the Commonwealth Act relating to registration of securities.

This clause inserts a number of necessary definitions. The *PPS Act* is the *Personal Property Securities Act 2009* of the Commonwealth. *Registration commencement time* has the same meaning as in that Act. That is, the registration commencement time is at—

- the start of the first day of the month that is 26 months after the month on which the PPS Act is given the Royal Assent; or
- an earlier time determined by the Commonwealth Minister.

43—Amendment of section 3—Right of lienee to fruit crops

Under section 3 as amended by this clause, an agreement cannot be registered with the Registrar-General of Deeds following the last business day before the registration commencement time.

44—Repeal of section 9

This clause repeals section 9, which relates to frauds by lienors.

45—Insertion of sections 11 to 16

This clause amends the *Liens on Fruit Act 1923* by inserting new provisions relating to the PPS Act.

11—Certain provisions of Act to cease to have effect

Under proposed section 11, a number of provisions of the *Liens on Fruit Act 1923* will cease to have effect at the registration commencement time because from that time liens will be registered under the PPS Act, which will also deal with priorities

12—Provision of information to Commonwealth

Section 12 authorises the Registrar-General of Deeds to provide information concerning agreements registered under the Act to the Commonwealth for the purposes of assisting in the establishment of the PPS Register.

13—Immunity

This section provides that liability is not incurred by the State, or an officer, employee or agent of the State, for anything done or omitted to be done in good faith—

- in the exercise of a power or the discharge of a duty under section 12; or
- in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 12.

14—Registrar-General may refuse to exercise functions

This section permits the Registrar-General to refuse to exercise functions under the Act during the pre-PPS transitional period. This is the period commencing at the migration time (unless an earlier time is prescribed by the regulations) and ending at the registration commencement time. *Migration time* is defined in section 306 of the PPS Act as the start of the first day of the month that is 25 months after the month on which the Act is given the Royal Assent (or an earlier time determined by the Commonwealth Minister). This is one month before the registration commencement time.

15—Regulations

Under proposed section 15, the Governor may make regulations containing provisions of a savings or transitional nature related to the enactment of the PPS Act and the *Personal Property Securities (Commonwealth Powers) Act 2009*.

16—Repeal of Act

This section provides for the repeal of the *Liens on Fruit Act 1923* on a date to be fixed by proclamation following the registration commencement time.

Part 15—Amendment of *Marine Parks Act 2007*

46—Amendment of section 19—Permits for activities

This clause amends section 19 of the *Marine Parks Act 2007* to make it clear that a permit granted under the section is not transferable unless it is a permit for a prescribed activity or a permit of a prescribed class. The transfer may be subject to prescribed conditions. (A permit that is not transferable does not fall within the definition of *personal property* in the PPS Act).

Part 16—Amendment of *Mercantile Law Act 1936*

47—Amendment of section 4—Powers of mercantile agent with respect to disposition of goods

The amendments made by this clause are consequential. Section 4 of the *Mercantile Law Act 1936* currently states that the section does not operate to defeat interests registered under the *Goods Securities Act 1986*. The amendment made by this clause removes the reference to that Act and substitutes a reference to security interests that are the subject of financing statements registered under the PPS Act.

Part 17—Amendment of *Mining Act 1971*

48—Insertion of section 83A

This clause inserts a new section into the *Mining Act 1971*.

83A—Licence or other right is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 83A states that a right, entitlement or authority granted by or under the *Mining Act 1971* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences and other rights, entitlements or authorities granted under the Act will not be personal property for the purposes of the Commonwealth Act.

Part 18—Amendment of *National Parks and Wildlife Act 1972*

49—Amendment of section 35—Control of reserves

This clause amends section 35 of the *National Parks and Wildlife Act 1972* to make it clear that a licence granted under the section can be transferred or otherwise dealt with only with the consent of the authority that granted the licence.

50—Amendment of section 69—Permits

This clause amends section 69 of the *National Parks and Wildlife Act 1972* to make it clear that a permit granted under the Act is not transferable unless it is a permit for a prescribed activity or a permit of a prescribed class. The transfer may be subject to prescribed conditions. (A permit that is not transferable does not fall within the definition of *personal property* in the PPS Act.)

Part 19—Amendment of *Offshore Minerals Act 2000*

51—Insertion of section 5A

This clause inserts a new section into the *Offshore Minerals Act 2000*.

5A—Licence or other right is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 5A states that a right, entitlement or authority granted by or under the *Offshore Minerals Act 2000* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences and other rights, entitlements or authorities granted under the Act will not be personal property for the purposes of the Commonwealth Act.

Part 20—Amendment of *Petroleum and Geothermal Energy Act 2000*

52—Insertion of section 13A

This clause inserts a new section into the *Petroleum and Geothermal Energy Act 2000*.

13A—Licence is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 13A states that a licence under the *Petroleum and Geothermal Energy Act 2000* is not personal property for the purposes of the *Personal Property Securities Act 2009*. This means that licences granted under the Act will not be personal property for the purposes of the Commonwealth Act.

Part 21—Amendment of *Petroleum (Submerged Lands) Act 1982*

53—Insertion of section 5B

This clause inserts a new section into the *Petroleum (Submerged Lands) Act 1982*.

5B—Licence or other right is not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 5B states that a right, entitlement or authority that is granted by or under the *Petroleum (Submerged Lands) Act 1982* is not personal property for the purposes of the *Personal*

Property Securities Act 2009. This means that licences and other rights and entitlements granted under the Act will not be personal property for the purposes of the Commonwealth Act.

Part 22—Amendment of *Roxby Downs (Indenture Ratification) Act 1982*

54—Insertion of section 5A

This clause inserts a new section into the *Roxby Downs (Indenture Ratification) Act 1982*.

5A—Certain rights etc are not personal property for the purposes of Commonwealth Act

The definition of *personal property* under the *Personal Property Securities Act 2009* of the Commonwealth excludes any right, entitlement or authority that is granted by or under a law of the State and declared by that law not to be personal property for the purposes of the Act. Proposed section 5A states that a Special Tenement (within the meaning of the Roxby Downs Indenture) is not personal property for the purposes of the *Personal Property Securities Act 2009*. The section also provides for the exclusion by regulation of certain rights, entitlements and authorities granted by or under the Act from the Commonwealth definition of 'personal property'.

Part 23—Amendment of *Stock Mortgages and Wool Liens Act 1924*

55—Amendment of section 4—Interpretation

The clauses of this Part amend the *Stock Mortgages and Wool Liens Act 1924* so that certain provisions of the Act will cease to have effect on the commencement of the operation of provisions of the Commonwealth Act relating to registration of securities.

This clause inserts a number of necessary definitions. The *PPS Act* is the *Personal Property Securities Act 2009* of the Commonwealth. *Registration commencement time* has the same meaning as in that Act. That is, the registration commencement time is at—

- the start of the first day of the month that is 26 months after the month on which the PPS Act is given the Royal Assent; or
- an earlier time determined by the Commonwealth Minister.

56—Amendment of section 5—Stock mortgages

Under section 5 of the *Stock Mortgages and Wool Liens Act 1924* as amended by this clause, a mortgage of stock cannot be registered following the last business day before the registration commencement time.

57—Amendment of section 14—Owner of sheep may grant preferable lien on wool

Under section 14 of the *Stock Mortgages and Wool Liens Act 1924* as amended by this clause, an agreement conferring a preferable lien on wool cannot be registered following the last business day before the registration commencement time.

58—Amendment of section 19—Other implied covenants in stock mortgages and agreements for wool liens

59—Amendment of section 20—Meaning of abbreviated expressions

60—Amendment of section 21—Covenants to be several as well as joint

61—Amendment of section 22—Covenants to bind executors

The amendments made to these sections make it clear that the sections apply only to stock mortgages and agreements executed before the registration commencement time.

62—Amendment of section 25—Certain provisions of Bills of Sale Act to apply to mortgages and agreements for liens

This amendment makes it clear that provisions of the *Bills of Sale Act 1886* that apply in relation to stock mortgages and agreements for liens on wool by virtue of this section and will cease to have effect in relation to bills of sale at the registration commencement time will also cease to have effect in relation to stock mortgages and wool liens at that time.

63—Insertion of Parts 5 and 6

This clause amends the *Stock Mortgages and Wool Liens Act 1924* by inserting new provisions relating to the PPS Act.

Part 5—Provisions relating to PPS Act

26—Certain provisions of Act to cease to have effect

Under proposed section 26, a number of provisions of the *Stock Mortgages and Wool Liens Act 1924* will cease to have effect at the registration commencement time because from that time mortgages and liens will be registered under the PPS Act, which will also deal with priorities

27—Provision of information to Commonwealth

Section 27 authorises the Registrar-General to provide information concerning agreements registered under the Act to the Commonwealth for the purposes of assisting in the establishment of the PPS Register.

28—Immunity

This section provides that liability is not incurred by the State, or an officer, employee or agent of the State, for anything done or omitted to be done in good faith—

- in the exercise of a power or the discharge of a duty under section 27; or
- in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 27.

29—Registrar-General may refuse to exercise functions

This section permits the Registrar-General to refuse to exercise functions under the Act during the pre-PPS transitional period. This is the period commencing at the migration time (unless an earlier time is prescribed by the regulations) and ending at the registration commencement time. *Migration time* is defined in section 306 of the PPS Act as the start of the first day of the month that is 25 months after the month on which the Act is given the Royal Assent (or an earlier time determined by the Commonwealth Minister). This is one month before the registration commencement time.

30—Registrar-General may dispose of certain documents

If the Registrar-General is of the opinion that retention of a mortgage, lien or other document or record would serve no useful purpose, the Registrar-General may, following the registration commencement time, destroy or otherwise dispose of the mortgage, lien or other document or record.

31—Regulations

Under proposed section 29, the Governor may make regulations containing provisions of a savings or transitional nature related to the enactment of the PPS Act and the *Personal Property Securities (Commonwealth Powers) Act 2009*.

Part 6—Repeal of Act

32—Repeal of Act

This section provides for the repeal of the *Stock Mortgages and Wool Liens Act 1924* on a date to be fixed by proclamation following the registration commencement time.

Part 24—Amendment of *Unclaimed Goods Act 1987*

64—Amendment of section 8—Proceeds of sale

Section 8 of the *Unclaimed Goods Act 1987* specifies how the proceeds of the sale of goods under the Act are to be dealt with. This clause amends section 8 because under the PPS Act, a person might have a security interest in money that has been deposited with the Treasurer under the section. The amendment ensures that the Treasurer can make payment of the money to a person with such an interest.

Part 25—Amendment of *Wilderness Protection Act 1992*

65—Amendment of section 28—Control and administration of wilderness protection areas and zones

This clause amends section 28 of the *Wilderness Protection Act 1992* to make it clear that a licence granted under the section can be transferred or otherwise dealt with only with the consent of the Minister.

66—Amendment of section 33—Prohibited areas

This clause amends section 33 to make it clear that a permit issued under the section is not transferable (which means that the permit does not fall within the definition of *personal property* in the PPS Act).

Part 26—Amendment of *Worker's Liens Act 1893*

67—Insertion of section 9C

Under section 73(2) of the PPS Act, the priority between an interest in collateral that arises by being created, arising or being provided for under a law of the State and a security interest in the same collateral is to be determined in accordance with that law of the State only if that law declares that section 73(2) applies to interests of that kind. This clause therefore inserts a new section into the *Worker's Liens Act 1893* to ensure that the priority between an interest in collateral that arises under that Act and a security interest in the same collateral is determined in accordance with that Act.

9C—Application of Personal Property Securities Act

Proposed section 9C provides that section 73(2) of the PPS Act applies to an interest in property that rises by being created, arising or being provided for under the Act.

Debate adjourned on motion of Hon. D.W. Ridgway.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

Second reading.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (18:03): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is strongly committed to implementing measures to curb behaviour on our roads that is inherently dangerous.

This Bill's principal focus is the reduction of the incidence of offences involving unregistrable miniature motor bikes colloquially known as 'monkey bikes' or 'pocket rockets'. These vehicles have been implicated in a number of tragic deaths in South Australia and are the source of a great deal of frustration and concern within the broader community.

Through reforms to the *Summary Offences Act 1953* this Bill makes it an offence to drive, or cause to stand, a prescribed vehicle on a road. Significant penalties will apply to act as a strong deterrent to the behaviour exhibited by a small number of irresponsible members of the community who, through their use of such vehicles, place themselves and others at risk.

This Government is determined to pursue the initiatives in this Bill to reflect the community's intolerance of such behaviour.

The Bill inserts a new section 55 into the *Summary Offences Act 1953* to create a new offence prohibiting a person from driving a prescribed vehicle on a road, or causing a prescribed vehicle to stand on a road. The offence will attract a maximum penalty of $5,000 or an expiation fee of $315.

Further, where a prescribed motor vehicle is driven or found standing on a road, the owner of the vehicle will be guilty of an offence attracting the same penalty. This ensures that, if a child is found driving a prescribed motor vehicle on a road, it is open for the owner (frequently the child's parent or guardian), to be charged with an offence. This places additional responsibility on a third party owner to ensure that their prescribed motor vehicle is not used on a road or a road related area.

Although the Bill is principally directed at 'monkey bikes', the offence extends to the unlawful use of a 'prescribed motor vehicle'. That expression is defined to mean a motor vehicle that is not able to be registered under the *Motor Vehicle Act 1959* and that is of a class prescribed by the regulations for the purposes of the section.

Registrable miniature motor bikes will not be subject to the Bill. Road Traffic offences committed on those motor vehicles will nonetheless remain punishable under the existing criminal law.

The Bill provides a defence to a driver, or owner, if they can prove that the motor vehicle was driven or left standing on the road in circumstances which the *Motor Vehicles Act 1959* permits an unregistered motor vehicle to be driven or left standing on a road. These include where the conduct constituting the offence was authorised or excused by or under a law, was done in compliance with a direction given by an authorised officer or police officer, or was done in response to circumstances of an emergency.

A further defence is also afforded to an owner of a prescribed motor vehicle who is charged with an offence under the new section, where they can prove that, in consequence of some unlawful act, the vehicle was not in their possession or control at the time it was driven or left standing on the road. The inclusion of this specific defence ensures that the owner of a prescribed motor vehicle which is stolen, will not be held criminally liable for offences under this section, which are committed by another unlawfully using that vehicle.

A key feature of the Bill is that it grants police a discretionary power to seize and retain a prescribed motor vehicle in a broad range of circumstances—including where a person is reported for an offence against this section. This ensures that police can, in appropriate circumstances, immediately address and remove the source of dangerous or disruptive conduct. A vehicle, once seized, may be retained by police until proceedings are finalised.

Where a person is subsequently found guilty of an offence, expiates the offence or—in the case of a young offender dealt with under Part 2 of the *Young Offenders Act 1993*—admits the commission of an offence, then the motor vehicle the subject of the offence is forfeited to the Crown and may be dealt with in accordance with the provisions of the disposal provisions of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*. It is anticipated that given their unregistrable nature, forfeited vehicles will be destroyed.

Seizure and forfeiture of a vehicle will not be allowed where in consequence of an unlawful act the vehicle was not in the possession or control of its owner at the time of the offence.

Finally, the Bill makes a minor amendment to section 4 of the *Summary Offences Act 1953* to clarify that a reference in that Act to 'drivers' or 'driving of vehicles', has always included a reference to 'riders' or 'riding of vehicles' (unless otherwise stated).

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Summary Offences Act 1953*

4—Amendment of section 4—Interpretation

This clause amends the interpretation section to make it clear that a reference to a 'driver' of a vehicle includes a reference to a rider.

5—Insertion of section 55

This clause inserts new section 55 into the principal Act. The section establishes offences in relation to driving a prescribed motor vehicle, or causing one to be standing, on a road. Under the proposed provisions both the driver and the owner of the vehicle would be guilty of an offence punishable by a fine of $5,000 or an expiation fee of $315 (unless a defence is available under subsection (3) or (4)).

The proposed section defines a prescribed motor vehicle as a motor vehicle that is not able to be registered or conditionally registered under the *Motor Vehicles Act 1959* and that is of a class prescribed by regulation for the purposes of the section.

Proposed subsection (5) also allows police to seize prescribed motor vehicles involved in offences under the proposed section, and subsection (6) provides for the forfeiture of the prescribed motor vehicle in the circumstances specified. Seizure and forfeiture cannot occur where, in consequence of some unlawful act, the motor vehicle was not in the possession or control of its owner at the time of the offence.

Debate adjourned on motion of Hon. D.W. Ridgway.

CORONERS (REPORTABLE DEATH) AMENDMENT BILL

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

STAMP DUTIES (INSURANCE) AMENDMENT BILL

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

At 18:04 the council adjourned until Tuesday 22 March 2011 at 14:15.