HOUSE OF ASSEMBLY

Wednesday 24 November 2010

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:01 and read prayers.

LEGISLATIVE REVIEW COMMITTEE: POSTPONEMENT OF REGULATIONS FROM EXPIRY

Mr SIBBONS (Mitchell) (11:02): I move:

That the report of the committee, on Postponement of Regulations from Expiry under the Subordinate Legislation Act 1978, be noted.

The Subordinate Legislation Act provides for all regulations to expire 10 years after they are enacted. This is to ensure that regulations are reviewed at least every 10 years to update their content and maintain their relevance. Government agencies are responsible for the review of regulations. Section 16C of the act allows the 10-year expiry date to be postponed for a period not exceeding two years at a time and not exceeding four years in aggregate.

Postponement from expiry was introduced to allow for extra time for the review of regulations. It was also intended to apply to those few cases where there were delays in completing a review. The act does not require an agency to justify or provide reasons if they require a postponement.

Regulations that are postponed from expiry under the act are referred to the Legislative Review Committee every year. Over the past eight years the number of regulations being postponed from expiry has increased dramatically. In 2002 a total of 48 regulations were postponed. In 2009 this had increased to 100 postponements, with 88 regulations postponed in 2010. Allowing regulations to be repeatedly postponed from expiry is not in keeping with the spirit of the legislation. Postponement was only intended to be used in exceptional circumstances but is now used as a matter of course.

Secondly, the Subordinate Legislation Act should be amended to grant extensions for postponement only in exceptional circumstances, and these exceptional circumstances need to be certified by the relevant minister and certificates of exceptional circumstances need to be provided to the Legislative Review Committee at least one month before a regulation is due to expire. Thirdly, guidelines should be developed which clearly outline the circumstances in which postponements will be granted and which support the original intention of the act. These guidelines should make it clear that extensions for postponement should only be sought in exceptional circumstances and not just for administrative convenience.

On behalf of the committee, I would like to thank the Department of the Premier and Cabinet and the former attorney-general and their staff for briefing the committee on this matter. I would like to acknowledge the contributions of the committee members in this chamber and in the other place, and particularly the committee of the previous parliament which instigated and heard evidence for the inquiry.

I would also like to acknowledge the work of the committee's secretary, Ms Leslie Guy, and the committee's research officer, Ms Carren Walker.

Mr GARDNER (Morialta) (11:05): In brief, I wish to record my approval, I suppose, of the words of the member for Mitchell—

Ms Thompson: Support.

Mr GARDNER: —my support for the words of the member for Mitchell, and note the work done by the previous committee under the previous parliament. The committee structure in this place comes under a bit of scrutiny in terms of its value. Its value is extraordinarily dependent on the hard work of the secretariat, and so I wish to add my thanks to the work of Ms Leslie Guy and Ms Carren Walker for the incredibly good job they do.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: VICTIM IMPACT STATEMENTS

Mr SIBBONS (Mitchell) (11:06): I move:

That the report of the committee, on Victim Impact Statements, be noted.

In May 2009, the Legislative Review Committee resolved to adopt an inquiry into the effect of victim impact statements. Its inquiry was moved in the Legislative Council by the Hon. John Darley. Its inquiry was in response to a concern that victims of summary offences, often heard in the Magistrates Court, did not have a statutory right to deliver a victim impact statement (VIS) in court. This is despite the fact that the offence may have resulted in serious harm or even the death of a person.

Over the last four years, a number of legislative attempts were made both by the government and by private members to extend the right to deliver a victim impact statement to victims of summary offences in certain circumstances. The inquiry sought to examine in detail the consequences of providing such rights to victims, as well as look at the experience of victims in the criminal justice system and how they might be better assisted.

The inquiry's first term of reference addressed the potential effect on the courts of extending a victim's right to deliver a VIS to summary offences resulting in the death or serious harm of a person. The second term of reference sought to explore the current experience of victims delivering a VIS in the court. The third term of reference inquired as to the types of services and facilities that should be made available to victims to assist them in the criminal justice system.

The committee heard evidence and received submissions from the Chief Magistrate, SA Police, SafeWork SA and the Commissioner for Victims' Rights. The committee noted that a number of pilot programs have been run in South Australia where victims and offenders are able to address one another in a more informal conference setting outside court. These include:

- a conference pilot run through the Port Lincoln Magistrates Court for Aboriginal offenders held in 2008;
- the adult restorative justice conferencing pilot run in the Adelaide Magistrates Court in 2005; and
- family conferences run in the Youth Court.

The conferences allow the offender and the victim to speak freely about the offence and its effect. The outcomes are then reported to the court during sentencing. The committee has recommended the establishment of a victim impact conference, where a victim can speak about the effects of the crime upon them. Such a conference would be available at the recommendation or request of the judge, the magistrate or the victim. Information and support would be provided to victims before, during and after the conference, which would be facilitated by an independent officer.

The committee also recommended that a review be undertaken of all services provided to victims in the justice system. Part of this review should include a survey of all participants in the criminal justice system, including victims, to ascertain their views and experience with a view to further law reform.

On behalf of the committee, I thank all those who made a submission to the inquiry and, in particular, the victims, who told of their very personal and difficult experiences in the criminal justice system after losing a family member. I would like to acknowledge the contribution of former members of the committee who heard the evidence to this inquiry, as well as all members of the current committee who considered the report. I also thank the committee staff, the secretary, Ms Leslie Guy, and the research officer, Ms Carren Walker.

Mr GARDNER (Morialta) (11:11): The issue of restorative justice is important for us to consider, as its effect, and the effect of victim impact statements, on our justice system is a matter for us as lawmakers and as anybody making a contribution to public policy. I commend the report of the Legislative Review Committee, entitled Victim Impact Statements, and particularly the Attorney-General and the shadow attorney. Again, this was an inquiry of the previous parliament's Legislative Review Committee. It is a highlight, I suppose, of the committee structure that this contribution can be made to the public polity.

I know that this is an issue that has occupied the minds of the previous members of the committee. Isobel Redmond (now Leader of the Opposition) was replaced by the member for Davenport on the committee, and the Hon. Robert Lawson QC was also a member, and I am well aware of his interests in the area. While I am not familiar with the personal involvement in this area of policy of the government members, I particularly pay credit to the Hon. John Darley MLC, upon whose motion the committee adopted this review.

Again, I express my appreciation, along with that of the member for Mitchell, on behalf of the government, to Ms Leslie Guy and Ms Carren Walker for their work in producing what is a very worthwhile document that I commend to all members to consider.

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (11:13): I want to say a few words in relation to this matter, and I will be very brief because I have not yet had the privilege of reading the report, so I do not know exactly what it says. I was listening to the various members' contributions, and they indicate that the committee has given very thorough and well-considered attention to this issue. I just wanted to make a couple of general remarks about the issue, and I emphasise to people that, because I have not read the report, these remarks are directed in general and not at any particular reference in the report.

I think it is important for members to appreciate that there is a tension between two, in some respects competing, issues; the first one is the legitimate interest of victims in any criminal case. The victims, obviously, have their own personal anguish they have to deal with. They have a number of different possible ways of reacting to that, and not all victims have a similar response to the crime that has been visited on them. Some victims wish to have nothing to do with the process, they wish to be apart from it; other victims wish to be very much involved and to make a contribution. We need to tailor responses which are broad enough so that they do not inadvertently cause more concern for the people we are trying to assist.

The second thing is that we need to remember at all times that criminal proceedings are not proceedings in personam (as they would say in the legal profession); in other words, personal proceedings like a civil action where, if somebody ran into your car and you decided you were not happy about it, you would sue them. That is a personal action between you and the other person. It does not involve the state at all. That is essentially the definition of a civil matter.

When we are dealing with criminal matters it is a pretty fundamental pillar of a civil society that the state, on behalf of the whole community, enforces compliance with the community's laws. It is not a personal exchange between a victim and an accused. The actual context of the criminal trial is where the state is saying, 'We as a community have made a rule. We expect every member of this community collectively to comply with these rules. If any member of the community decides to depart from these rules we, as a community, reserve the right—and we alone as a collective—to prosecute that person for a breach of our collective rules.' That is sound, and it is a fundamental principle of a civil society and the rule of law.

There is a danger, if we are not entirely careful and vigilant, that we will give victims the impression that, however terrible their personal experiences might be, they somehow have a personal role in the legal process of that criminal trial. That sometimes is a fine line but it is one that we should be very careful not to cross. I will give an example which might assist members in understanding the point that I am trying to make.

A few months ago I saw on television a woman who was the mother of a young man who had been killed in a motor accident. The vehicle in which he had been killed was driven by a friend of his and this friend was being tried for causing death by dangerous driving or some other very serious offence. Ultimately, the young man was convicted because he had been drinking and had done all sorts of crazy things in the car and so forth.

I distinctly remember seeing on television that night the mother of the dead boy saying, 'Look, this fellow has suffered enough, don't send him to gaol.' She is speaking of the friend of her son who had been driving the car. I was immediately struck by the compassion and the sincerity of this woman's plea on behalf of this young man who, in fact, had been responsible for the death of her own son.

However, as much as I respect, understand and admire that, hold it in your mind for a moment and imagine if she had a completely different attitude—that is, 'This person has driven the car and killed my son. I want you to stick him up on the gallows.' Again, not an entirely unreasonable view to have if one is a parent and loses a child, I would have thought; not dripping with as much compassion and Christian charity but perhaps more of a Mosaic Code view of the world.

It does not matter. My point is simply this: if you allow the opinions of the victims into a certain aspect of the criminal process you are going to have inconsistencies because every victim will react to similar circumstances in a different way. It is important for the state to have consistency of sentencing which is managed by the court and not by the victims. That is in the interests of the

victims, it is certainly in the interests of the community and it is in the interests of the rule of law that there be consistency and objectivity about the determination of sentences in criminal matters.

As I said, I have not read the report, and these comments are possibly a long way away from the substance of the report, but I wish to place on the record the fact that I am very grateful that the committee has looked into this important matter. If there are ways that I through my office am able to assist, giving victims greater resolution and satisfaction without transgressing that line, I am keen to do so. I will read the committee's report with interest.

Motion carried.

PUBLIC WORKS COMMITTEE: DUKES HIGHWAY UPGRADE

Mr PICCOLO (Light) (11:20): I move:

That the 384th report of the committee, entitled Dukes Highway Upgrade, be noted.

The Adelaide-Melbourne road corridor is a strategic route for South Australia, providing the major connection between Melbourne and Adelaide. Whilst generally of a very good standard, some sections of the pavement exhibit signs of wear and the road surface in some locations is rutted and provides a rough riding surface.

The Australian government has committed $80 million to fund improvements along the Dukes Highway between 2009-10 and 2013-14. It has also agreed to bring forward approximately $5 million of this funding to deliver a number of high-priority, low-value improvements that were largely identified by the Melbourne-Adelaide Road Corridor Study. The program of treatments consists of new and upgraded rest areas, new overtaking lanes and extension of existing lanes, protection from roadside hazards, cross centre-line crash treatments, pavement rehabilitation, township safety improvements and intersection upgrades.

Proposed treatments accept that, unfortunately, human error is likely to occur at times and endeavour to create a road system which reduces the likelihood of driver error resulting in serious injury or death. Treatments are varied, range in size and cover the full length of the 191-kilometre highway. Some are new to South Australia or have never been carried out on a scale envisaged for this program. Planning for the implementation of these treatments is therefore a dynamic process with detailed planning likely to continue for the life of the program itself.

An assessment of crashes on comparable national roads in South Australia reveals that the Dukes Highway has a much higher proportion of casualty crashes that result in fatalities—18 per cent of total casualty crashes compared with 6 per cent on other national roads. Crashes are spread relatively randomly along the length of the highway, with no obvious blackspots. Fatigue appears to be a factor in one-third of casualty crashes and over half of fatal crashes. 'Left road to the left' and cross centre-line crashes each make up 40 per cent of the total number of serious and fatal crashes, with overtaking-related crashes making up 10 per cent of the total.

A specific Dukes Highway rest area strategy has been developed, which aims to improve safety by providing amenities that address fatigue-related crashes and, specifically, heavy vehicle driver fatigue. It will provide rest opportunities at approximately 15-kilometre intervals, with an opportunity for extended rest breaks at no more than 100 kilometres. To achieve this outcome, it is proposed to install seven new and nine upgraded existing rest areas between Tailem Bend and the Victorian border at an estimated cost of $6 million.

Two locations have been identified where overtaking-related crashes are prevalent, and an additional lane will be constructed at each site. Identified safety improvements to these intersections will be undertaken in conjunction with the new overtaking lanes. Four existing short overtaking lanes constructed as part of the Dukes Highway overtaking lane program (between 1993 and 2004) have poor safety records in comparison to the longer lanes. The extension of these lanes was therefore recommended in order to improve their safe operation and undertaken in 2008-09 as part of the low-value 'early start' projects at a cost of $2.3 million.

In addition, the adoption of centre median treatments that prevent overtaking will require new overtaking lanes to offset lost overtaking opportunities. The number and locations of these lanes will be determined following further planning. With run-off road crashes making up to 50 per cent of total crashes, the unforgiving nature of the roadside along significant lengths of the highway is a major contributing factor to the high proportion of casualty crashes that result in a fatality. To reduce both the number and severity of run-off road crashes, there will be targeted

removal of fixed hazards closest to the travelling lanes and protection of remaining higher risk hazards with safety barriers.

Identification of locations along the full length of the road where treatments will be undertaken is currently underway as part of the ongoing planning work. At any given location, the work may involve a combination of tree removal, installation of guard rail or wire rope safety barriers and/or replacement of non-frangible signposts with frangible posts.

The committee was concerned about the hazard facing motorcycle riders if wire rope was used as a safety barrier. There is a strong perception among riders that these ropes present significant injury risks. The committee is assured that safety research indicates that these concerns are not founded and that motorcycle riders who hit these barriers are significantly less likely to suffer casualties than if they were to strike alternative safety barriers.

Pavement quality is a concern for a considerable portion of the Dukes Highway, given that 50 per cent of the pavement is greater than 20 years old. With age, pavements can rut, deform and crack, resulting in an increased roughness of ride and, potentially, fatigue and loss of vehicle control crashes. To overcome this issue, pavement replacement is proposed for sections in very poor condition.

Between 2004 and 2008, over 80 per cent of fatal crashes on the Dukes Highway involved vehicles crossing the centre-line and either leaving the road to the right or hitting oncoming vehicles. Interventions being considered include centre-lines with audio-tactile line marking, installation of centre median wire rope and painted centre medians or double centre-lines with audio-tactile line marking. These have been utilised to a limited extent on two-lane, two-way roads interstate and overseas, and their use is growing as road authorities seek to address this significant crash problem.

The Dukes Highway passes through a number of small and medium-size townships. To allow time for rigorous consultation with local community groups and an iterative feedback process, delivery of township safety improvements is not proposed until the later stages of the program. An amount of $2.5 million is assigned for this work.

Duplication of the highway has obvious safety benefits in terms of reducing or eliminating head-on and other cross centre-line crashes, but it is essentially a capacity-related treatment, and other more cost-effective options are available to address these crash types. For duplication to be economically viable, traffic volumes are required to be in the order of 10,000 vehicles per day. Traffic volumes are currently in a range of 2,400 to 4,600 vehicles per day, with only a 1.3 per cent per annum growth expected in the long term.

This upgrading program will provide infrastructure treatments to improve the safety of passenger and freight movements along the corridor and enable the road to deliver a level of service to meet its current and anticipated future needs for the next 20 to 25 years.

In summary, the major objectives of the investment in the Dukes Highway are to improve road safety, asset management, traffic management, town amenity and economic development. This project will also improve the state's competitiveness through efficient freight transport networks and minimise the impact of freight vehicle movement on the community and the environment.

Based upon the evidence presented to it, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

Mr HAMILTON-SMITH (Waite) (11:29): I rise to support the motion and to make a couple of points. First of all, while this work is welcomed, I think it signals that the government needs to look far more strategically at the Dukes Highway and, indeed, at more of our major country arterial roads. Sooner or later, we will have to duplicate the Dukes Highway and upgrade it more significantly for the long-term benefit of South Australians.

I note that it was built originally to a 120 km/h horizontal and vertical standard and that further improvements have been made over time, and this work we are approving today is another step forward, but I think the government should talk to the commonwealth about a broad and longer term vision for the Dukes Highway. It should be duplicated. It is the major route between Victoria (particularly Melbourne) and Adelaide. In any other major country in the world, it would be a very significant highway and it is in a shocking state, given that it is the major link between two of Australia's most important capital cities.

I would urge the government to come up with something bigger and grander than this proposal. Yes, it is an AusLink road; yes, it does need to be funded by the commonwealth but, to a degree, the state has a role in setting the priorities in what we bid for when we go to Canberra and I think the Dukes Highway should be an important part of that future vision.

The RAA has made this point in its landmark research 'Backwater to Benchmark'. Others like SARTA and the Adelaide road traffic association—so many stakeholders—have made the point that the Dukes Highway needs further work and enhancement.

That leads me to my next point, which has to do with speed limits, and I raised this during the committee's deliberations. It is completely unacceptable that so much of this route is 100 km/h. One of the best bits of road in South Australia at the moment is the Dukes Highway from Bordertown to the Victorian border, upgraded at considerable expense. The speed limit was knocked down now from 110 km/h to 100. I asked about this, and the committee confirmed that it is going to stay that way.

It is ridiculous. It is an endless frustration to country people that they are on large expansive roads moving from A to B and they have to potter along at 100 km/h, and in some cases 80 km/h, because the government, having not maintained the roads, runs along afterwards and signposts them down from 110 to 100 or from 100 to 80. It is a novel way of covering over the fact that the roads are in poor condition: dropping the speed limit and saying to people, 'Potter around at 80 km/h and you will not have a crash.'

It would be better to maintain the roads properly, build good roads, build solid roads upon which country people can travel faster and more safely. It will not only reduce the death toll but it will also reduce the frustration level that is evident around large parts of country South Australia with speed limits on roads.

This is a point that equally applies to the Eyre Highway. I know it applies to the main highway from Port Augusta through to Coober Pedy, and the Stuart Highway. There are so many roads where we really should be travelling at least 110 km/h, and I would argue that we should be thinking very seriously about engineering our roads and designing our roads so that they can travel in those areas in excess of 110 km/h, perhaps 120, maybe even 130.

I know this was a point continually hammered by the previous member for Stuart, and I am sure the current member for Stuart has some sympathy as well. If in countries like Germany and elsewhere in the world we can design roads where you can safely travel at speeds in excess of 110 km/h, why can't we do it here?

We have an opportunity when we make a major investment in the Dukes Highway to upgrade as it should be, to duplicate it and to build a road that you can travel safely along in excess of 110 km/h. I would urge people to do it, because that frustration level also costs lives when people try to overtake, get frustrated travelling at low speeds, get stuck behind other vehicles, and it does create problems. I think the speed limit issue needs to be looked at not only on the Dukes but more broadly.

My third point is to do with barriers. The chair of the committee has mentioned wire barriers. I asked that the committee be provided with further research about the effect of these wire barriers. I can say, having read some of that research, I am not convinced that, as a motorcyclist, I would rather hit a wire barrier than a solid barrier. To be perfectly frank, I would rather hit no barrier at all. A lot of the research—and I think some of it is a bit questionable, I have to say—tries to assess the relative damage to the body of hitting the hard barrier as distinct from a wire barrier.

I travelled along the Northern Expressway recently on a motorbike. It is awash with wire barriers and hard barriers. I would not want to come off the Northern Expressway and hit one of those barriers; it would rip you limb from limb. My feeling, which I put strongly to the house, is that, unless it is absolutely essential, I would urge the transport department and those designing and building these roads to have no barrier at all.

In most cases, in a car or on a motorcycle, if you are coming off the road I personally would rather take my chances in the bush or on the road edge, or enter the grass or the paddock where you would have some chance of recovering the vehicle. If you do get into a roll, and hopefully do not hit a tree, you probably have a better chance of surviving. If you are a motorcyclist, if you hit any barrier at all, you are off the bike, your body is then on the barrier, and you are dead, basically. At least if you get into a paddock or the scrub you have some chance, if you are thrown off the bike, of rolling safely to a halt.

Believe me, as a motorcyclist you think about these things every second you are on the road. I would urge the department not to put up barriers at all, whether they are wire or solid, unless it is absolutely essential and if it is going to improve safety. Obviously, there are bends, turns, declines and falls, and there are occasions when you need to have barriers, but we should not get carried away. It keeps down the cost of refurbishing the road and, not only that, it gives a motorist or motorcyclist a better chance of survival. With those few words I support the motion. We need to fix this road. This does not go far enough, but it is a step in the right direction. Let's do more.

Mr PENGILLY (Finniss) (11:36): I also rise to support the motion. This was a project of much interest to the Public Works Committee and, in particular, the member for Hammond, who is absent on parliamentary business at the moment, but he did make some points to myself and others regarding this project.

I think the member for Waite has picked up on some of the critically important issues, particularly in relation to speed. I have spoken about this before in here. It is absolutely and totally ludicrous that the department, probably under instructions from the minister or the cabinet, runs around reducing speed limits on roads, making it much slower and tedious to get from one place to another in rural South Australia.

This ridiculous situation, where much of the Dukes Highway is 100 km/h, defies common sense and logic. They do it in many places without, I might add, consulting local members about their views on the matter. Let me just point to one section of road: the Victor Harbor turnoff on Main South Road down to the McLaren Vale turnoff, where it disappeared. It went from 60 to 80, and then you had a stretch of 100, and now the whole thing has been put back to 80.

Quite seriously, this is due to the incapacity and failure of the Department of Transport under minister Conlon to get on and do what needs to be done and make these roads far better than they are. They will happily spend $535 million on the Adelaide Oval, they will happily spend $5 million on office upgrades (as indicated the other day), and they will happily run around and spend money on wasted projects, while major infrastructure gets the speed limit wound back. It is just plain damn foolishness in my view.

The Dukes Highway is an important conduit between this state and the Eastern States, but, more importantly, between this state and Western Australia as well, because so much traffic flows along it. In terms of heavy transport vehicles, from memory—and I will stand corrected, if necessary—something like 1,200 trucks at night go along the Dukes Highway on their way to Nhill, where they swap over.

So, yes, ma'am, we did support this project, but you just wonder where it is all going to end on speed limits. As mentioned, the former member for Stuart was quite adamant about this and I know the current member will approach it in the same vein, and I know for sure that the member for Flinders wants to get from one place to another more quickly than he is at the moment. Be that as it may, there are a number of us who live in the bush who want to get around the place, get from A to B, quickly. The Speaker herself probably has the same problem when she is going to her far-flung electorate in the North. So, reducing expenditure on these roads and using speed limits as an excuse for a failure by the Rann government to deliver on road projects is not an arguable case.

However, what is going in there with the wire barriers and the passing lanes is an improvement on what it was, but I wonder when, in this state, we are going to get serious. It is an embarrassment to go to other states and see the standard of the roads. A good example is when you leave South Australia and cross the border into Western Australia and the road surface improves about 300 per cent straightaway. If you go to the Northern Territory and drive out to far-flung Kakadu, or other such places, the roads are excellent—while we exist on billy goat roads in South Australia in many cases.

Also, I only need to point to the state of the Anzac Highway. The centre lane is an outrage. It has a great big crack in it for several kilometres and, if you drop into that on one side of your motor vehicle, generally speaking, on the driver's side you disappear out of sight. So everyone tries to get in the right hand lane or the left hand lane to avoid that major crack. The member for Morphett might want to pick that up, because he comes in here pretty regularly.

Seriously, our road system is a disgrace in South Australia. I only have to look as far as my electorate to know what happens on some of the billy goat tracks that exist out on the Fleurieu Peninsula, and worse than billy goat tracks that exist on Kangaroo Island. They have been screaming out for funding for some of their district roads for a long time without success.

I think it is simply stupid that we have parliamentary secretaries running around the district and countryside promoting the 30-year plan and promising nothing, except spin, when we need to get serious about this road situation in South Australia.

It is probably worth putting on the record also that the Liberal Party, in 2002, 2006 and again in 2010, promised that it would do the doubling up of the Southern Expressway. It was only through being embarrassed and trying to save the neck of the member for Mawson that the government was shamed into announcing it in the lead-up to the election this year.

It also needs putting on the record that the Liberal Party, in government under premier Dean Brown when the Southern Expressway was put in, secured the land for the duplication of that road. That piece of dirt to duplicate the Southern Expressway is probably about the only thing the Rann government has not sold. Members may remember that former premier Bannon sold off the South Road land that was kept for duplication of Main South Road. In winding up my remarks, I indicate that we support the motion, but there is a lot more that needs to be done.

Motion carried.

PUBLIC WORKS COMMITTEE: PORT AUGUSTA PRISON

Mr PICCOLO (Light) (11:43): I move:

That the 385th report of the committee, on Port Augusta Prison New Accommodation Block, be noted.

At 30 June 2010, there were 1,969 prisoners in the South Australian prison system, which had an approved capacity of 2,078 beds (which includes bunks in cells designed for single occupancy). That is, there is spare capacity of 109 beds, of which 38 are female beds located in the Adelaide Women's Prison.

In the government's 2008-09 Mid-Year Budget Review, $30 million was provided for the expansion of prison capacity through the construction of cell blocks for 160 prisoners. As the first stage of this expansion strategy, the Department for Correctional Services proposes to expand the Port Augusta Prison through the construction of an 80-bed cell block, designed to accommodate high and medium security prisoners.

The new accommodation is expected to cost $17.739 million and planned to be completed by October 2012. The Port Augusta Prison is situated 300 kilometres by road north of Adelaide and can accommodate up to 392 low, medium and high-security prisoners. The prison is located approximately eight kilometres south-east of Port Augusta on Highway One at Stirling North in a general farming community. The current Port Augusta Prison complex consists of a number of medium-high security cell blocks, plus a low-security unit and a number of associated facilities providing services to the prisoners (such as admissions, a medical clinic, teaching and program areas, kitchen, laundry and visit areas), plus associated administrative areas.

It is intended that the medium-high security prisoners will be accommodated in a new 80-bed cell block. The cell block has been designed with two wings, each of which will accommodate 40 prisoners. Each wing will have two levels of cell accommodation arranged in a U shape around a central living space. The upper level will be located on a mezzanine level. The additional 80 beds at Port Augusta Prison are a key step to improving system flexibility and providing adequate capacity (of an appropriate security classification) and designed to meet current and future needs. The department examined three options:

- option 1—a single-storey solution for the 80 beds. This design solution did not meet the specific operational requirements of the prison and therefore was ruled out as a preferred solution;
- option 2—a two-storey solution with all single cells. The estimated cost of this solution far exceeded the available budget and therefore was rejected by the committee; and
- option 3—a two-storey solution with a combination of single and bunked cells. This solution was considered the best fit of operational issues whilst minimally exceeding $15 million, being half the budget allocation provided for two cell blocks for 160 additional prisoners.

The philosophy of the original prison will be maintained and the new accommodation will improve system flexibility and provide adequate capacity of an appropriate security classification and design to meet current and future needs.

Based upon the evidence received and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends that the proposed public work proceed.

Mr VAN HOLST PELLEKAAN (Stuart) (11:47): I rise to support this motion. I am not a member of the committee but, certainly, the Port Augusta Prison is a very important institution in the electorate of Stuart. It is pleasing to see that we have made some progress since the Treasurer's famous 'rack'em, pack'em, stack'em' comment a few years ago. I am sure that, while not directly responsible, that attitude contributed to the riot that we had in the Port Augusta Prison 18 to 24 months ago—I cannot remember exactly when it was, but it was probably a bit less than two years ago—where an enormous amount of the accommodation and other facilities at the Port Augusta Prison were destroyed because of overcrowding.

Certainly, I support the motion and congratulate the government on improving the facilities at the Port Augusta Prison. Prisons in the electorate of Stuart are very important (both the Port Augusta Prison and the Cadell prison), and they are both very ably managed by David Oates at Cadell and John Harrison at Port Augusta.

The increase in investment—this $17.73 million, I think it is—for 80 additional beds at Port Augusta is welcome, because we would all like to invest money where it is well spent; and I think that, under Mr John Harrison's management of the Port Augusta Prison, there is absolutely no doubt that that is the case. When he arrived, one of the first things he instigated with regard to new management was that he personally inspect every prisoner's cell in the prison once a week. I think that shows a level of dedication, participation involvement and also leadership of his staff that is commendable. I have no hesitation in the fact that the government is spending $17.73 million of taxpayers' money on 80 new beds in Port Augusta when they are going to be managed and overseen so well.

I was fortunate enough to be at the Port Augusta Prison last week, and I thank the corrections minister for allowing me to visit the prison on a regular basis—of my own free will. I was fortunate enough to see the Sierra Program in operation. I really recommend that all members of parliament should go out of their way to learn a little about this program. I saw 18 young male prisoners looking fit, healthy, bright-eyed, alert, participative and compliant, in a voluntary program within the prison. It works on their self-esteem, their personal fitness, their teamwork and their leadership. This program was brought to Port Augusta Prison by Mr John Harrison. He picked up on some techniques in other prisons. This is a first of its kind in Australia, and already he has had people from overseas looking to gain some of his knowledge and experience. Certainly, we would hope that people all over the world can share in this program's success in South Australia.

He has been able to develop personal and character traits within these young prisoners, young offenders, half of whom, he told me, were hardened gang members before they came into his care. Seeing them at first hand, hungry and competing for success within the environment in a very healthy way—not in an unproductive, unhealthy way, as we know can happen in prison—I think is fantastic.

The investment in Port Augusta Prison is very important. It is one of the most important institutions in the electorate of Stuart, as I mentioned. It is also important because, as we know, the very nature of the prison industry, if you like, means that offenders and prisoners from all over South Australia can be moved to Port Augusta. It is not like a country school or a country hospital that must be in a certain location to provide a service for a certain group of people who live in that district; there is flexibility to move prisoners around. So, I am sure the extra 80 beds at Port Augusta will benefit not just the Port Augusta community but the prison community and the correctional services system throughout the state.

I commend the government for this investment, because it is necessary, because it is overdue, and because it is going to be very well managed by the current management of the Port Augusta Prison.

Mr PENGILLY (Finniss) (11:52): I support the motion. I was interested to hear what the member for Stuart had to say about the prison, because I took a parliamentary group into Port Augusta Prison 12 or 18 months ago as part of my previous role in corrections. I support what the member for Stuart said about John Harrison. He has a deep knowledge of the prison and a deep understanding, but the reality is that prisons are dirty, stinking, filthy places as far as I am concerned. There is no question about that. The thing that was common to all the men's prisons was the smell of stale cigarettes, particularly in the living areas, and the smell of stale urine and a

few other things, which cannot be disguised, given that the toilets do not have lids, for a start. It is just foul.

I think this expenditure on Port Augusta Prison is an improvement. Prisons and prisoners are not going to go away. It is probably a bit more important, because at least this time the local council had some idea it was coming, unlike the poor old rural city of Murray Bridge a few years ago when the Treasurer dropped a bombshell in the budget, announcing a new prison extension adjacent to Mobilong, without the council having any knowledge of it whatsoever.

What Port Augusta Prison particularly caters for is the number of Aboriginal prisoners and, of course, the Aboriginal families who come in to visit those prisoners. The number of young offenders, whether they be Aboriginal or anyone else for that matter, is frightening, absolutely frightening. Anyone in this place who has not visited a prison would do well to do so, whether it be under the current minister or a future minister on either side of the house. A visit to a South Australian prison, in my view, should be almost mandatory for members of parliament. So, we do support this expenditure and we support the motion.

Dr McFETRIDGE (Morphett) (11:54): My first interaction with Port Augusta Prison was back in the early seventies when I used to drive the school bus from Port Augusta High School out to Stirling North. We used to stop at the prison to pick up the children of the prison warders, and even then it was a fairly imposing and daunting place. Having visited the prison a number of years ago with the then member for Stuart, I was able to go right through and see some of the pretty ordinary conditions, to say the least, that some of the prisoners were being kept in. Mind you, everybody says, 'If you don't want to do the time, don't do the crime.'

In particular, I went out to the back of the prison with the officers and saw what some of the Anangu from the APY lands were involved with in one of the gardens. There was a real issue with Aboriginal offenders being kept in prisons, particularly when they were from rural and remote communities, where they have serious psychological difficulties associated with being confined.

I do not know the extent of the development at the Port Augusta Prison because I have not read this report. However, I implore the government to ensure that it remains cognisant of the Royal Commission into Aboriginal Deaths in Custody report, which emphasises the need to be aware of particular circumstances and issues of Aboriginal prisoners, and I hope that is going to be an important part of the redevelopment of this prison.

Motion carried.

PUBLIC WORKS COMMITTEE: OSBORNE NORTH INDUSTRIAL PRECINCT

Mr PICCOLO (Light) (11:56): I move:

That the 386th report of the committee, entitled Osborne North Industrial Precinct, be noted.

The development of the Osborne North Industrial Precinct represents a continuation of the state government's commitment to long-term sustainable development on the northern Lefevre Peninsula. The project works will deliver a 27-hectare industrial land development in two stages over six years. Stage 1 involves the augmentation of infrastructure headworks services to the precinct and the first stage of land development (eight hectares).

Stage 2 involves the second stage of land development (19 hectares) and the signalisation of the Victoria/Veitch Road intersection. The project is estimated to cost approximately $23.569 million, excluding land acquisition and site preparation costs, and will be fully funded by the government of South Australia through Defence SA. The project is expected to generate land sales revenue of approximately $48.881 million over six years from 2011-12 to 2016-17.

The works are divided into four components: civil works package 1, stage 1 land development works and augmentation of infrastructure headworks services and Mersey Road corridor extension to Pelican Point Road; streetscape landscape works stage 1; civil works package 2, involving stage 2 land development works and the Victoria/Veitch Road intersection signalisation; and streetscape landscape works stage 2.

The works will predominantly be undertaken on land improved as part of the Techport Australia (stages 3 and 4) and the Osborne North Industrial Precinct Site Preparation Works Project examined by the Public Works Committee in December 2008 and now close to completion. Completion of the project will create approximately 27 hectares of serviced industrial land accessible from an extension of Mersey Road and new roads within the land development. It will

ensure the consistent flow of industrial land to the market in the emerging northern Lefevre Peninsula economic region.

Funding for the project was approved in the 2008-09 state budget to allow Defence SA to undertake works required to facilitate the release of additional development-ready industrial land on the northern Lefevre Peninsula commencing in 2010-11. Land division and design approvals have been secured for the project and the detailed infrastructure headworks design completed and tendered. The Osborne North Industrial Precinct is zoned general industry, providing for the continued growth of defence industry activity as well as port-related industrial land uses given the proximity of the site to Outer Harbor.

Built form within the precinct will be controlled by Defence SA through the implementation of development guidelines covering both urban design and environmental sustainability requirements, consistent with Defence SA's approach to development within the Techport Australia Supplier Precinct. The subject site is within the City of Port Adelaide Enfield and comprises two land parcels: Parcel One, 35 hectares north of Techport Australia at Osborne; and Parcel Two, approximately 21 hectares adjacent to Pelican Point Road and the Outer Harbor rail corridor at Outer Harbor. Parcel One is zoned general industry and is accessible via both Mersey and Pelican Point Roads.

Debate adjourned.

STAMP DUTIES (INSURANCE) AMENDMENT BILL

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (12:00): Obtained leave and introduced a bill for an act to amend the Stamp Duties Act 1923. Read a first time.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (12:00): 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 Bill makes a number of amendments to the insurance provisions of the *Stamp Duties Act 1923* (the 'Act').

At the time of the introduction of the Goods and Services Tax (GST), explicit provisions were inserted in the relevant legislation enabling the GST on compulsory third party (CTP) and general insurance premiums to be calculated on premiums exclusive of stamp duty.

These provisions were inserted to avoid a cascading of stamp duty and GST (both of which are applied to insurance premiums). The GST provisions were intended to clarify that while GST would be calculated on stamp duty exclusive premiums, stamp duty under State stamp duty law would be calculated on GST inclusive premium amounts.

The insurance duty provisions in the Act are drafted differently to interstate provisions, a difference which in recent times has cast some doubt over whether the Commonwealth legislation is effective to prevent GST being charged on stamp duty inclusive premiums. Amendments in this Bill will therefore put this matter beyond any doubt.

The opportunity has also been taken in the Bill to address a number of other issues that will simplify the administration of the insurance duty provisions.

The stamp duty rate for general insurance will change from being charged at $11 per $100 or fractional part of $100 of premiums received to a fully proportional rate of 11 per cent of premium revenue received.

Similarly the stamp duty rate for life insurance will change from being charged at $1.50 per $100 or fractional part of $100 of premium revenue received to a fully proportional rate of 1.5 per cent of premium revenue received.

The Bill also introduces general refund provisions in relation to stamp duty charged on insurance premiums to allow for easier and more equitable access to refunds than is currently available.

These amendments are consistent with representations that have been made to RevenueSA by the Insurance Council of Australia and others through RevenueSA's State Taxes Liaison Group to improve administration and will also increase consistency with interstate provisions.

The Bill also amends the insurance provisions of the Act to make it clear that riders attached to life insurance policies are dutiable at general insurance rates.

Life insurers have traditionally offered other insurance products known as 'riders' which cover such risks as trauma, a disabling or incapacitating injury, sickness condition or disease.

RevenueSA have always been of the view that the life insurance riders are properly characterised as general insurance under the Act and are therefore dutiable at the higher general insurance rate.

Whilst a large proportion of the industry have complied with this view, some sections of industry have over time disputed this interpretation and asserted that riders should be chargeable at the lower life insurance rate.

In 2007, objections were lodged by four insurance companies against assessments of the Commissioner of State Taxation. The objections were disallowed by the Treasurer and were then appealed to the South Australian Supreme Court.

The appeals were heard in April 2010 and on 25 August 2010, the Court found in favour of the Commissioner of State Taxation and dismissed all four appeals. The Appellants have now appealed to the Full Court of the Supreme Court of South Australia.

Each of the Appellants contends that life insurance riders should be properly characterised as life insurance, and that the entirety of the premiums paid in respect of these policies are therefore dutiable at the lower life insurance rate.

Other major insurance businesses have continued to pay duty at general insurance rates on these types of insurance.

The Bill will operate to prevent a revenue loss of up to $17 million per annum ongoing in the event that the appeal to the Full Court is successful.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The clause provides for the commencement of the measure on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Stamp Duties Act 1923*

4—Substitution of Part 3 Division 3

This clause repeals Division 3 of Part 3 of the *Stamp Duties Act 1923* and substitutes a new Division.

Division 3—Insurance

Subdivision 1—Interpretation

32—Interpretation

This section provides definitions of terms used in Division 3. A number of terms are carried over from the repealed Division.

A *general insurer* is an insurer who carries on insurance business in respect of insurance that is not life insurance. A *life insurer* is an insurer who carries on insurance business in respect of life insurance. *Insurance business* is defined to mean—

- the granting or issuing of life, personal accident, fire, fidelity, guarantee, livestock, plate glass, marine or other insurance; or
- the acceptance, either directly or indirectly, of any premium, renewal premium or consideration for, or in respect of, the granting or issuing or keeping alive or in force of life, personal accident, fire, fidelity, guarantee, livestock, plate glass, marine or other insurance; or
- the receiving of a letter or declaration of interest attaching to a policy of insurance issued in this State or elsewhere; or
- the carrying out, by means of insurance effected out of this State, of a contract or undertaking to effect insurance, whether formal or informal and whether express or implied.

The definition of *premium*, carried over from the repealed Division, is altered to make it clear that 'premium' includes a part of a premium.

Subsection (2) makes it clear that a reference to a premium paid, payable, received, charged or credited in relation to life insurance, or in relation to insurance of another kind, is a reference to the premium being paid, payable, received, charged or credited to the extent that the premium related to insurance of the kind referred to.

Subdivision 2—Registration and payment of duty

33—Registration

Section 33 requires an insurer who carries on insurance business in South Australia to be registered under Division 3.

34—Lodgement of statement and payment of duty—general insurance

Section 34 provides that a general insurer is liable to pay duty in respect of each premium relating to insurance of any kind other than life insurance paid to the insurer. A general insurer is therefore required to lodge a statement with the Commissioner each month setting out the total amount of all premiums relating to general insurance received by the insurer in the previous month. The insurer may also choose to include in the statement the total amount of premiums that have been credited to an account of the insurer but not received in the previous month. (If a premium that has been credited but not received is not included in the statement for the month in which it was credited, the section requires the insurer to include the premium in the statement lodged for the month in which it was received or, if it has not been received within 12 months, in a statement lodged following the end of that 12 month period.) The insurer is also required to pay to the Commissioner duty equivalent to 11 per cent of the total amount included in a monthly statement.

35—Lodgement of statement and payment of duty—life insurance

Section 35 is similar to section 34 but provides for the payment of duty by a life insurer in respect of all premiums paid to the insurer for life insurance. This section requires the insurer to lodge a statement on or before 31 January each year setting out the total amount of all premiums relating to life insurance paid to the insurer in the previous calendar year. The insurer may also choose to include in the statement the total amount of premiums that have been credited to an account of the insurer but not received in the previous year. (If a premium that has been credited but not received is not included in the statement for the year in which it was credited, the premium will be taken to have been received in the following calendar year.) The insurer is also required to pay to the Commissioner duty equivalent to 1.5 per cent of the total amount included in the statement.

Subdivision 3—Exempt insurance

36—Certain premiums exempt from duty

This section provides that the following are exempt from duty:

- a premium received or charged in respect of reinsurance;
- a premium received or charged under a private guarantee fidelity insurance scheme promoted amongst and sustained solely for the benefit of the officers and servants of a particular public department, company, person or firm and not extended, either directly or indirectly, beyond such officers and servants;
- a premium received or charged under a scheme referred to in the above paragraph promoted amongst and sustained solely for the benefit of the officers and members of a friendly society or branch thereof and not extended, either directly or indirectly, beyond such officers and members;
- a premium received or charged for life insurance in respect of investment and not in respect of a risk insured by the policy under which the premium is paid;
- a premium received or charged in respect of a life or personal accident insurance risk where the principal place of residence of the insured person is in the Northern Territory and the policy under which the premium is paid is registered in a registry kept in the Northern Territory pursuant to the *Life Insurance Act 1995* of the Commonwealth;
- a premium received or charged under a policy of workers compensation insurance where the premium is referable to insurance against liability to pay workers compensation in respect of workers under the age of 25 years;
- a premium received or charged under a policy of insurance by a body registered under Part 4-3 of the *Private Health Insurance Act 2007* of the Commonwealth where the premium is referable to insurance against medical, dental or hospital expenses;
- a premium received or charged in respect of life insurance providing for the payment of an annuity to the person insured;
- a premium received or charged in respect of the insurance of the hull of a marine craft used primarily for commercial purposes or in respect of the insurance of goods carried by railway, road, air or sea or of the freight on such goods.

Subdivision 4—General

37—Denoting of duty

This section provides that the duty paid in connection with a statement lodged with the Commissioner as required under the Division must be denoted on the statement.

38—Duty in respect of policies effected outside South Australia

This section is substantially the same as current section 42AA. However, whereas section 42AA provides that the section does not apply to a policy of life insurance, the section as recast does not apply to a policy of insurance if the only insurance provided under the policy is life insurance or to a premium paid to an insurer in respect of life insurance. The section will therefore apply to policies of insurance that relate to both life insurance and other kinds of insurance and, by virtue of section 32(2), to premiums payable in respect of life insurance to the extent that they also relate to other kinds of insurance. The section provides for the payment of duty in relation to policies obtained, effected or renewed outside the State that are wholly or partly in respect of property in South Australia, or in respect of a risk, contingency or event occurring in South Australia, by a company, person or firm that is not required to be registered under section 33.

39—Insurers not required to be registered

Section 39 is similar to current section 42AB. The section as recast authorises the Commissioner to enter into agreements with insurers who are not required to be registered. Under such an agreement, the Commissioner would approve the insurer for the purposes of the section and the insurer would undertake to pay duty as if the insurer were registered.

40—Duty payable on acquisition of insurance business

Section 40, which is similar to current section 38, provides for the payment of duty by a company, person or firm that acquires contractual rights and obligations of, or in connection with, the insurance business of some other company, person or firm. The acquiring company, person or firm is liable to pay to the Commissioner the amount of any unpaid duty in respect of premiums paid to the other company, person or firm after the end of the period in respect of which such duty was last paid by the other company, person or firm.

41—Refunds

Section 41 provides that certain payments are to be taken to be overpayments of tax for the purposes of Part 4 of the *Taxation Administration Act 1996*:

- duty paid in respect of an amount of premium that has been refunded;
- duty paid in respect of a premium credited to an account of an insurer but not received by the insurer at the time the duty is paid if the policy in respect of which the premium was credited is cancelled before the insurer receives the premium.

This means that the refund provisions of the *Taxation Administration Act 1996* will apply in relation to the overpayment.

5—Amendment of Schedule 2—Stamp duties and exemptions

This clause amends Schedule 2 of the Act to remove clauses 1 and 12. These clauses set out the rates of duty payable under the current provisions. Clause 1 also includes exemptions that are now to be incorporated within Part 3 Division 3.

Schedule 1—Transitional provision

1—Transitional provision

The transitional provision provides that an insurer that is licensed under Part 3 Division 3 of the *Stamp Duties Act 1923* immediately before the repeal of that Division will be taken to be registered for the purposes of Part 3 Division 3 of the Act as inserted by that section.

Debate adjourned on motion of Mr Griffiths.

HEALTH SERVICES CHARITABLE GIFTS BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (12:02): Obtained leave and introduced a bill for an act to establish the Health Services Charitable Gifts Board; to provide for the administration of gifts to public health entities; to repeal the Public Charities Funds Act 1935; and for other purposes. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (12:02): 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.

The Commissioners of Charitable Funds were first established under the then *Public Charities Act 1875* to manage donations to public charitable institutions in South Australia. While their Act has undergone various amendments since that time, it has remained virtually unchanged since 1935 when the current *Public Charities*

Funds Act 1935 (the current Act) was passed. To this time the Commissioners have worked successfully to manage the donations and bequests for those institutions under that Act.

However, the current Act is seriously out of date and in need of substantial revision to ensure that it is consistent with current drafting standards and contemporary language. For example, the definition of an institution has not altered much since the 1875 Act and is expressed in a language that is no longer accepted by the community. The definition of an institution in the current Act is given as '…*any public hospital, destitute asylum, lunatic asylum, hospital for the mentally defective, orphanage, reformatory or other institution of like character*…'.

The definition gives honourable members some indication of the character of the current Act as well as how governments and the community have shifted in their understanding and approach to services that provide for people in need.

The Commissioners welcome the *Health Services Charitable Gifts Bill 2010*. It not only remedies the drafting and language issues, but also confers more contemporary responsibilities and powers on the Commissioners. The Bill also addresses legal uncertainty about the establishment of the Commissioners and some of their past actions. In summary the Bill:

- maintains the independent decision-making powers of the Commissioners
- preserves the current principal powers of the Commissioners under the current Act
- has new provisions consistent with other revised powers of the Commissioners and a more contemporary drafting, language and focus
- establishes the Health Services Charitable Gifts Board
- requires the Minister for Health to consider the skills and experience of persons to act as Commissioners when making nominations to the Governor
- continues the application of the Act to hospitals under the *Health Care Act 2008*
- removes unnecessary restrictions on the preservation of capital
- enables the Commissioners to establish a trust under the direction of the Minister for Health
- subject to meeting certain conditions, enables the Commissioners to apply a gift to an institution different to the one intended by a donor
- enables the Commissioners to Act as a trustee or co-trustee
- establishes advisory committees (in particular an Investment Advisory Committee) and requires the Commissioners to seek their advice
- validates past actions of the Commissioners done in good faith
- provides for better transparency of and accountability for the decisions of the Commissioners.

It is the Government's intention that the proposed Act apply to all public hospitals, with some exception. The hospitals can be proclaimed either individually such as the Royal Adelaide Hospital or Modbury Hospital for example, or as the incorporated entity, such as Adelaide Health Service, to be a public health entity for the purpose of the Act.

The main exception is for Health Advisory Councils and their local country hospital sites. The government previously made a commitment to people in the country regions of South Australia that the Health Advisory Councils established for those hospitals would retain control of local assets, including donations to a local hospital. In keeping with this commitment, the Bill specifically precludes Health Advisory Councils from being proclaimed a public health entity and the property they hold on trust from being vested with the Health Services Charitable Gifts Board that is proposed to be established by the Bill.

There may, however, be some circumstance where a Health Advisory Council prefers to transfer the property to the Board and the Bill will enable this to occur with the agreement of the Minister. Such property, despite any other provisions of the Bill, must be used by the Commissioners for the benefit of the local hospital that is named by the Health Advisory Council. The Bill also provides that the property, or remaining property or its financial equivalent must be returned to the Health Advisory Council should the Minister revoke such a decision.

The Bill considers the circumstances where an existing country hospital already has property vested with the Commissioners and enables these to remain with the Commissioners or be transferred to the relevant Health Advisory Council.

These provisions of the Bill will ensure that the government's commitment to the country region are kept and can be consistently applied across that region. The decision as to whether property should vest with the Board or with a Health Advisory Council will be made by the relevant Health Advisory Council.

The Bill provides for another exception for donations made to a hospital by a foundation or local auxiliary of a hospital. These donations will be exempted from being vested in the Board where the Minister grants such an exemption on application from a hospital. Such an exemption will avoid an overly bureaucratic process where public donations made to a body such as a hospital foundation or an auxiliary for a hospital must vest with the Board, and the hospital then having to apply to the Board for access to those donations. It also supports the direct relationship of a local auxiliary with the hospital and assures them that their fundraising efforts will remain for the benefit of that hospital.

A further exception is made to gifts of property that can be characterised as a chattel (for example, a television, piano or chair and the like which are donated for the use of staff or patients). Without this exception, these kinds of gifts must vest with the Board and again, the hospital would need to apply to have these for the use of the hospital.

As given in the latest annual report of the Commissioners, the total value of the trusts the Commissioners hold is some $75.7 million. Of this, about $0.5 million is held in the name of the Intellectual Disability Services Council and Metropolitan Domiciliary Care service. That is, for institutions related to the Department for Families and Communities. Over recent years the growth of these funds has been achieved primarily through the returns on the capital that the Commissioners have achieved and not though increased donations. The Bill is focussed on public health entities that come under the *Health Care Act 2008*. It therefore enables the funds the Commissioners hold for benefiting those in need of disability or domiciliary care service to be transferred to the Minister for Families and Communities.

When the funds are transferred to the Minister for Families and Communities, the Bill provides that the Minister will have a responsibility to ensure, as far as is reasonable, that the funds are applied in a manner that accords with the intent of the donor. The Commissioners will work with that Minister to support the transfer of these funds.

The Act that established the Commissioners and the subsequent amending Acts which continued them led to some uncertainty about when the Commissioners were acting as a body corporate and when they were acting as individuals. This situation is remedied by the establishment of the *Health Services Charitable Gifts Board* as the body corporate to which the Commissioners are appointed. As a consequence, the Bill proposes that all gifts will vest with the Board and not with the Commissioners. These gifts are termed the 'charitable assets' of the Board. Persons appointed to the Board will still be known as the Commissioners but they will act as administrators of the charitable assets rather than themselves acting as trustees for the charitable assets. The Bill ensures that the Commissioners will, as they do currently, retain their independence in terms of the decisions they make regarding the investment and application of the charitable assets.

The Commissioners will continue to be appointed by the Governor on nomination of the Minister but the Bill now provides that the Minister must consider the requirements of the Board and the skills and knowledge of the persons that he may nominate to enable the Board to carry out its functions.

The Bill defines the procedures for the Board's meetings in line with current practices. For example, enabling a Board member to be regarded as present through a teleconference and for the Board to make decisions where a Commissioner cannot be physically present at a meeting of the Board through the use of a fax, email or letter. These provisions, which are now considered standard in most modern Board procedures, are lacking under the current Act and will make it easier for the Board to conduct its business.

For the first time, there will be provisions that clearly describe the functions and responsibilities of the Board. These functions and responsibilities are broadly consistent with those that the Commissioners currently undertake. In summary they include:

- to prudentially manage the charitable assets and apply them for the benefit of public health entities or otherwise in accordance with this Act
- to fulfil any fiduciary and other duties that arise out of the functions of the Board
- to determine appropriate investment strategies for the charitable assets and other property vested in the Board after consultation with the Investment Advisory Committee (to be established under the proposed Act) or any other body considered appropriate by the Board
- to consult with any body considered appropriate by the Board including a committee that may be established under this Act for the purpose of advising the Board on an application of funds for research and/or equipment
- to provide advice to the Minister as may be appropriate.

The Bill enables the Commissioners to act as trustees or co-trustees where they are so named or asked to act in this capacity. Under such circumstances, they will have the same responsibilities that are required of any other trustee under the *Trustee Act 1936*. The Bill will, for example, enable the Commissioners to act as a co-trustee for the Helpmann Family Foundation in which they are so-named and be actively involved in the management of this trust, something that they cannot do under the current Act since it provides no power to the Commissioners to undertake the functions of a co-trustee.

The current Act converts the specific purposes of a gift held on trust by the Commissioners given for a particular hospital to a more general one of being applied for the benefit of that hospital. The Bill maintains this power of the current Act and, in addition, enables the Board to apply a gift to a different hospital or a prescribed research body. This is a widening of the powers of the Board also sought by the Commissioners. However, before the Board makes a decision, the Bill requires that the Board must consider the intent of the donor, as far as that can be reasonably ascertained, and must apply that part of the charitable assets the Board considers most likely to achieve that intent. These are powers that the Commissioners support since it enables them to apply funds in the most beneficial way to achieve the health benefits for patients that may have been the intent of the donor.

From the government's perspective, it also makes sense since a considerable part of the charitable assets are funds for health and medical research and, in the future, much of this research will be undertaken by the South Australian Health and Medical Research Institute (SAHMRI) and far less so in individual hospitals. The

Commissioners will now have the option of applying those funds to the SAHMRI (as a prescribed research body) where they believe that this will best achieve the health outcomes that a donor may have intended.

The government recognises that donations are often made because of an emotional attachment to a particular hospital and because the donor believes that the hospital can undertake the research intended to benefit patients. These are important considerations however, as the focus of health and medical research shifts to the SAHMRI, the belief the hospital is the best place to undertake the research may be misplaced. If the health benefits for patients for which a donation is intended are to be optimally achieved, the Board should have the capacity and the flexibility to apply funds where they believe there is better research infrastructure and the hoped for health benefits for patients can be best achieved.

Again, it is stressed that the Board will act independently and cannot be compelled in these decisions by any person or body, including the government.

The Bill removes the provisions that require the Commissioners to preserve the capital of a trust and restrict them to applying only the income derived from the investment of the capital. This restriction has meant the Commissioners have been unable to apply the full value of a gift even where that amount was small and/or where the donor intended this to occur. This restriction necessitated the enactment of the *Mount Gambier Hospital Hydrotherapy Pool Fund Act 2009*. This legislation enabled the Commissioners to apply all of the capital collected though local fundraising for a purpose agreed to by the Mount Gambier and Districts Health Advisory Council after the original fundraising venture failed to raise sufficient funds for a hydrotherapy pool at the local hospital. Had this specific legislation not been enacted, the Commissioners, much to the frustration of the local community, would only have been able to apply the earnings on that capital to the agreed purpose.

The Bill widens the investment powers of the Commissioners, enabling them to invest in the share market where they were previously unable to do so. To better support the Board in its decisions regarding investments by the Board, the Bill will make possible the establishment of the Investment Advisory Committee.

The Investment Advisory Committee will have at least a representative from the Department of Treasury and Finance and a person nominated by the Commissioners who has expertise in the field of investment advice. The Committee will be able to provide advice to the Board on the composition of its investment portfolio and on the performance of the Board's investments and procedures.

The government regards it as prudent to establish such a committee to aid the Board, particularly given the negative experience of the national and international financial sectors over recent years and the wider investment powers of the Commissioners. However, the Committee cannot direct the Board.

In the interests of public reporting and accountability, the Committee must provide a report to the Board which will be included as part of the Board's annual report that is tabled in Parliament.

With the greater power given to the Board in how it may apply a gift, it is expected that the Board will establish a committee that will advise it on the application of funds for research and equipment to ensure it has access to sound advice when making these decisions. It is unreasonable to expect the Commissioners to have the expertise to properly evaluate research proposals. While the government wishes to keep its involvement in the Board's business to a minimum, it nevertheless does have a responsibility to ensure that there are proper mechanisms in place that support the Board and provide for public transparency and accountability of the funds donated and managed by the Board. The Bill therefore gives the Minister the power to direct the Board to establish such an advisory body. The regulations will prescribe the information that must be provided by the Board in their annual report about the application of gifts.

The Bill enables the Board to establish what is described as a 'health trust' on direction of the Minister. Such a trust will hold specific funds that are not part of the charitable assets vested in the Board but can be managed by the Board. The primary purpose of these provisions is to enable the Board to hold funds that are not part of charitable donations or those that the Commissioners have in the past incorrectly held and enable these to be managed such that they do not become part of the Board's charitable assets. For example, such a trust will hold funds transferred from the South Australian Health and Medical Research Fund held by the Department of Health for the SAHMRI and for that Fund to be managed independently of the department by the Commissioners.

A health trust will also be able to hold the funds given to the Hanson and the IMVS that are currently incorrectly held by the Commissioners. The Commissioners have received legal advice that they were not empowered under the current Act to hold funds on trust for these bodies since they were not part of the Royal Adelaide Hospital, although they had a close connection with it. It was this connection that led the Commissioners to mistakenly believe that they could hold these donations on trust. On advice from the Crown Solicitor's Office, they continue to hold these donations as a 'constructive trust' until they can be properly dealt with. Enabling these funds to be transferred to a health trust will enable the Board to continue to manage these funds.

The Act and its previous iterations have been in operation for 135 years. During that time the government believes that the Commissioners have always strived to act in accordance with their Act. Nevertheless, because of the above mentioned outmoded drafting style, the changes in community values, the institutions and the assumptions about how the current Act (which is itself 75 years old) operates the Commissioners have erred in some decisions they have made in relation to the gifts they hold on trust. The example of gifts to the Hanson and IMVS is one of these. They have also on occasion made available the capital of a trust in circumstances where they should not. These are decisions the government believes the Commissioners made in good faith. Nevertheless, the Commissioners may remain exposed to a legal liability. This Bill seeks to address this risk by providing for the validation of the past acts of the Commissioners in so far as they may have acted in contravention of their current Act.

The Bill also provides for the continuation of the current Commissioners and ensures that the gifts properly vested with them will continue as gifts vested in the Board. It also ensures that the Board continues to hold in perpetuity, and for the benefit of the Royal Adelaide Hospital, 'Town Acre 86, City of Adelaide, Hundred of Adelaide', which is part of the Thomas Martin bequest. This land, on which the Citi Centre building is also situated, is approximately encompassed by Pulteney St, Rundle Mall, Twin St and Hindmarsh Square.

The Bill is a vast improvement on the existing Act under which the Board must operate. It provides much clearer provisions as to the powers, functions and responsibilities of the Board in a contemporary legislative framework. It addresses issues for the Commissioners that have arisen out of the antiquated nature of the current Act. The Bill provides greater flexibility to the Board in applying gifts to meet the changing circumstances of hospitals and research in South Australia as well as mechanisms to support them in them in their decisions. It provides for better reporting and therefore greater public transparency in the Board's decisions. Crucially, it maintains the independence of the Commissioners when making their decisions concerning the charitable assets vested with the Board. The Bill is a vast improvement over the existing Act and I commend the Bill to honourable members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms and concepts used in this Bill.

4—Public health entity

This clause provides for the Governor to declare, by proclamation, an entity to be a public health entity. A proclamation may not declare a HAC, a prescribed research body, a private hospital within the meaning of the *Health Care Act 2008* or an entity that is not eligible, under the *Income Tax Assessment Act 1997* of the Commonwealth, to receive income tax deductible gifts to be a public health entity.

Part 2—Health Services Charitable Gifts Board

5—Establishment of Board

This clause provides that the Commissioners of Charitable Funds established as a body corporate under the repealed Act continues in existence as the *Health Services Charitable Gifts Board* and sets out relevant matters relating to the establishment of the Board.

6—Removal from office

This clause provides for the removal of a Commissioner from office.

7—Casual vacancies

This clause provides for a vacancy in the office of a Commissioner.

8—Acting Commissioner

This clause provides for an acting Commissioner to be appointed in certain circumstances.

9—Procedures

This clause sets out the procedures of the Board.

10—Vacancies or defects in appointment of Commissioners

This clause provides that an act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a Commissioner

11—Remuneration

This clause makes provision for the remuneration of the Commissioners.

12—Executive officer

This clause provides for an executive officer of the Board.

13—Staff of Board

This clause makes provision for the Board to appoint staff or make use of the services of the staff, equipment or facilities of an administrative unit or an instrumentality or agency of the Crown by arrangement with the relevant body.

Part 3—Functions of Board

14—Functions

This clause sets out the functions of the Board.

15—Certain gifts vest in Board as part of charitable assets

This clause provides that prescribed gifts vest in the Board as part of the charitable assets. A prescribed gift includes property given to a public health entity or a body specified in Schedule 1 clause 1. Proposed subsection (3) provides that certain gifts do not vest in the Board as part of the charitable assets (unless otherwise agreed). Proposed subsections (4), (5) and (6) provide that an exemption may be granted from subclause (1) in respect of gifts made from an organisation whose primary purpose is to benefit a particular public health entity.

16—Public health entity may transfer property to the Board

This clause provides that a public health entity may, with the agreement of the Board, transfer designated property to the Board (and the property becomes part of the charitable assets). Proposed subsection (2) defines *designated property*.

17—Application of charitable assets

This clause provides for the application of the charitable assets by the Board. Key aspects of the clause are as follows:

- once a gift has become part of the charitable assets, the gift is held free from any trust to which it was subject;
- the Board may give the whole or part of the gift to any public health entity or a prescribed research body (provided that, in so doing, the Board complies with the requirements of proposed subsection (3));
- the Board, in managing and applying a portion of the charitable assets attributable to a particular donor, must consider the intent of a donor and, so far as is reasonably practicable, apply that portion of the assets in a manner that the Board considers is most likely to achieve the intention of the donor.

18—HAC may apply to transfer property to Board

This clause allows a HAC to make a request in writing to the Minister for permission to transfer property to the Board to hold on trust for the benefit of a specified public health entity, or part of a public health entity. Property transferred to the Board under this clause is free from any trust to which it was subject and is held on trust by the Board for the benefit of the specified public health entity, or part of the entity. It also allows the Minister to require the Board to return such property.

19—Board may establish charitable health trusts

The clause enables the Minister to direct the Board to establish a charitable health trust on terms determined by the Minister. The clause also provides for property to be transferred to a charitable health trust as follows:

- the Minister may transfer property of the Crown to the Board to hold on trust for the purposes of a charitable health trust;
- the Minister may determine that certain property (specified in Schedule 1 clause 2), instead of being held by the Board as part of the charitable assets, be held by the Board on trust for the purposes of a particular charitable health trust;
- if a determination has been made under proposed subsection (4), the Minister may direct that, despite clause 15, property referred to in paragraph (b) or (d) of the definition of prescribed gift in proposed section 15(7) will, if given after the commencement of the clause, be taken to vest in the Board on trust for the purposes of the charitable health trust to which the determination relates (and the property will not form part of the charitable assets).

The clause provides that the Minister may vary the terms of a charitable health trust or direct the Board to wind up a charitable health trust in accordance with any requirements prescribed by the regulations and any other directions of the Minister. The clause also makes provision for certain procedures relating to charitable health trusts.

20—Board may act as trustee or co-trustee

This clause provides that the Board may act as a trustee or co-trustee in respect of a trust where the Board is named or otherwise asked to act as a trustee or co-trustee.

21—Trusts administered by Board

This clause provides that, to avoid doubt, if property is held on trust by the Board under proposed section 18, 19 or 20, the property does not form part of the charitable assets and the *Trustee Act 1936* (subject to any exclusions or modifications prescribed by regulation) applies in relation to such trusts.

Part 4—Miscellaneous

22—Advisory committees

This clause requires the establishment of the Investment Advisory Committee and provides that the Board may establish other committees to provide advice on any matter affecting the administration of the Act as the Board thinks fit. The clause also makes provision for the appointment of members and procedures of a committee established by the Board.

23—Town Acre 86 fund

This clause provides that land described as 'Town Acre 86, City of Adelaide, Hundred of Adelaide', being the whole of the land comprised in Certificate of Title Volume 5191 Folio 871, held by the Commissioners of Charitable Funds under the repealed Act continues to be held by the Board under the Act in perpetuity for the benefit of the Royal Adelaide Hospital.

24—Board to transfer specified property to HAC on application

This clause provides that a HAC may, with the agreement of the Minister, apply to the Board for the transfer of specified property forming part of the charitable assets if the property was, immediately before the commencement of the Act, held on trust by the Commissioners of Charitable Funds under the repealed Act for the benefit of a particular health service. The clause requires the Board to give effect to an application by transferring the specified property to the HAC.

25—Duty of Registrar-General

This clause will facilitate the registration of the vesting of any land in the Board or a HAC under the Act.

26—No duty or tax payable

This clause provides that no duty or tax is payable under a law of the State in respect of any vesting, transfer, assignment, receipt given or anything else done under the Act

27—Accounts and audit

The Board must keep proper accounts and prepare financial statements.

28—Reports

The Board must prepare an annual report, which must include the annual report of the Investment Advisory Committee.

29—Delegations

The Board will have the ability to delegate functions and powers.

30—Regulations

The Governor will make regulations for the purposes of the Act.

Schedule 1—Specified bodies and parts of the charitable assets

1—Specified bodies (section 15)

This clause specifies certain bodies for the purposes of proposed section 15.

2—Property that may be held for the purposes of a charitable health trust (section 19)

This clause specifies certain property for the purposes of proposed section 19.

Schedule 2—Investment Advisory Committee (section 22)

This schedule relates to the members and proceedings of the Investment Advisory Committee.

Schedule 3—Repeal and transitional provisions

This schedule repeals the *Public Charities Funds Act 1935* and sets out transitional provisions associated with the enactment of this measure.

Debate adjourned on motion of Dr McFetridge.

NATURAL RESOURCES MANAGEMENT (COMMERCIAL FORESTS) AMENDMENT BILL

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (12:03): Obtained leave and introduced a bill for an act to amend the Natural Resources Management Act 2004. Read a first time.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (12:03): I move:

That this bill be now read a second time.

Large-scale commercial plantation forestry has the potential to intercept substantial volumes of water. In commercial plantation forests, trees are selected and grown intensively in time frames designed to optimise growth, productivity and water use. As a result of this, plantations can significantly affect the availability of water from a surface or ground water resource, reducing run-off and recharge by 70 to 100 percent (when forestry replaces pastoral land use).

Commercial plantations also directly extract groundwater when planted above shallow aquifers. In areas where commercial forestry expands, surface water that previously recharged groundwater, or flowed to replenish streams, dams and wetlands is intercepted. Consequently, if commercial forestry is, or is likely to become, a significant land use in a catchment, its impacts on

water availability need to be properly managed. Mismanagement and overuse of the water resource have a real potential to put the future of forestry and other industry at risk.

The statewide policy framework, 'Managing the water resource impacts of plantation forests', adopted in June 2009, aims for 'South Australia to achieve ecologically sustainable development of plantation forests, while protecting and managing our water resources, for all users, now and in the future'.

The policy framework stipulates that the use of water by commercial plantations should be managed by applying either a forest permit system or a water licensing system through the NRM Act in order to manage the effects that commercial forest plantations have upon the security of existing licensed water access and the integrity of water resources themselves. The Natural Resources Management (Commercial Forests) Amendment Bill 2010 is designed to include these two legislative tools in the Natural Resources Management Act 2004 (SA) (NRM Act).

This bill was introduced in 2009 and a number of changes have been made since that version in order to respond to issues that were raised, including clarifying processes and details around forest water licences, including that they provide secure access to water, are personal property, can be traded just like other water allocations, are subject to conversion or adjustment in accordance with the relevant water allocation plan, and can only be reduced after part, or all, of a forest has been clear-felled.

Further amendments have included allowing the forest permit system to effectively manage impacts of future rotations and providing for regulations to be made to identify forestry management practices that will not trigger reduced forest water allocations, such as plantation thinning.

The NRM Act currently allows a regulation to be made to apply a forest permit system to manage the impacts of commercial forests on water resources. Regulation 13 of the Natural Resources Management (General) Regulations 2005 applies in the South-East to ensure that the expansion of commercial forest plantations is carried out within the bounds of sustainable water resource management.

This forest permit system links to the system of development assessment under the Development Act 1993, rather than the NRM Act, which governs other water resource uses, as conditions that address the water resource impacts of the plantation are placed on the development approval and are enforced under the Development Act. However, the current forest permit system does not allow the water resource impacts of commercial forestry to be adequately managed on an ongoing basis, as while the water resource impacts of the expansion of commercial forestry can be managed, it does not allow water use by plantations to be reduced along with the water use of licence holders where necessary to protect a water resource at serious risk of degradation.

The current forest permit system can also require the negotiation of complex contractual arrangements with forest enterprises to quarantine water licences where forestry expansion is approved on the condition that a water allocation is quarantined to offset the impacts of the development. The permit system also does not enable the forestry sector to trade water with other water users when water is no longer being used by plantations, as licensed water allocations are not issued to commercial plantations. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Expanded forest water permit system

The expanded forest permit system proposed in the Bill is designed to manage water resource impacts of forestry by prescribing forestry as a water affecting activity under section 127 of the NRM Act. This will allow forest permit systems to be implemented across the state without a regulation needing to be made for each specific region as is currently the case under sections 127(5)(k) or 127(3)(f) of the NRM Act.

To allow the current forest permit system to be expanded and used more effectively, the Bill includes an amendment that provides for a regulation to be made to apply an expanded forest water permit system to future rotations of plantations that have development approval. At the moment, an expansion of forestry cannot be brought within the ambit of the scheme where the establishment of a particular forest was within the ambit of a development approval (due to the application of section 129(1)(e) of the NRM Act). An amendment to section 129 will provide an option of expanding the current forest permit system to enable the water resource impacts of future rotations of commercial plantations to be adjusted to address over-allocation or over-use and to protect the integrity of a water resource and the security of rights to access water. Depending on the policy in the NRM Plan or Water Allocation Plan, a complementary reduction in water use would be required for other water licence holders. Conversely, should

it be identified that water is available for further development, allocation or use, the relevant plan may provide for further permits to be issued to allow forest and other water resource development.

The disadvantages of administrative complexity and the lack of capacity to directly trade water that apply to the current permit system could also apply to an expanded forest water permit system. However the Bill ensures that expanding the current forest permit system can be considered for inclusion in a Water Allocation Plan, as an alternative to a forest water licensing system.

Forest water licensing system

The second provision included in the Bill is for a forest water licensing system to be included in the NRM Act which integrates with the current water licensing system. For an area to be covered by forest water licensing, the water allocation plan for a particular water resource must identify the significance of the impact of commercial forests on that water resource and recommend that forest water licensing be introduced. A plan may recommend that particular types of forestry be exempt from forest water licensing requirements, such as farm forestry, biodiversity, bio sequestration or salinity benefits. Following approval of a Water Allocation Plan, the Minister, if he or she believes that licensing is a reasonable measure, and after consulting with the Minister primarily responsible for forestry, may then declare a forestry area by Gazette notice. This will enable forest water licensing to apply to that area, however, this decision can be varied or revoked at a later stage if appropriate.

Similar to the process under the NRM Act when a water resource is first prescribed, forest water licences will be issued to forestry that have water allocations attached that reflect the water consumption of existing plantations (that is, to existing forestry water users). No purchase price applies to the forest water licences issued for existing plantations. The benefits of issuing these assets are that licences allow water to be traded to other industries if it is no longer required for forestry and vice versa. The other benefit is that the water use of commercial plantations can be adjusted if water available in the consumptive pool reduces in the future, for example as a result of drought, and it becomes necessary to reduce total water consumption to protect the security of the water resource.

Therefore, the forest water licensing approach allows for more transparent accounting and management given that all significant water users would be managed under volume-based water allocations and licensing. Once implemented, a forest water licensing system facilitates trade within the commercial forestry sector and between forestry and other water users to allow water to be traded in response to market conditions to its most effective use. Under the current system, water cannot be directly traded between the forestry sector and other water use industry sectors or vice versa.

Both the expanded forest water permit and forest water licensing systems have the capacity to manage all significant water uses, including the impacts of commercial forestry, on an ongoing basis, to protect the integrity and security of water resources, water entitlements and the environment, on an equitable basis.

Lower Limestone Coast Water Allocation Plan

The South East is the predominant region for commercial forestry in South Australia. It is also the area where significant forestry expansion occurred over the last decade. Since early 2010, an Inter-agency Taskforce involving the Department of Primary Industry and Resources SA, the Department of Treasury and Finance, the Department for Water, the Department of Environment and Natural Resources, and the South East Natural Resources Management Board has been working to support the development of a Lower Limestone Coast Water Allocation Plan that appropriately addresses the water resource impacts of forestry and a range of other water resource management issues. This Taskforce has also established a Reference Group to ensure that key stakeholders are involved in developing water resource management policy that balances economic and social outcomes with the long-term integrity of the Lower Limestone Coast water resources. Policy options under consideration for inclusion in the draft Lower Limestone Coast Water Allocation Plan include both an expanded forest water permit system and forest water licensing.

The review of the condition of the Lower Limestone Coast water resources, which has been overseen by the Taskforce, indicates that water is over-allocated and overused in some areas and that there is a risk that the water resources and associated ecosystems may further degrade if water allocation and use is not reduced. That means that it may be necessary for the Lower Limestone Coast Water Allocation Plan to include policy that reduces current levels of water allocation and use in some areas. The Taskforce and Reference Group are currently considering these matters to develop policy options that will deliver sustainable water resource management, while minimising the social and economic impacts on the South East region.

Reducing water allocations and use

It is important to recognise that there are important differences between commercial forestry water use and other licensed water that need to be recognised in designing forest water licensing and expanded forest water permit systems. Plantation water use cannot be turned on or off immediately like pumps used by irrigators. To estimate a plantation's average annual water use, rainfall, plantation species, location, rotation period, area, and management practices all need to be known. In light of these significant differences, the Bill provides for plantations to continue to the end of their rotations before water allocations are reduced, should this be required. Plantations can not be required to be clear-felled prematurely, either under an expanded forest water permit system or under forest water licensing.

Under the forest water licensing system, the Bill provides for the Minister to approve schemes proposed by forest managers that set out how and when they will achieve reduced water use, or obtain extra water to offset any reductions to water allocation that are applied after clear-felling. For example, a forestry enterprise may seek the Minister's approval for a scheme that proposes replanting an area that has been clear-felled, even though that clear-felling has triggered a reduction to the water allocation, and meeting the reduced water allocation by not replanting

another area that will be clear-felled in future. Other schemes could involve changing plantation management practices, for example planting species that use less water, or increasing buffers between plantations and watercourses or wetlands. The Minister will be open to approving a range of different schemes that may be proposed as long as they deliver sustainable water resources management within reasonable timeframes.

The Bill provides a high level of flexibility to the commercial forestry sector to manage their plantations in ways that optimise forestry outcomes, while ensuring that forestry water use is managed sustainably.

Accountability for forest water licensing

The expanded forest water permit system and the forest water licensing scheme proposed in this Bill are embedded in the statutory water allocation planning processes required by the NRM Act. This approach ensures that all affected parties, regional NRM boards and relevant state agencies, can provide input. The statewide policy framework on water resources and forestry that was released last year (Statewide policy framework for managing the water resource impacts of plantation forests) provides guidance to water resource managers and regional NRM boards on the most appropriate tools to apply to manage the impacts of commercial forests. However, final accountability will rest with the Minister responsible for the NRM Act. The Minister, after consulting with the Minister primarily responsible for the forestry, must make a specific decision to declare a forestry area before forest water licensing can be implemented.

In closing, I reiterate that this Bill adds a forest water licensing tool to the NRM Act, and provides for the forest permit system to be expanded to ensure that the water resource impacts of commercial forests can be managed within sustainable limits. The forest water licensing system, although intentionally different from the water licensing system that applies to other water users, has the additional advantage of integrating with the existing water licensing system to facilitate trade between forestry and other water users and to provide a simpler and more effective system for both Government and business.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides for the short title of the measure.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of Natural Resources Management Act 2004

4—Amendment of section 3—Interpretation

This clause inserts new definitions associated with the provisions to be inserted into the principal Act by this Act. A key definition will be commercial forests, which will be taken to mean a forest plantation where the forest vegetation is grown or maintained so that it can be harvested or used for commercial purposes (including through the commercial exploitation of the carbon absorption capacity of the forest vegetation).

5—Amendment of section 76—Preparation of water allocation plans

The scheme envisaged by this measure will include the preparation of amendments to any relevant water allocation plan to identify appropriate principles and methodologies to determine the impact that commercial forests may have on the prescribed water resource and to identify the commercial forests that are to be subject to the licensing scheme.

6—Amendment of section 101—Declaration of levies

The Minister will be able to declare and impose a levy in relation to commercial forests that are subject to a licence under this scheme.

7—Amendment of section 104—Liability for levy

This is a consequential amendment.

8—Amendment of section 124—Right to take water subject to certain requirements

This amendment makes it clear that rights of access to water apply subject to any requirement to have a licence with respect to a commercial forest.

9—Amendment of section 125—Declaration of prescribed water resources

This amendment recognises that it may be appropriate for a proposal to declare a water resource to be a prescribed water resource under the Act to set out any proposals to introduce controls relating to commercial forests under new Part 5A.

10—Amendment of section 127—Water affecting activities

This amendment recognises that a water allocation plan may regulate the activity of undertaking commercial forestry.

11—Amendment of section 129—Activities not requiring a permit

This amendment relates to section 129(1)(e) of the Act (which provides that a permit is not required under this Part of the Act if the relevant activity constitutes development under the Development Act 1993 and has been approved under that Act) so as to allow the regulations to exclude prescribed classes of activities from the operation of that provision.

12—Amendment of section 146—Nature of water licences

This amendment makes it clear that a consumptive pool may be affected by a water allocation attached to a forest water licence.

13—Amendment of section 152—Allocation of water

A water allocation will be able to be obtained from the holder of a forest water licence (subject to any conversion or adjustment under the provisions of any relevant water allocation plan).

14—Insertion of Chapter 7 Part 5A

This clause sets out a new scheme for the regulation of commercial forests under a licensing system in declared forestry areas.

15—Redesignation of Chapter 7 Part 5A

16—Redesignation of section 169A—Interaction with Irrigation Act 2009

17—Redesignation of section 169B—Interaction with Renmark Irrigation Trust Act 2009

These amendments provide for the redesignation of certain provisions.

18—Amendment of section 193—Protection orders

The scheme set out in section 193 of the Act to provide for protection orders will extend to the ability to be able to issue an order for the purpose of securing compliance with Chapter 7 Part 5A.

19—Amendment of section 195—Reparation orders

It will be possible to issue a reparation order to address any harm to a natural resource by contravention of Chapter 7 Part 5A.

20—Amendment of section 197—Reparation authorisations

It will also be possible to issue a reparation authorisation in relation to any harm caused to a natural resource by contravention of Chapter 7 Part 5A.

21—Amendment of section 202—Right of appeal

This is a consequential amendment.

22—Amendment of section 216—Criminal jurisdiction of Court

A number of offences under the Act—especially related to natural resource management—lie within the criminal jurisdiction of the ERD Court. This amendment will provide that an offence against new section 169L will also lie within that jurisdiction.

23—Amendment of section 226—NRM Register

24—Variation of Schedule 3A—The Water Register

These clauses contain consequential amendments.

Debate adjourned on motion of Dr McFetridge.

TRAINING AND SKILLS DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.J. SNELLING (Playford—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Road Safety, Minister for Veterans' Affairs) (12:09): Obtained leave and introduced a bill for an act to amend the Training and Skills Development Act 2008. Read a first time.

The Hon. J.J. SNELLING (Playford—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Road Safety, Minister for Veterans' Affairs) (12:09): I move:

That this bill be now read a second time.

On 30 September 2010, the government tabled the McCann report on the regulation of vocational education and training services for overseas students in South Australia. On 13 October, a draft bill to amend the Training and Skills Development Act 2008 was released for public comment. Today,

the government is introducing the Training Skills Development (Miscellaneous) Amendment Bill 2010 which addresses the recommendations for legislative change in the McCann report. The government is acting promptly on the McCann recommendations because it takes seriously its responsibility to ensure a high quality of vocational education and training sector in South Australia.

Mr Warren McCann, the Commissioner for Public Sector Employment, was asked to review regulatory requirements in this sector following the closure of the Adelaide Pacific International College after its registration to operate was cancelled by the Department of Further Education, Employment, Science and Technology. The government was particularly concerned that most students enrolled at this college had come from overseas, paid their fees to the college and were not receiving vocational education of a satisfactory standard.

The government was also concerned that overseas students at other colleges should not go through the experience of those of the Adelaide Pacific International College. We have a special obligation to students who come to this state from overseas expecting to receive a high quality education. I seek leave to have the remainder of the second reading explanation inserted into *Hansard* without my reading it.

Leave granted.

The quality of our vocational education and training sector is also, of course, very important for South Australians entering the labour market and developing skills for participation in our community. The vocational education and training sector is a diverse mix of training providers including TAFESA, and privately owned, industry owned and community based providers. These training providers deliver publicly funded and privately funded training to clients seeking to enter the workforce, to trainees and apprentices and also to current workers upgrading their skills and qualifications.

In this context, the Bill makes a number of important changes to regulatory arrangements. These measures will not increase the regulatory burden on the majority of training providers that are delivering high quality services to their clients. The Bill will give training providers confidence that regulation of the sector can deal with unscrupulous providers who may seek to gain market advantage by not operating in accordance with regulatory requirements.

The Bill strengthens regulatory powers by enabling the Commission to respond more quickly to apply sanctions where that is warranted by the seriousness and urgency of the matter. The Commission will still, however, be subject to natural justice requirements and must give the provider an opportunity to respond before taking action.

All training providers need to know that, once registered, they are expected to take their obligations seriously and that not complying with their conditions of registration is an offence. The Bill provides a more effective deterrent against contravening the Act by raising the level of penalties for offences.

Industry expects that a person certified as competent by the issue of a qualification is able to carry out his or her duties to industry standard. This is particularly important where the qualification meets the competency requirements for issue of a license in a regulated occupation.

The Bill authorises the Commission to cancel a qualification if it is satisfied that the training provider issuing the qualification was not operating in accordance with standards and the requirements for the qualification have not been met. The Bill authorises a person whose qualification has been cancelled to apply to a court for compensation from the training provider for loss arising from this cancellation. The Bill also makes it an offence for a person to use a qualification that has been cancelled by the Commission.

The Bill introduces a new measure to allow the Minister, on recommendation from the Commission and with the agreement of the training provider, to appoint an administrator to ensure a training provider complies with its regulatory obligations under the Act. This would only occur if there are serious concerns about the provider that it is unable to resolve and it is judged that it is in the students' best interests to maintain the training provider's registration rather than pursuing suspension or cancellation.

It is important to note that an administrator under this Act will not take over full responsibility for the management of the training provider, in particular its financial affairs. An administrator would not be appointed under this Act in the event of insolvency when an administrator would be appointed under Commonwealth law.

The Bill provides a range of new measures to protect consumers, whether they are domestic students or clients or overseas students studying in Australia on a student visa.

If a client suffers a loss from a training provider contravening the Act, the Bill allows a person to make application to a court for compensation. This measure complements the offences under the Act thus reinforcing the message that training providers must operate in accordance with the Act and their conditions of registration.

The Bill enables the Minister, the Training Advocate or the Commission to make a public statement about a training provider, or education and training services, to inform quickly current or potential clients about a matter of concern.

Under this Bill, it is a serious offence for a person to make false or misleading statements about training recognised under this Act. Again, this is a significant deterrent against poor behaviour and poor quality providers.

When a training provider closes or has its registration cancelled by the Commission, students need ready access to their records so that they can resume their training with an alternative provider. The Bill gives powers to authorised officers to inspect, copy and or take all relevant records, including student results.

In summary, this Bill strengthens the regulatory arrangements underpinning the quality of education and training in the tertiary education sector. The Bill demonstrates to all providers registered under the *Training and Skills Development Act 2008* their clear obligation to operate in accordance with the Act and their conditions of registration. If they fail to do so, the Government will have the powers it needs to enforce the law, apply the appropriate penalty and support consumers to seek redress through the courts.

I commend the Bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation on a day fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Training and Skills Development Act 2008*

4—Amendment of section 4—Interpretation

The first amendment inserts a definition of the *authorised operations* of a registered training provider for the purposes of sections 36 and 36A (see clause 14). The second amendment inserts the definition of *associate* and is consequential on the amendment of section 37. This definition is currently present in sections 29(4) and 57(3) of the Act and, because the term is also referred to in the substituted section 37 (see clause 15), the definition has been removed from those sections and included in the general interpretation section.

5—Amendment of section 5—Declarations relating to universities and higher education

Under section 5 of the Act, it is an offence for an institution to which a section 5 declaration relates to contravene a condition specified by the Minister in the declaration. This amendment increases the maximum penalty to $10,000 (from $5,000) and the expiation fee to $500 (from $315).

6—Amendment of section 27—Conditions of registration

This amendment makes clear that the offence in section 27(2) refers to a condition of registration of a training provider imposed under the Act and not just by the Commission. The amendment also increases the maximum penalty for contravening such a condition to $10,000 (from $5,000) and increases the expiation fee to $500 (from $315).

7—Amendment of section 28—Variation or cancellation of registration

Currently the Commission may vary or cancel the registration of a training provider only on the application of the provider. This amendment provides that the Commission may also do so of its own motion.

8—Amendment of section 29—Criteria for registration

This amendment removes the definition of *associate* from section 29 and is consequential on the amendment to section 4 (see clause 4 above) which inserts the definition in section 4 of the Act instead.

9—Amendment of section 31—Conditions of accreditation

This amendment makes clear that the offence in section 31(2) refers to a condition of accreditation of a course imposed under the Act and not just by the Commission. The amendment also increases the maximum penalty for contravening a condition imposed on the accreditation from $5,000 to $10,000, and increases the expiation fee from $315 to $500.

10—Amendment of section 32—Variation or cancellation of accreditation

Currently the Commission may vary or cancel accreditation of a course only on the application of the provider. This amendment provides that the Commission may also do so of its own motion.

11—Amendment of section 34—Duration of registration/accreditation

This clause amends section 34 to clarify that a registration or accreditation is not 'in force' while suspended. This clause also increases the maximum penalty for failing to lodge a return and pay the registration or accreditation fee under this section, from $5,000 to $10,000, and increases the expiation fee from $315 to $500.

12—Amendment of section 35—Grievances

This amendment proposes to insert a new subsection (3) in section 35. That new subsection makes it clear that the Commission must inquire into a matter referred to it under this section and take such action (if any) the Commission thinks fit in the circumstances, including—

- discontinuing the inquiry; or
- referring the matter and relevant information to the Training Advocate, another registering body or some other person or body, specified by the Commission, for consideration and action; or
- issuing proceedings for an alleged contravention of the principal Act or a corresponding law.

13—Amendment of section 36—Inquiries and interventions

This clause amends section 36 of the Act to extend the power of the Commission to intervene following an inquiry into a training provider under this section. The subclauses inserted allow the Commission to require (whether by varying the conditions of, or imposing further conditions on, the provider's registration or otherwise) the affairs of the provider to be audited, specified action to be taken to ensure compliance with the Act, the correction of particular irregularities, or the application of specified management practices. It may also take action under section 37 (such as cancel, suspend or vary the registration or accreditation held by a provider), or such other action as prescribed by the regulations. The Commission may also recommend to the Minister that an administrator be appointed to conduct the operations of the provider that are within the scope of the provider's registration (the provider's *authorised operations*). Such a recommendation can only be made if the Commission is satisfied as to certain matters.

14—Insertion of section 36A

This clause inserts a new section that deals with the appointment of an administrator by the Minister.

36A—Appointment of administrator

On the Commission's recommendation under section 36, the Minister may, with the agreement of the training provider, appoint an administrator to conduct the authorised operations of the provider. The administrator must be independent of the Minister and is entitled to such remuneration as the Minister determines, to be paid out of the funds of the provider, along with the other costs of the administration. An administrator has all the powers, functions and duties of the provider in relation to the conduct of the provider's authorised operations and must report regularly to the Minister. At the end of his or her appointment, the administrator is required to fully account to the Minister.

15—Substitution of section 37

This clause repeals current section 37 and substitute a new section dealing with the same topic.

37—Commission may cancel, suspend or vary registration or accreditation

New section 37 provides that the Commission may impose or vary a condition of registration or accreditation, or cancel or suspend the registration or accreditation if the hold contravenes this Act or a corresponding law (including a condition) or fails to pay a fee as required under Part 3 of the Act. The Commission may also cancel or suspend the registration of a training provider if it is satisfied that the provider is no longer a fit and proper person. The amendments to this section also clarify the effect of a suspension of registration under section 37 and provide that the Commission may stipulate conditions for restricted operations of the provider during the period of suspension. It is an offence to contravene such conditions or to otherwise continue to operate as a provider.

In addition to the current grounds for cancelling the registration of a training provider (on the basis that South Australia is no longer the provider's principal place of business), the new section also provides that the Commission may cancel the provider's registration if he or she becomes bankrupt or an order for winding up has been made against them in the case of a provider who is a body corporate.

Under the new section, the Commission can, in urgent circumstances, give 24 hours notice of the proposed action, or otherwise where there is no such urgency, must give a minimum of 7 days notice in the case of bankruptcy or winding up, or 14 days in other circumstances. During the various time periods, the Commission must take account of the representations of the holder of the registration or accreditation and must also consult with any interstate registering or accrediting bodies if the provider operates or offers a course in other states or territories. Other subsections replicate current subsections 37(2) and 37(5).

16—Amendment of section 39—Cancellation of qualification or statement of attainment

This clause amends section 39 to allow the Commission to cancel a qualification or statement of attainment on the grounds that the training provider contravened or failed to comply with the standards for registered training providers. This is in addition to the grounds currently provided for by the Act which include where the qualification or statement was issued by mistake or on the basis of false or misleading information. Currently the Commission is required to give both the recipient of the qualification or statement of attainment and the training provider who issued them, 28 days written notice. This clause amends the period of notice to 24 hours in circumstances where the Commission believes it is necessary to act urgently, or in non-urgent circumstances, to give 14 days notice. During this period, the Commission must take into account any representations of the training provider or holder of the qualification or statement of attainment.

Inserted subsection (4) provides that a court of competent jurisdiction may order the training provider to pay compensation as determined by the court to a person who has had his or her qualification or certificate of attainment cancelled under this provision.

New subsection (5) provides that it is an offence (with a penalty of $2 500) for a person to hold out that he or she is the holder of a qualification or statement of attainment if the qualification or statement of attainment has been cancelled under this section. However, there is a defence if the defendant proves that he or she did not know that the qualification or statement of attainment had been so cancelled.

17—Substitution of section 41

This clause deletes current section 41, which relates to the provision of information by the Commission to others in the course of its functions under the Act, and a new section.

The Training Advocate may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about a matter that adversely affects or may adversely affect the interests of persons in connection with their interaction with training providers.

41—Public warning statements

New section 41 provides that the Minister or the Commission may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about either or both of the following:

- the delivery or provision of education and training or other services in an unsatisfactory manner and training providers who deliver or provide those services;
- any other matter that adversely affects or may adversely affect the interests of persons in connection with their interaction with training providers.

The Training Advocate may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about a matter that adversely affects or may adversely affect the interests of persons in connection with their interaction with training providers.

The new section also provides that the Crown will not incur any liability for such a statement made in good faith by the Minister, Commission or Training Advocate and provides protection to a person publishing any such statement.

18—Amendment of section 42—Appeal to District Court

This amendment ensures that there is no appeal to the District Court available against a decision of the Commission to suspend or cancel registration or accreditation on the grounds that a training provider has become bankrupt or a winding up order has been made against them.

19—Amendment of section 43—Offences relating to registration and issuing of qualifications

This clause amends the penalties for the offences in section 43 (which include falsely claiming to be a registered training provider or issuing qualifications or certificates of attainment). The maximum penalties are increased from $5,000 to $20,000 and a maximum penalty for bodies corporate of $100,000 is also inserted.

20—Amendment of section 44—Offences relating to universities, degrees etc

This clause amends the penalties for the offences in section 44 (which include falsely claiming to be a university, university college or specialised university etc, or falsely offering a course to which a degree or graduate qualification is to be conferred). The maximum penalties are increased from $5,000 to $20,000 and a maximum penalty for corporate bodies of $100,000 is also inserted.

21—Insertion of section 44A and Part 3 Division 7

This clause inserts the following provisions:

44A—Offence to make false or misleading statements

This new section makes it an offence for a person to make a false and misleading statement in any information provided to a student, or prospective student, about the delivery or provision of education and training or other services. The penalty for such offence is $20,000 for a natural person and $100,000 for a body corporate.

Division 7—Orders for compensation

44B—Orders for compensation

This new section provides that a court of competent jurisdiction may, if satisfied that a person has suffered or is likely to suffer loss or damage because of a contravention of the Act, make orders compensating the person or to prevent or reduce the extent of the loss or damage. Examples of the types of orders that may be made are for the payment of the amount of the loss or damage, or for avoiding or varying a contract, refunding money or returning property or directing the delivery or provision of specified education or training or other services.

22—Amendment of section 57—Criteria for registration

This amendment deletes the definition of *associate* from section 57 and is consequential on the amendment to section 4 (see clause 4 above) which inserts the definition in section 4 of the Act instead.

23—Insertion of section 72A

This amendment proposes to insert new section 72A after section 72.

72A—Confidentiality of information

This new section provides that it is an offence (carrying a penalty of $20,000) if a person divulges or communicates information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of this Act, other than—

- with the consent of the person to whom the information relates; or
- in connection with the administration of this Act; or
- to a member of the police force of this State or of the Commonwealth or another State or a Territory; or
- to a person concerned in the administration of a corresponding law; or
- for the purposes of legal proceedings.

24—Amendment of section 73—Other powers of Commission, Training Advocate etc

Under the current section 73, an authorised person may inspect, examine or copy a record or document required to be kept under the Act. The amendment has the effect of allowing an authorised person to examine, copy or take extracts from any record or document, and also take any record or document and seize and remove anything that may constitute evidence of an offence. An authorised person may also take photographs, films or video recordings.

25—Amendment of section 75—False or misleading information

This clause increases the maximum penalty for providing false or misleading information under the Act from $5,000 to $10,000.

26—Insertion of sections 75A and 75B

This clause inserts the following new provisions to assist with the prosecution of a body corporate:

75A—Imputation of conduct or state of mind of officer etc

This new section provides that, for the purposes of proceedings for an offence against the Act, the conduct and state of mind of an officer, employee or agent of a body corporate who is acting within their authority, will be imputed to that body corporate. A similar provision applies to an employee or agent of a natural person. This provision does not affect the personal liability of the officer, employee or agent. The clause also provides that it is a defence where conduct or state of mind is imputed under this clause to prove that the alleged contravention was not to due to any failure of the defendant to take all reasonable and practicable measures to prevent the contravention.

75B—Offences by bodies corporate and employees

This new section provides that if a body corporate is found guilty of an offence, the directors and managers of the body corporate will also be guilty of the offence and liable for the same penalty as for a natural person. It is a defence if the defendant proves he or she took reasonable precautions and exercised due diligence to prevent the commission of the offence by the body corporate. A similar provision applies in relation to where an employee is found guilty of an offence. In this case an employer is liable to the same penalty. There is a defence if the employer shows that he or she had no knowledge of the actual offence or took reasonable precautions and exercised due diligence to prevent the commission of the offence by the employee.

Debate adjourned on motion of Mr Pisoni.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (12:11): Obtained leave and introduced a bill for an act to amend various acts as a consequence of the enactment of the Personal Property Securities (Commonwealth Powers) Act 2009 and the Personal Property Securities Act 2009 of the commonwealth. Read a first time.

The Hon. J.R. RAU (Enfield—Attorney-General, Minister for Justice, Minister for Tourism) (12:12): I move:

That this bill be now read a second time.

This bill is another one of those magnificent products of the national harmonisation process; it makes amendments to various state laws. It predates my tenure in this spot.

The Hon. J.D. Hill: Don't distance yourself!

The Hon. J.R. RAU: Nonetheless, it is meritorious.

An honourable member interjecting:

The Hon. J.R. RAU: It is meritorious, nonetheless. 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 Governments' 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 Cooperatives 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 May next year. Broadly speaking, this bill will facilitate the establishment of the national register by amending state 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 scheme is fully functional and the state registers and registry functions are no longer required.

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

Leave granted.

This Bill will exclude certain statutory licences from the operation of the PPS Act. The PPS Act defines 'personal property' to include a licence that is transferable and provides for a State or a Territory to declare that a kind of statutory right is not personal property for the purposes of the Act. 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 the State registers where other relevant information about the licences is also recorded. 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* to clarify that certain permits and licences are not transferable and therefore do not all into the category of 'personal property' for 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 commence 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 (eg, 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*.

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 commence 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 commence 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 *Stock Mortgages and Wool Liens Act 1924*

54—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 commence 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.

55—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.

56—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.

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

58—Amendment of section 20—Meaning of abbreviated expressions

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

60—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.

61—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.

62—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 23—Amendment of *Unclaimed Goods Act 1987*

63—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 24—Amendment of *Wilderness Protection Act 1992*

64—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.

65—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 25—Amendment of *Worker's Liens Act 1893*

66—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 Dr McFetridge.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

Adjourned debate on second reading.

(Continued from 29 September 2010.)

Dr McFETRIDGE (Morphett) (12:16): It gives me great pleasure to rise in the house today to support the Public Health Bill 2010. This bill has had a long gestation. It was started by the Hon. Dean Brown back in the year 2000—

The Hon. J.D. Hill: You can't rush these things.

Dr McFETRIDGE: As the minister says, you can't rush these things. Well, we certainly did not on this one, and I agree with the minister there. I congratulate the people who have spent many hours putting this bill together and doing the work. There has been good consultation on this piece of legislation, and what we see today is a bill that is quite comprehensive. There are still a few issues that people have raised with me, and I will be talking about those in my contribution today. I do indicate that I am the lead speaker for the opposition and the opposition does support this bill.

The history of the bill not only had a seven-year gestation to get to where we are today, but it is going to replace the South Australian Public and Environmental Health Act 1987. It is interesting to note that the bill took quite a while—there were some amendments and some

updates—to replace the Health Act 1935, the Noxious Trades Act 1934 and the Venereal Diseases Act 1947. All of those various acts and the issues that were recovered in those acts have now been incorporated into the previous Public and Environmental Health Act, and now we see a more comprehensive treatment of those in the bill we have with us today.

The Public and Environmental Health Act 1987, like the previous acts, had a very traditional focus on sanitation, nuisance, vermin and infectious disease. Today, we are facing many issues, many diseases, many public health problems, such as lifestyle diseases and conditions that were not around 20 years ago, certainly not 50 years ago and certainly not in the early part of last century. So, public health is changing, and changing dramatically, and I hope it is not going to be another 10 years before we review this act.

I do have an amendment that I have had drafted that looks at reviewing this act in three years' time under the auspices of the Social Development Committee. I will not be moving that amendment today, but certainly I will seek the government's input and opinion as to how we treat this act in the future so that there is not such a long time between upgrades and amendments.

Moving away from the traditional focus, as I say, we are having to look at pandemics, and I suppose the most relevant one is the swine flu pandemic which was predicted but which turned out to be a fizzer, thank goodness. Certainly, I was very concerned that, had the H1N1 swine flu (which had components of swine flu and human flu viruses) combined with a bird virus, such as the avian flu virus that we saw in South-East Asia, we could have had a very serious world pandemic on our hands, and millions of people could have been infected and come down with the disease.

As we see now, I think about 3,000 Australians and 80,000 Americans die every year just from the ordinary flu. The millions who would have died had that pandemic eventuated is a good enough reason to be alert—but not alarmed. I suppose we should be afraid of those sorts of viruses, but we certainly should not be taking them for granted because the latest example turned out to be a bit of a fizzer. Having said that, a number of people did die from it, so I should not say it was a fizzer because it was extremely serious. I hope people do not think I am being flippant.

The South Australian Public Health Bill 2010 seeks to review public health laws to strengthen the state's capacity to deal with public health emergencies such as global pandemics and the impacts of terrorism, particularly bioterrorism. There is mention in the legislation of psychological harm, and I will have a bit more to say about that later. Just watch the 6.30 news and, if that does not cause anxiety and stress in people, I do not know what does. I remember the old Skyhooks song *Horror Movie* about the 6.30 news.

The Hon. J.D. Hill interjecting:

Dr McFETRIDGE: I think *Master Chef* causes enough stress. So, there is a number of issues that we need to cope with nowadays in this modern legislation, and I will be talking about that, but, as I said, we support this legislation.

Powers to prevent, control and manage infectious diseases that pose a serious risk to public health are streamlined and strengthened in the bill. The regulatory regime has been strengthened, allowing for authorised public health officials to take early and decisive action to prevent and control disease outbreaks. The bill seeks to recognise public health orders in other jurisdictions and allows for the exchange of public health information required to manage outbreaks.

The bill, in part, seeks to provide a South Australian response to the work of the World Health Organisation, which called for government and community action at all levels to address the social determinants of health. I am very pleased to have been part of the research for the statement (which I will read from later) which is the work of public health officers in South Australia that is used all over the world to point governments and communities towards being aware of public health in all the areas of their lives.

As I say, this bill is responding to some of the calls by the World Health Organisation for action on the social determinants of health, and there is also emphasis on the chronic non-communicable diseases which are attributable to lifestyle choices, as I mentioned previously. These lifestyle diseases are becoming more and more prevalent and will become a real burden on society if we do not encourage changes to lifestyle and preventative health. That is not to say we should become a nanny state and tell everybody what to eat, what to do, what time to get up and what to wear, but I think we should encourage people to ensure that they have some responsibility

for their own outcomes. That is an issue that I have: when do you stop being responsible for your own outcomes?

The provisions within the bill are in accordance with the WHO revised International Health Regulations (2005). Yesterday I spoke about our adopting legislation and agreements from outside this jurisdiction but, in this particular case, it is in accordance with the WHO regulations. We are not binding ourselves to any particular legislation or regulation, but we are acknowledging the fact that there are some covenants and international agreements that assist in directing us in providing a public health agenda in this state.

The legislation has also been framed with the Public Health Partnership Agreement signed in Quebec in 2008. Our own Professor Fran Baum from Flinders University was appointed a commissioner on the WHO's Commission on Social Determinants of Health and played a primary role. I spoke to Professor Fran Baum a number of months ago about this bill, and I am very pleased to say that she did play a primary role in ensuring that this bill does meet the requirements as set out by the WHO.

New features of the bill establish clear objectives and principles to cover prevention, promotion and protection. The bill provides clear definitions, particularly for public health and risk to health. The definition of 'public health' within the bill has been widened to mean the health of individuals in the context of the wider health of the community. I will go back to the definition in a moment because there are some variations in the definition across the states.

It is interesting to see in some of the submissions on the bill some discussion about the definition of 'public health'. Also, there is a policy on public health in all areas, which really broadens that definition of 'public health'. As I said, it has been widened to mean the health of individuals in the context of the wider health of the community.

The bill defines the role of the minister and local councils. The minister will be charged with the overall responsibility for administering the legislation and for protecting and promoting public health. The bill establishes a framework for the minister to provide advice and to consult with other state government agencies about public health in line with the government's Health in All Policies approach, as I have just said. It requires that the minister work collaboratively with local government to protect and promote public health in South Australia and gives the minister the power to intervene where a council may be failing in its duty to protect the public's health.

I certainly have a couple of concerns, and we need to talk about those as I get into the various clauses in the bill, because there is some concern that there may be some cost shifting going on there between the state and local government. I might be wrong, and I look forward to responses from the government.

The bill establishes the statutory position of the chief public health officer. The chief public health officer will be given a statutory position. The position will provide a single point of reference and the power to give directions and make orders, including detention orders as a last resort. However, detention orders beyond 30 days must be authorised by the Supreme Court, and mandated reviews by the Supreme Court must occur for an order extending beyond six months.

There is some fairly—what some people might call—draconian legislation here, in as much as you could really, in effect, shut the state down with this type of legislation. I have worked in the veterinarian profession, and I know that there is a real need for veterinarians to be encouraged to go country because veterinarians will be at the forefront of biosecurity in this country; and, should we get an outbreak of rabies, foot and mouth or one of those really nasty diseases, we may have to shut down the state. I do not have any objections to those powers because, if I am fortunate to be the minister, I would like to have those powers to be able to shut down the state to control an outbreak that is potentially going to wreak havoc and have long-term consequences for the people of South Australia.

There would be some short-term pain for long-term gain hopefully under that position. Some interesting clauses are in this bill, but no more than could be or should be expected with this type of legislation where we are looking after the health of the public of South Australia. The Public and Environmental Health Council will be replaced by the South Australian public health council and will comprise members appointed by the Governor, as is the current case.

This body will have responsibility to provide strategic advice and monitor South Australia's public health, as well as provide advice to the chief public health officer. The bill also establishes the public health review panel to hear appeals on matters relating to part 6 of the legislation. The

review panel membership will consist of the chief public health officer, two members or deputies from the public health council and other members with expertise as considered appropriate by the chief public health officer.

The District Court can appeal decisions made by the review panel. The bill also requires public health planning and reporting against plans, which is a terrific move. We do need to plan for future outbreaks. You need to have response plans in many areas, whether it is in the emergency services or, as in this particular case, in the public health area. Public health planning must be undertaken under the general direction of the minister, so statewide public health goals and priorities can be incorporated at a local and regional level. Unincorporated areas of the state, including Aboriginal lands, will also be incorporated into planning requirements.

Public health planning requirements will be introduced in a phased implementation process so that all parties can become familiar with the provisions. Development of a state public health policy will also be a requirement under the bill. Those policies will obviously be open for review, open for consultation, because the policies will then have a direct influence on the development of plans.

There is an establishment of a general duty preventing harm to public health for individuals whose behaviour may be placing others at risk. This bill provides for a compulsory scheme of clinical examination, counselling, direction, treatment orders and isolation or detention orders, and can be applied in a graded manner over the next few years; but, as anybody who is reading this legislation or is concerned about this legislation will see, detention really is a measure of last resort.

As I have said, as a veterinarian, I am aware of many of the serious diseases that are out there that we do not have quick cures for, where isolation or detention may be the immediate control method. That is something that I will strongly support, with oversight, and with some regard for the rights of individuals. It is not just a draconian lock them up for 40-odd days with no right to contact anybody at all, as you see with some terrorism legislation.

The bill provides for cooperation and consultation between state and local governments. Councils will be given more explicit guidance and clearly defined responsibilities regarding their public health functions. The Department of Health will continue to provide ongoing support to councils for the provision of immunisation services. If the council has failed to discharge its duty under the act, the bill still gives the minister the power to take over a function of council subject to certain stated procedural requirements. Enforcement will occur through mediation notices, and penalties for causing a risk to health have been increased, some of them quite substantially, and quite rightly so.

The bill incorporates provisions for emergency incidents. All changes from the Statutes Amendment (Public Health Incidents and Emergencies) Act 2009 are incorporated into this bill. The public health incidents or emergencies can be declared by the South Australian health chief executive, and the chief executive may appoint emergency officers under part 3, division 6 of the bill.

The bill identifies notifiable microorganisms, and includes codes of practices that will be developed on certain diseases and conditions, including injuries, so that incidence of diseases can be prevented, monitored, reduced, managed and controlled at an underlying social and environmental level. Notifiable diseases and controlled notifiable disease declaration, including those in emergency situations, by regulation will be retained. A new category of notifiable contamination will be introduced, which will require the reporting of prescribed contaminants and testing measures as required by the chief public health officer.

Contaminants can include prescribed chemical agents, heavy metals or other substances known to be a risk to health. The provision mirrors the Victorian public health legislation. Interestingly, we are mirroring the legislation there, not just adopting it. That is just another little plug for my views.

The bill has been out there for quite a while. Consultation occurred with Dean Brown in 2000 and there were many submissions back then. That was in 2000. We have obviously moved on since then and now we have this latest bill. There were, if not hundreds, many submissions again, and all those submissions were given consideration, because when you go back over the submissions on the draft bill and see what is in the current legislation, not all of them, but many of them, have been taken notice of and incorporated into the legislation we see before us today.

The South Australian public health bill was released for public comment in September 2009 and the submissions were received. The bill has been revised following the consultations and the key groups include the Local Government Association of South Australia, the Environmental Health Association (Australia), and the environmental health officers working within the public health system. The Public Health Association of Australia has put in an extensive submission as well. I know groups such as the EPA and SACOSS, others like that, have also put in; and some of the food producing groups also put in submissions.

It was interesting to see some of the submissions from the pork industry and the chicken meat industry. Their submissions were about prescribed microorganisms and they explained the fact that any handling of meat or animal products involves the unfortunate contamination with microorganisms. However, that contamination is reduced during processing of the creatures into the products and, hopefully, does not continue onto the supermarket shelves. As I mentioned yesterday, my wife and I ate some cheese manufactured from unpasteurised milk, which was listed the next day as having listeria contamination. Fortunately, neither of us had any clinical signs from that and I am past the point of having to worry about it now because my system has coped.

As a matter of fact, I was reading in this morning's paper about how we should be encouraging little kids to get out in the dirt and eat it. Now, I am not so sure about eating dirt, but I think we need to be aware of what we are doing with the handwashes and disinfectants that we are using on surfaces now. They kill 99.9 per cent of germs, but it is that 0.1 per cent of the germs that they do not kill that I am worried about because they are obviously the really tough ones. There is no need to wrap our kids up in cottonwool, because that means their immune systems are not challenged.

Personally, I think that the number of children nowadays who have allergies and suffer from asthma have not had the challenges to their immune systems that people particularly of my age had when we were kids. We used to be out and about and getting in the dirt and having great fun. We certainly did not wash our hands as much as we now like our children to do. However, having said that, we want our children to have great immune systems and, as a general rule, washing hands should not ever be overlooked, particularly before handling food or being around people who have illnesses or allergies.

I will now look at the definitions in the bill. The Public Health Act 1987 contains no definition of 'public health'. There are definitions for 'public health emergencies', 'public health incident', 'premises', 'the public health emergency plan', 'a public place', but there is no definition of 'public health'. It defines 'pollution', 'places of public assemblies', 'vermin', 'waste control systems' and 'water supply', which is interesting, because there is no definition of 'potable water' in this current bill but there is a definition of 'wastewater'. In the current bill, 'public health' is defined as 'the health of individuals in the context of the wider health of the community'.

In New South Wales legislation, there is a definition of 'public health order', 'public health risk' and 'public hospital' but there is no definition of 'public health', so they have a way to go. In Western Australia there is a definition of 'public health' which is different from ours. It means 'the physical, mental and social wellbeing of the community'. The thing I like about the Western Australian definition of 'public health' is that it emphasises the mental health of society. I think our public health plans are going to have to incorporate more and more the need to involve communities and community groups in the promotion of good mental health.

I have been involved with some teachers at Victor Harbor High School who have a program called Doctors on Campus (DOC) where local practitioners and social workers come to the school and talk to the kids (with their parents and school staff members) to make sure that they are not only physically well but also mentally well. Mental health prevention and first aid plans are something that we are aware of on this side of the house, and I hope the government is also, because we do need to make sure that we are getting in early with mental health.

I was staggered when I heard this figure: anxiety and depression cost the Australian economy $20 billion every year. That is just anxiety and depression, so if we can make sure that our friends, family and children are not being caught up in depression and becoming anxious, whether through watching the news or because they do not have the latest style phone or something as simple as that, right through to the constant threat of terrorism as you walk through the airport scanners in America, where they are having some fun at the moment with people being very stressed.

Mental health issues really do need to be emphasised more, and I do not think that they have been emphasised that much in this bill, other than in the definition. On page 9, as part of the definition, it states, 'For the purposes of this act, harm includes physical or psychological harm.' That is an area that we will need to look at.

The great thing we are seeing in public health nowadays is that at last, rather than having the Venereal Diseases Act and the Noxious Trades Act and various other acts like that, we are seeing a recognition of health in all policies. I am pleased to see that the current government has been going ahead with this policy and promoting it. The government's website, Health in All Policies: The South Australian Approach, states:

> Health in All Policies (HiAP) is an approach which emphasises the fact that health and wellbeing are largely influenced by measures that are often managed by government sectors other than health.
>
> HiAP seeks to highlight the connections and interactions between health and policies from other sectors. HiAP explores policy options that contribute to the goals of non-health sectors and will improve health outcomes.
>
> By considering health impacts across all policy domains such as agriculture, education, the environment, fiscal policies, housing and transport, population health can be improved and the growing economic burden of the health care system can be reduced.
>
> The health sector's role is to support other sectors to achieve their goals in a way which also improves health and wellbeing.

The question is asked: why do we need Health in All Policies?

> Despite major developments in the management and prevention of acute illness, chronic conditions are emerging as a significant ongoing cost to the community.
>
> The majority of these chronic conditions are preventable and are closely linked with living conditions or the determinants of health which tend to be influenced by policies outside the health sector. For example, it has been shown that transport has well recognised effects on health and inequalities.
>
> The determinants of health highlight the need for policy makers in all sectors to be aware of the impact of their decisions on population health and to act to incorporate considerations of health into their policies.

I look forward to seeing Health in All Policies being put into all policy areas. We see a lot of money being spent on superways, but I would love to see more money spent on public transport. There have been improvements, but we certainly need a lot more because we do not want people in any way to have their health affected by lack of access to public transport and any other inequalities across the government sector. The website continues:

> Implementation of HiAP provides a system which enables governments to respond in a coordinated way to the health and wellbeing needs of the population. HiAP also aims to bridge the gap in health inequalities, especially those seen within Aboriginal and Torres Strait Islander populations.

A couple of weeks ago, I had the pleasure of co-signing, with the Minister for Health, the Treasurer, the shadow minister for Aboriginal affairs (Hon. Terry Stephens), and other members of parliament, the Closing the Gap letter of intent. We all agreed to work in a collaborative and multipartisan way to make sure that Aboriginal and Torres Strait Islanders were seen as a disadvantaged group and that we are closing the gaps between their outcomes and those we are seeing in non-Aboriginal and Torres Strait Islander communities.

That is so important. If you want to see the inequalities that exist in South Australia, just go to the APY lands. On my first visit there, I think in 2003—or it might have been 2004—I was gobsmacked at the conditions I saw. There were facilities but, given the conditions they were living in, you certainly would not think they were taking any advantage of the existing opportunities. We need to make sure that we encourage particularly disadvantaged groups in rural and remote communities to get the best benefit they possibly can from living in South Australia and to have opportunities presented to them.

The Health in All Policies agenda was partly the result of a meeting with the World Health Organisation and a number of governments, particularly the South Australian government, in Adelaide earlier this year. From that, the Adelaide Statement on Health in All Policies was developed in April this year. In my reading in preparation for this debate, it became obvious that this is quite a powerful statement. It is not that long: it is four pages, which probably would not take me long to read, but for Hansard's sake I will not read it all in.

I encourage people to google it or go on to the health website and download the Adelaide Statement on Health in All Policies, because it is a very good document. I congratulate the

government on collaborating with the World Health Organisation on this policy. I will read the start of it:

The Adelaide Statement on Health in All Policies is to engage leaders and policy makers at all levels of government—local, regional, national and international. It emphasises that government objectives are best achieved when all sectors include health and well-being as a key component of policy development. This is because the causes of health and well-being lie outside the health sector and are socially and economically formed. Although many sectors already contribute to better health, significant gaps still exist.

The Adelaide Statement outlines the need for a new social contract between all sectors to advance human development, sustainability and equity, as well as to improve health outcomes. This requires a new form of governance where there is a joined-up leadership within governments, across all sectors and between levels of government. The statement highlights the contribution of the health sector in resolving complex problems across government.

It then goes onto how we are going to achieve social, economic and environmental development, the need for joined-up government, the Health in All Policies approach, the drivers for achieving Health in All Policies and the new role for the health sector. In fact, I will read this, because it is quite interesting:

New role for the health sector

To advance Health in All Policies the health sector must learn to work in partnership with other sectors. Jointly exploring policy innovation, novel mechanisms and instruments, as well as better regulatory frameworks, will be imperative. This requires a health sector that is outward oriented, open to others, and equipped with the necessary knowledge, skills and mandate. This also means improving coordination and supporting champions within the health sector itself.

I just wish that the Menadue report on the Generational Health Review saw more light than it did. I had a look at that not long ago, actually, and there is some terrific stuff in there. I know that some of it has been picked up by this government, but I think there is a lot more that could have been picked up. The Adelaide statement, under 'New role for the health sector', continues:

New responsibilities of health departments in support of a Health in All Policies approach will need to include:

- understanding the political agendas and administrative imperatives of other sectors;
- building the knowledge and evidence base of policy options and strategies;
- assessing comparative health consequences of options within the policy development process;
- creating regular platforms for dialogue and problem-solving with other sectors;
- evaluating the effectiveness of intersectoral work and integrated policy-making;
- building capacity through better mechanisms, resources, agency support and skilled and dedicated staff;
- working with other arms of government to achieve their goals and in so doing advance health and well-being.

The statement then goes on to talk about the next steps in the development process, and that is working with member states and regions of the world and taking note of other global conferences. The next global conference on health promotion will be in Brazil in 2011 followed by Finland in 2013, and then there is a Millennium Development Goals conference, which is to be held post-2015. So, it is going to continue on not just a local basis but a worldwide basis, and I am glad that Adelaide and South Australians were a part of that driving force to advance 'health in all areas' policies with the Adelaide statement.

The Public Health Association of Australia put in a number of submissions on this bill. From those submissions, it is interesting to see the areas of policy that it is involved in. The association is certainly covering health in all areas. For a start, the categories that are listed on its website are quite extensive and include: Aboriginal and Torres Strait Islander health, health promotion, environmental health, health services development, infectious and transmissible diseases, international health and international trade, obesity, political economy of health, prisoners' health, research, women's health, child health, drugs and alcohol, food in health, immunisations, injury, mental health, oral health, primary health care, weapons in war—and we go back to our 6:30 news there and the fear of terrorism. Workforce training and development is another area, because in order to have a healthy workforce, occupational health and safety are very important, and the Public Health Association has looked at policies in that area.

It is worth looking at some of the areas within policies that the association has developed. I will not go through all of those again, but under 'Aboriginal and Torres Strait Islander health', the

association is looking at Aboriginal and Torres Strait Islander people's substance abuse and that has certainly been a serious issue here in South Australia. We have seen a shift away from petrol sniffing, which is terrific, but unfortunately there has been a rise in the use of marijuana and other drugs. That is a real issue, and we are all working with Aboriginal communities to reduce that.

Under 'Indigenous health', the continuing consequences of colonisation is an interesting thing for the Public Health Association to be involved in. Once again, that comes back to mental health, anxieties, stresses and depressions and our views on where we come from and where we should be going. Prevention of violence and sexual abuse in Aboriginal and Torres Strait Islander communities is so important. We have seen that with the Mullighan inquiries, and I look forward to some further reporting on that fairly shortly in this place.

Incarceration of Aboriginal and Torres Strait Islander people is also a very important issue in terms of prisoner health. We spoke about that a few moments ago in the debate on the motion regarding the Port Augusta Prison upgrade. Our children are our future as many people say, and child health is so important. The Public Health Association of Australia is concerned with improving the health of school-age children and young people. Peri-conceptual folate and the prevention of neural tube defects is very important. We have seen how a simple food supplement such as folate can prevent lifelong deformities and disabilities. This is a very important area to look at, and it is good to see that the Public Health Association actually lists it under its child health policies.

The marketing of food and beverages to children is certainly a controversial area and there is some concern that we are going to become a nanny state, but at the same time we do want our consumers to be informed. We do want food to be labelled accurately; we do want people to know what they are eating. We talked about 'scores on doors' yesterday and about knowing whether the eatery you are going into is serving food to the high standards we should expect. That is something which, as I said yesterday, I strongly support.

I do not have an app on my iPhone that would enable me to point at the door with the radar to tell me what a restaurant is serving, because I do not know how to use the thing properly yet; I am still learning. In England, you can load up an appropriate app and point the radar at the restaurant and it will give you the 'score on the door', the menus and a whole lot of information. That is the sort of information that we look forward to being able to access. Certainly, under the Public Health Association of Australia's child health policies, the marketing of food and beverages is a very important policy.

One issue about which I have had discussions with the various community groups, and one which is a terrible tragedy for any parent, is Sudden Unexpected Deaths in Infancy and Sudden Infant Death Syndrome. It is great to see that the policies and the research being done is advancing our knowledge and that sudden infant death has reduced significantly, from my understanding. It is very important that we foster those sorts of policies and assist where we can.

Health promotion is listed under the Public Health Association of Australia's policies, and that to me is something we need to work on more. I see in one of the submissions (and I will read it a little later) that there is a concern that there is not enough emphasis on prevention and education in some areas of notifiable diseases.

Another area, of course, we are all very aware of is drugs and alcohol. The Public Health Association has policies on illicit and pharmaceutical drug misuse, alcohol and tobacco control and passive smoking. One of my pet hates is walking down the street behind someone who is smoking. You just cannot avoid it. It really gets up my nose—no pun intended. It is just disgraceful.

If people knew what they were inhaling and what they are doing to themselves and others—and then you see these young mothers, with babies in pushers, and they are smoking—you feel like going up to them and ripping the cigarettes out of their hands, but that is the society we live in. It is a democracy, and it is not illegal yet.

I say 'yet' in the rhetorical sense. I would not be surprised if at some stage somebody tries it on, but how do you enforce that? It is like alcohol, isn't it? Certainly, educating people in lifestyle changes is such an issue for people developing whole health. How the heck you get people to change their lifestyle is a real issue. I love a glass of red at night—not every night, but just every now and again—

The Hon. J.D. Hill: It's a balance.

Dr McFETRIDGE: It is about balance, as the minister says. However, with cigarettes one puff is too many. I will have more to say about passive smoking. In terms of environmental health,

the EPA put in a submission (and I will read from that a little bit later on) about some of their concerns that the environmental impacts of public health incidents are not being emphasised. However, under its environmental health policies the Public Health Association of Australia is looking at ecologically sustainable development. That is an issue that I will read in SACOSS's submission too, because they are very concerned about development, housing and community development.

Other concerns include: ecologically sustainable development, environmental health, justice (an interesting area), climate change (and there are certainly some issues there), and nanotechnology. There are some wonderful advances in nanotechnology, but there are also some concerns with some of the nanoparticles going through your skin inadvertently with, say, sunscreens—

The Hon. J.D. Hill interjecting:

Dr McFETRIDGE: No, minister, we are not going to become a 'nano state'. Another concern is uranium munitions, which was linked to their policies on weapons and war because depleted uranium weapons certainly cause massive long-term effects for the communities involved. Nuclear energy as a response to global warming is an interesting policy. I have not read that yet; I must read it. Sustainable population for Australia is another topical area that the Public Health of Association of Australia is looking at. I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 13:00 to 14:00]

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition): Presented a petition signed by 7,593 residents of Mount Gambier and greater South Australia requesting the house to urge the government to take immediate action and stop the forward sale of harvesting rights of ForestrySA plantations.

PAPERS

The following papers were laid on the table:

By the Speaker—

Auditor-General—State Finances and Related Matters Supplementary Report November 2010 (Report ordered to be published)
Local Government—
District Council of Karoonda East Murray Annual Report 2009-10
District Council of Yorke Peninsula Annual Report 2009-10

By the Premier (Hon. M.D. Rann)—

Freedom of Information Act 1991—Annual Report 2009-10
Privacy Committee of South Australia—Annual Report 2009-10
State Records Act 1997, Administration of—Annual Report 2009-10

By the Minister for Transport (Hon. P.F. Conlon)—

Adelaide Cemeteries Authority—Annual Report 2009-10
Planning and Local Government, Department for—Annual Report 2009-10
Rail Safety Regulator—Annual Report 2009-10
Transport, Energy and Infrastructure, Department for—Annual Report 2009-10
West Beach Trust—Annual Report 2009-10

By the Minister for Energy (Hon. P.F. Conlon)—

Australian Energy Market Commission—Annual Report 2009-10

By the Minister for Police (Hon. M.J. Wright)—

Police, South Australian—Keeping SA Safe Annual Report 2009-10

By the Minister for Families and Communities (Hon. J.M. Rankine)—

Barring Orders, Liquor Licensing Act 1997—Annual Report 2009-10
Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands Commission of Inquiry—A Report into Sexual Abuse Annual Report 2009-10

By the Minister for Environment and Conservation (Hon. P. Caica)—

Adelaide Dolphin Sanctuary Advisory Board—Annual Report 2009-10
Construction Industry Long Service Leave Board—
Annual Report 2009-10
Evaluation of Long Service Leave Liabilities Annual Report 2009-10
Industrial Relations Advisory Committee—Annual Report 2009-10
Maralinga Lands Unnamed Conservation Park Board—Annual Report 2009-10
Mining and Quarrying Occupational Health and Safety Committee—Annual Report 2009-10
SafeWork SA Advisory Committee—Annual Report 2009-10
Senior Judge of the Industrial Relations Court and the President of the Industrial Relations Commission—Annual Report 2009-10

By the Minister for Water (Hon. P. Caica)—

South Australian Water Corporation—Annual Report 2009-10

By the Minister for Industry and Trade (Hon. A. Koutsantonis)—

Trade and Economic Development, Department of—Annual Report 2009-10

By the Attorney-General (Hon. J.R. Rau)—

Police, South Australian—Passive Alert Drug Detector Dogs (PADD) Report August 2010

By the Minister for Tourism (Hon. J.R. Rau)—

Tourism Commission, South Australian—Annual Report 2009-10

STANDING ORDERS, MEMBER NAMING AND SUSPENSION

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:02): Madam Speaker, I seek your indulgence to ask for some clarification. Yesterday in the house, to my mind, you gave a ruling which unilaterally changes the practices and conventions of the house and, indeed, undermines the rights of members.

Members interjecting:

The SPEAKER: Order! I will give you my indulgence.

Mr WILLIAMS: Thank you. Madam Speaker, there was some discussion on a motion that a member's explanation be accepted and whether or not that motion could be debated. I have taken the opportunity to do some research of *Hansard* between the years of 1994 and 2005 and have found at least 16 occasions when members have been named. On all but three occasions the motion not to accept the member's explanation was, indeed, debated. On one of the three occasions when it was not debated there was no motion because the member so named was absent from the house. On the other two occasions nobody sought to debate the question so there was no ruling that the question could not be debated.

I contend that, if the standing orders are silent, the practices and conventions of the house, at least, demonstrated by the evidence in *Hansard*, allow for that particular motion to be subject to debate on the floor of the house.

In light of your ruling yesterday, I crave that you make a new ruling or, indeed, inform the house that you will allow debate under those circumstances until such time as the Standing Orders Committee can address the matter.

The Hon. K.O. Foley: You can't tell the Speaker what to do.

Mr WILLIAMS: I said, 'I crave.' You should have been out the front listening earlier.

The SPEAKER: Order!

Members interjecting:

The SPEAKER (14:05): Order! I will point out, first, my statement I made at the end of yesterday regarding the suspension of the member for Norwood, and I take note of what the honourable member is saying to me. I point out that, if debate on the motion without notice is permitted, then such a debate would be unique. That is the only form of debate not limited in some way by the standing orders.

I would also make the observation, as I said yesterday, that it seems odd that such an unlimited debate would be permitted on the questions of acceptance of the member's apology or explanation but that the standing orders explicitly prohibit any debate on the much more important and substantive question of the suspension of the member from the service of the house.

As I said yesterday, it is quite clear to me that the standing orders have been inconsistently applied over a long period of time, and numerous occupants of the chair have interpreted them differently. I do believe that this is a matter for the Standing Orders Committee to consider and report on.

In the meantime, I will be guided by the wishes of the house, of course, but, if the situation arises again, then I may allow some indulgence. If the member for MacKillop can leave it at this stage and, before the next sitting week of parliament, hopefully, we will have this situation resolved.

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:09): I bring up the 15th report of the committee entitled Subordinate Legislation.

Report received.

NATURAL RESOURCES COMMITTEE

The Hon. S.W. KEY (Ashford) (14:10): I bring up the 46th report of the committee, entitled Annual Report 2009-10.

Report received and ordered to be published.

The Hon. S.W. KEY: I bring up the 47th report of the committee, entitled Upper South-East Dry Land Salinity and Flood Management Act 2002 Annual Report 2009-10.

Report received and ordered to be published.

VISITORS

The SPEAKER: I draw the attention of the house to the presence in the gallery today of a group of year 6/7 students from Robertstown, who are guests of the member for Stuart. Welcome. I think we also have some people here who are guests of the member for Adelaide, from the Thebarton Senior Adult College. Welcome, and we hope you enjoy your time here today.

QUESTION TIME

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition) (14:12): My question is for the Premier. Why should South Australians believe anything this government says, when the Premier said on 6 March 2002, upon election as Premier, 'Under our government there will be no privatisation of forests'?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:12): It is really interesting that for years and years, decade after decade, we have sold the timber from our forests but kept the assets, and that is exactly what we intend to do for the future: keep it in state hands.

Members interjecting:

The SPEAKER: Order! The member for Mount Gambier.

FORESTRYSA

Mr PEGLER (Mount Gambier) (14:13): My question is also to the Premier.

Mrs Redmond interjecting:

The SPEAKER: Order! Leader of the Opposition, be quiet!

Mr PEGLER: Premier, will the decision to sell the forward rotations of the state's forests go ahead if the regional impact statement reveals that the forestry sale will have an adverse impact on the state's South-East?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:13): I want to commend the honourable member, who came to see me, sat down with me, talked about the issue, sought a number of guarantees, actually did work, rather than made noise, which is why, of course, the last time the Liberals held the seat of Mount Gambier was at the 1993 state election. That is why every election since they have elected Independents there because they actually work for their—

Mrs REDMOND: Point of order, Madam Speaker.

The SPEAKER: Order! Premier, there is a point of order.

Mrs REDMOND: On a point of order, what is the relevance of the Premier's statement? It has nothing to do with the question that was asked.

The SPEAKER: Premier, I think if you could get back to the substance of the question.

The Hon. M.D. RANN: I am very pleased to answer a question from the honourable member. If the regional impact statement on the proposed sale of the forward rotations of the forests' harvests—that's not selling the assets, it is about the harvest—

Members interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition will not shout across the chamber.

The Hon. M.D. RANN: Apparently, the deputy leader does not want the timber sold at all, as it has been for the past 100 years. If the regional impact statement on the proposed sale of the forward rotations of the forest harvest shows an adverse impact on the region, will the government proceed with the sale? That was the question he asked. A decision to investigate the sale of the forward rotations was announced as part of the 2008-09 Mid-Year Budget Review measures to reduce government debt in the wake of the unfolding global financial crisis. So, it is about the selling of the timber. An initial broad exercise in economic modelling of the potential sale was undertaken—

Members interjecting:

The SPEAKER: Order! This is an important question from the member for Mount Gambier and I am sure he is very interested in the answer so could you please give him the courtesy of listening to the Premier's response.

The Hon. M.D. RANN: An initial broad exercise in economic modelling of the potential sale was undertaken on behalf of Treasury. That study examined a broad range of options, including for a potential sale through to maintaining the current business model. Treasury is now in the process of engaging an appropriate—

Mr PISONI: Point of order.

The SPEAKER: Point of order, member for Unley.

Mr PISONI: On Thursday, 11 November, around about 3.20 in the afternoon, when the member for Waite was speaking he was addressing television cameras, and the member for Croydon—

An honourable member interjecting:

Mr PISONI: This is 104. The member for Croydon asked you to direct the member for Waite to address the chair and not the cameras and—

The SPEAKER: Yes, all right, I get your point of order, member for Unley. You can sit down.

Mr PISONI: —I ask now that you uphold that point of order for the Premier.

The SPEAKER: You can sit down. The Premier is very aware that he needs to address answers through the chair, but I think he is also talking to the member for Mount Gambler.

The Hon. M.D. RANN: I am determined to give the member for Mount Gambier an answer to his question because he deserves one. I will go back: a decision to investigate the sale of the forward rotations was announced as part of the 2008-09 Mid-Year Budget Review measures to reduce government debt in the wake of the unfolding global financial crisis. An initial broad exercise in economic modelling of the potential sale was undertaken on behalf of Treasury. That study examined a broad range of options, including for a potential sale through to maintaining the current business model. Treasury is now in the process of engaging an appropriately qualified external economic consultancy to conduct a thorough consultation process and produce a regional impact statement.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: That consultation will be with key stakeholders, including the local members of parliament, local councils, timber industry representatives, key unions, chambers of commerce and others. The regional impact statement, which will be made public, will advise cabinet on: first, the issues and the views expressed in the consultation undertaken in relation to regional issues; secondly, the impact of proposals—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —on regions and regional interests; thirdly, the full range of costs and benefits of the proposal on the region and its community and, in particular, on employment; fourthly, strategies for managing the identified risk, impacts and issues, including the impact on downstream industries; and finally, the impact of the proposals on social inclusion and economic development within regions.

The regional impact statement will, therefore, identify any potential impacts on the region and its economy and possibly conditions needed to be placed on the potential sale to mitigate those impacts. If, as a result, the potential sale is no longer economically viable, then the government will not proceed with the sale. If it is not good for the economy, not good for finances, not good for the state, not good for the region then we will not proceed with the sale. It is expected that the government —

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —will receive the regional impact statement by the end of the first quarter of next year. Ahead of the appointment of the external consultant to undertake the consultation and regional impact statement, the Treasurer today met with the Chairman and Chief Executive of Forestry SA to assure them of the government's position. This afternoon the Treasurer has also invited the mayors of the South-East councils to a meeting to provide similar assurances.

So, there it is: the regional impact statement recommended by the member for Mount Gambier—a whole series of initiatives recommended by the member for Mount Gambier. What we want to do is to do this properly. Obviously, the future of the forestry industry is critically important to this state, as is the future of the South-East of this state. That is why we are doing this. We are going to make sure it is good for the industry, good for the region and good for the state.

Mr Williams interjecting:

The SPEAKER: Order, the deputy leader!

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition) (14:20): My question is to the Minister for Forests. Will the minister guarantee that there will be no job losses due to the sale of the state's forests?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (14:20): The world's greatest agriculture minister he may be, but he is not responsible for the sale of ForestrySA; I am as Treasurer.

Mrs Redmond: He has been talking about it.

The SPEAKER: Order! The Leader of the Opposition will be quiet.

Mr Williams interjecting:

The Hon. K.O. FOLEY: Well, it was unfortunate that information was released publicly about options the government was considering, because that was never intended and, unfortunately, anxieties and concerns were unnecessarily raised.

Mr Williams: No, not unnecessarily; you've been exposed.

The SPEAKER: Order!

The Hon. K.O. FOLEY: The minister should not have made public information that he did, and that is regrettable.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: And I don't know why he did, but what I can say as the minister responsible, the Treasurer, is that that particular piece of work was done to give advice to government in the broad as to what options were available in the lead-up to our budget, and there were a whole number of options that were immediately discarded, such as full privatisation. As the Premier has said—

Mrs REDMOND: Point of order, Madam Speaker, on relevance. The question was about guaranteeing no job losses in the South-East as a result of the sale.

The SPEAKER: The Treasurer can answer, and this is quite a comprehensive answer so I think we should listen. I am sure he will wind up soon.

The Hon. K.O. FOLEY: The intent of the 2008 decision, if it was financially prudent to do so, would be to sell two or three timber rotations, maintain ForestrySA as the commercial entity, have contractual obligations and have them maintaining the commercial sale and business model that they currently have. The Premier said it very well. We sell a certain number of logs a year. What we are doing here is capitalising, in a sense—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I tell you what, if we ever made a decision to ban the sale of timber, ForestrySA would go broke, so they have to sell timber.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I and the cabinet had a view that it is not inappropriate for government to consider the sale of forward rotations, bearing in mind the Liberal Party sold harvesting rights of the forests for many, many years. Remember that?

Ms Chapman: Remember the State Bank?

The SPEAKER: Order!

The Hon. K.O. FOLEY: Remember that?

The SPEAKER: Order! Deputy Premier, get back to the question.

Mr Williams: You are making it up.

The Hon. K.O. FOLEY: I am making it up?

Mr Williams: We signed forward contracts.

The Hon. K.O. FOLEY: Forward contracts. I think that is what we are talking about doing—there you go! The deputy leader has admitted that the Liberal Party sold forward contracts for the harvesting rights of Forestry SA, and that was such a good method we are looking at doing it for the trees themselves.

Mr Williams interjecting:

The SPEAKER: Order! Deputy leader, be quiet!

The Hon. K.O. FOLEY: I just quoted what you just said. Were you wrong?

Mr Williams: They weren't to the Chinese either.

The SPEAKER: Order!

The Hon. K.O. FOLEY: Sorry?

Mr Williams: They weren't to the Chinese either.

The SPEAKER: Order!

The Hon. K.O. FOLEY: What have the Chinese got to do with it?

The SPEAKER: Treasurer, don't respond to the deputy leader.

The Hon. K.O. FOLEY: Are you saying that we are selling the timber to the Chinese?

Members interjecting:

The Hon. K.O. FOLEY: Throw a bit of xenophobia in there, too. That's trademark Liberal Party: throw in a bit of xenophobia. This is a very important issue, because it does concern me that there are people here today, people out the front of the parliament today and people in the South-East—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Well, Madam Speaker, I think this is important for the people who have made the effort to come to hear my answer.

Members interjecting:

The Hon. K.O. FOLEY: I would ask the opposition to show some respect for people who have come a long way and have anxieties and concerns about their future.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: There will be no decision by the government that will adversely impact on jobs and the timber industry in the South-East of this state. I said that back in 2008, I have said that repeatedly in the parliament.

Ms Chapman: You said that on budget day.

The Hon. K.O. FOLEY: I beg your pardon? What did I say on budget day?

The SPEAKER: Treasurer, do not respond to questions from the opposite side.

The Hon. K.O. FOLEY: It is unfortunate that anxieties were raised in the South-East that need not have been raised. The government is not selling the business; it never was selling the business.

Mr Pengilly interjecting:

The SPEAKER: Member for Finniss, behave!

The Hon. K.O. FOLEY: The only decision that we will take as a government will be this: the sale of the forward rotations—which is the timber itself—contracted for the full life of the sale to be processed and commercially traded and sold as it currently exists. The front end of the business, the operations of ForestrySA, the way they market, sell—

The Hon. P.F. Conlon: Own the land.

The Hon. K.O. FOLEY: —own the land, whatever they choose to do in their normal course of business as of today, will not change. It may well be an investment fund. It may well be Cbus, for example. I would not be at all surprised if the union industry fund that covers timber workers might not want a slice of that as a good long-term investment. I would be very surprised, given the type of investments that they like to do. It is a good guaranteed income stream for a superannuation fund, pension fund, an investment fund—

Mr Williams: But not for the state—a good guaranteed income stream. It's so good that you want—

The SPEAKER: Order! The Treasurer is answering the question, not you.

The Hon. K.O. FOLEY: I would not be at all surprised if you see some very strong interest from domestic fund management companies and superannuation companies. As I said, the impact statement will ensure that, if there are any negative impacts on employment—and I cannot see how there will be, other than the normal threats and risks that go along with the forestry business itself; and talking to the chairman today, there are talks about potential sawmills in the South-East. The reason we took this decision is that there has been a global financial crisis—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Have a look at what the Auditor-General said.

An honourable member interjecting:

The Hon. K.O. FOLEY: You say there is not a global financial crisis; what has happened in Ireland in the last 48 hours?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Those people across the aisle have no concept of what is going on in the real world. What would happen if Spain should go the way of other countries?

The Hon. P.F. Conlon: Greece.

The Hon. K.O. FOLEY: Greece. You have only to look at what occurs on the world stock markets, you have only to look at the bond yields, to see the direction they are heading in, to see the volatility that is still out there. What we can do, if it goes well—the sale of this asset, the timber—is we can relieve from the state's balance sheet a substantial amount of debt. In this environment, that is a sensible thing to do, but it will not be done—and I apologise to the people of the South-East for any concern that they may have, because this government has no intention of doing anything to the business of ForestrySA that will negatively impact on the livelihood and the future of the businesses. That will not occur. That was always the case; that has never changed, and it won't change in the future.

Members interjecting:

The SPEAKER: Order!

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition) (14:29): I have a supplementary question.

The SPEAKER: If it is supplementary.

Mrs REDMOND: It is, Madam Speaker; it is directly supplementary. Will the Treasurer put into a contract for the sale of the forests a clause to guarantee no job losses in the South-East?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (14:30): I do not know where the leader has been for the last three or four weeks. I have been saying it in here; I have said it on public radio. Unfortunately, this debate has got ahead of itself.

Members interjecting:

The SPEAKER: Order!

Mr Pengilly interjecting:

The SPEAKER: Member for Finniss, be quiet or you'll go out.

Mr Venning interjecting:

The Hon. K.O. FOLEY: I beg your pardon, Ivan?

The SPEAKER: The Treasurer will just answer the question and not respond to interjections.

The Hon. K.O. FOLEY: I am not going to answer questions if they want to keep yelling abuse at me. The government is only now in the process of engaging the appropriate expertise to provide to government a considered economic and financial analysis—apart from the separate work being done on the regional impact statement—as to what is the best way to move forward: two rotations or three rotations and, if we do it, what contractual obligations should we tie to the project to ensure that the things that I have said in this parliament are guaranteed. In relation to guarantees of job losses, I do not know what job losses may or may not occur in the natural operation of ForestrySA as it exists today. I do not know what is going to happen to building cycles with the housing markets—

The Hon. P.F. Conlon interjecting:

The Hon. K.O. FOLEY: Technology—I don't know how—

An honourable member interjecting:

The Hon. K.O. FOLEY: Well, I don't know how at present ForestrySA operates its workforce, so I am not about to intercede in an independent arm of government, but what I will say and I will repeat, if people want to listen: the government will—and I have said this some weeks ago in this parliament—contractually oblige a purchaser to deliver the required outcomes of government. That is the work that we are now starting.

The report that was released publicly was an internal working document for Treasury to understand what the potential was and how we should move to this stage. It should not have been made public, not because it was hiding anything because it was not a document that was sensitised or in any way—

An honourable member: Sanitised.

The Hon. K.O. FOLEY: No, I said sensitised. It was not done to show government and to tell government how to proceed with this as a long-term sale. It was simply—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: It was, as we do often in government, an internal paper that showed us what was possible in a broad approach. The report made it clear to government that now, if you are going to go ahead with any of these options, you need to undertake the more detailed work. That is a prefeasibility study. It is, and I would have thought that commercial people opposite would know that prefeasibility studies on anything are not documents that are necessarily released because what in fact ends up being the result of what you choose to do in government may not bear a lot of resemblance to what was initially scoped by the people. I apologise to the people of the South-East for that being made public. It should not have been. Unnecessary anxieties and concerns were raised. I hope we put them to bed today.

Members interjecting:

The SPEAKER: Order! If you want to talk, can you go outside the chamber please. This is question time, not discussion time.

ONCOLOGY SERVICES

Ms FOX (Bright) (14:34): My question is to the Minister for Health. What improvements are being made to oncology services at Mount Gambier Hospital as part of the government's election commitment to improve the range of services available locally for country South Australians suffering from cancer?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the

Arts) (14:34): I thank the member for her important question. I am very pleased to be able report that two rural cancer care coordinators have recently been appointed at Mount Gambier and will supplement more frequent visits from consultant medical oncologists who have also commenced working in that community.

Country Health SA's Director of Cancer Services, Dr Jacqui Adams, will now provide a twice monthly visiting oncology service at the Mount Gambier District Health Service, while Associate Professor Tim Price continues his remote telephone service to that community. Mount Gambier also continues to benefit from regular visits by the radiation oncologist, Dr Scott Carruthers. I take this opportunity to thank the doctors involved for their service commitment.

Dr Adams' visits will be supported with increased telemedicine facilities that will allow online videoconference consultations with cancer care coordinators in Mount Gambier and with specialists in Adelaide, further reducing the need for patients to travel to Adelaide—

Mr Goldsworthy interjecting:

The Hon. J.D. HILL: I wouldn't have thought this was amusing, to laugh at cancer care services in the South-East.

Dr Adams and cancer care coordinators, Rachel Walkom and Julie Campbell, will be welcome additions to that local team. Travelling long distances to receive cancer treatment can be extremely stressful for patients, as everybody here would understand, so having a visiting oncologist of Dr Adams' experience and stature available for their care in the South-East will make a real difference.

Patients will also benefit enormously from the appointment of the cancer care coordinators. These coordinators will work to make sure cancer patients receive integrated care, and by providing a single point of contact for referrals they can help make the experience of treatment easier to understand and negotiate.

The government is committed to providing quality health services closer to home for country residents. Our long-term strategic goal is to increase the range of services to ease the burden of travel on country people who do require medical care and to better utilise the health infrastructure that does exist in the country.

The 2010-11 budget committed $714.5 million to public health services in country South Australia. That was 13 per cent or $84.1 million more than the previous year. Of course, that 13 per cent was a greater increase in the statewide increase, which in itself was larger—10.5 per cent. In fact, spending on country public health services has increased by $334 million or 88 per cent, compared with 2001-02. We are investing in more elective surgery, cancer treatment and renal services in country hospitals to reduce the need for people to travel to Adelaide for routine care.

These services in Mount Gambier are, in part, funded by the government's $5.9 million election commitment to introduce a new electronic oncology prescribing system and the necessary staff to ensure the delivery of more chemotherapy in the country.

In addition to the election policy, $69.3 million in state and commonwealth funding has been committed to a new regional cancer centre, as I am sure you would remember, Madam Speaker, at Whyalla. The state government has also won $5.4 million of commonwealth funding for 11 chemotherapy units right across South Australia. Put simply, the commonwealth government is providing funds to build the infrastructure, while we are providing the staff and the electronic software.

Government funding will supplement state services in Mount Barker, Mount Gambier, Port Augusta, Victor Harbor, Clare, Murray Bridge, Gawler, the Northern Yorke Peninsula, Naracoorte and Port Lincoln. In addition, state funding will provide services in Port Pirie and Berri. On the point of Port Pirie, as the local member for Frome understands, Port Pirie has had an excellent cancer service that has been running there for a number of years.

I think they were providing about 25 per cent of the oncology services to country South Australians, not because there were more people with cancer in that community, but they had some infrastructure which is providing that service. Our goal is to learn from what has happened in Port Pirie and expand that service right across country South Australia. So, I do commend the hospital at Port Pirie and the staff there who have been running this service very successfully now for some time.

By improving the physical infrastructure, introducing new technical infrastructure, such as telemedicine and electronic prescribing systems, and increasing staff in country areas, country patients will be able to receive more and more complex levels of cancer services closer to home. This will alleviate the need for patients and their families to travel long distances and organise accommodation in what, as everybody would understand, are often very stressful times.

FORESTRYSA

The Hon. I.F. EVANS (Davenport) (14:34): My question is to the Treasurer. Why should South Australians believe that no decision to sell forward rotations of the state forests has been made, when the expected revenue from the sale is already in the state budget forward estimates and the Minister for Forests told the people of the South-East that the sale is needed to protect the AAA credit rating?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Federal/State Relations, Minister for Defence Industries) (14:40): Madam Speaker, I do not know whether it is appropriate to repeat an answer that I gave to this very same question, I think from the very same member some weeks ago, from memory, when we were discussing this in the Auditor-General's Report. Of course it is in the forward estimates. I said that two years ago.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I will go through, Madam Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I will go through, Madam Speaker—

Members interjecting:

The SPEAKER: Order! The members on my left will be quiet and listen to the Treasurer's answer.

The Hon. K.O. FOLEY: I've answered it, Madam Speaker. If they are not going to—

Members interjecting:

The SPEAKER: Order! The member for Light.

Mr Venning interjecting:

The SPEAKER: Order! Member for Schubert, behave yourself. The member for Light.

SMALL BUSINESS

Mr PICCOLO (Light) (14:40): My question is to the Minister for Small Business. Can the minister update the house on the progress of the government's plans to establish a small business commissioner and reform the franchising sector?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services, Minister for Gambling) (14:41): I acknowledge the member for Light's keen commitment in this area and, of course, his work. On 1 October this year, I announced plans to draft legislation to establish a small business commissioner. The small business commissioner will have various functions including:

- receiving and investigating complaints by small businesses regarding unfair market practices;
- mediating between parties; and
- mediating retail tenancy disputes between small businesses and landlords.

The model for the small business commissioner will be based on the model that has been very successful in Victoria. The draft bill is currently progressing and the government expects to have it available for public consultation and comment early in the new year.

I can advise the house today that a specialist steering committee has been established to guide the set-up of the office of small business, and the commissioning of a small business commissioner, and also to advise on the best possible framework for the new franchising

legislation currently being drafted. The small business commissioner steering committee will be responsible for providing the governance framework for the commissioner.

The committee will include senior government officials from agencies directly involved in matters that affect small businesses on a daily basis. I can also advise the house that one of Australia's leading experts on consumer and franchise law, Associate Professor Frank Zumbo of the University of New South Wales, will provide advice to the steering committee on the structure of the commissioner's office, its objectives and key components of the franchising legislation.

Associate Professor Zumbo has been at the forefront of business and franchising law reform for almost 20 years, and his experience will be instrumental in ensuring the steering committee addresses the key issues of concern facing small business operators and franchisees as the legislation is drafted. Associate Professor Zumbo joined the School of Business Law and Taxation in 1991. His research and professional activities are focused on competition and fair trading law, franchising and business ethics. He is a member of the Trade Practices Committee of the Law Council of Australia. He has served in an expert capacity on two Australian federal government-appointed committees established to advise on codes of conduct within franchising and retail grocery sectors.

Associate Professor Zumbo has also served on an international study group of franchising experts convened by UNIDROIT (the Rome-based International Institute for the Unification of Private Law) to draft a model franchise disclosure law aimed at facilitating uniformity in international franchising regulation. Throughout his career, Associate Professor Zumbo has been closely involved in promoting effective laws against unethical corporate behaviour, ensuring Australia has the best possible competition, consumer and franchising laws, and we welcome his expertise and advice to the small business commissioner steering committee.

This reform again shows that the Rann government is best equipped to manage the state's small business sector and economy and retain our AAA credit rating. This government has created 115,000 additional jobs since coming to office and is committed to creating an additional 100,000 jobs by 2016.

I am confident that the bill to draft the small business reform will be ready for public consultation early in the new year, and I look forward to debating this very important legislation in this house when we reconvene. I also welcome the support of the shadow minister during estimates committee when he signalled his personal support for these reforms. Again, I take the opportunity to acknowledge the member for Light who has worked tirelessly to keep this issue on the government's agenda, and I am sure that small business owners, not only in the electorate of Light but also across the state, are very grateful for his work.

Mr GRIFFITHS: Point of order, Madam Speaker: I hate to say it, but I am not sure whether the minister is slightly misrepresenting some comments I might have made in estimates. We certainly talked about his flagging an intention to appoint a commissioner, but I wanted to see things first before I indicated what my position was.

The SPEAKER: Member for Goyder, you can seek leave to make a personal explanation at the end of question time. I am sure that the minister is about to round up his answer.

The Hon. A. KOUTSANTONIS: I am. I wish to apologise to the member for Goyder. He is a decent man. He did say that he supported it in principle, and I am sorry if in any way I have verballed him, so I am sorry about that. I understand. He did qualify his advice—

The SPEAKER: Order! There is a point of order. The member for MacKillop.

Mr WILLIAMS: There is no relevance to the question asked with what the minister is going on with now.

The SPEAKER: I think he is responding to the previous point of order. Minister, can you wind up your answer, please.

The Hon. A. KOUTSANTONIS: In addition to the member for Light, I would also like to thank the members for Enfield, Mawson, Kavel, Goyder and MacKillop for their hard work when they served with me on the Economic and Finance Committee when we inquired into franchising and produced a report in 2008. That is the driving force behind this reform, and I remind members opposite that it was unanimous.

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition) (14:46): My question is to the Minister for Forests. Given that the minister told the forestry forum in Mount Gambier on 20 October:

> Because of my old socialist leanings, I've got a bit of time for retention of this asset in state government.

Did he have any discussions regarding sale of the state's forests on his recent trip to China, and what were the outcomes of those discussions?

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Northern Suburbs) (14:46): I thank the—

Members interjecting:

The Hon. M.F. O'BRIEN: Yes. I thank the—

Members interjecting:

The SPEAKER: Order!

An honourable member interjecting:

The Hon. M.F. O'BRIEN: Yes—very serious question. I thank the Leader of the Opposition for the question. I would just like to clarify a comment made—

Mrs Redmond interjecting:

The Hon. M.F. O'BRIEN: No, I would like to clarify a comment made by the Treasurer. If you look at the transcript—

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: —and this proposition that somehow me going down there and actually taking people into my confidence has created a level of angst that was not there prior to me going is a bloody nonsense. I said quite specifically that we will be doing a rigorous regional impact statement because we want to get this process right. Mayor Sage asked:

> With the impact statement, is there going to be any opportunity for us to have input into that?

So, I was talking about the regional impact statement down there, and I said that it was going to be rigorous. I said:

> I think you are going to sit at the heart of the impact statement, and, as I said, the reason that I'm down here tonight is to start the process. I have got a bit of a feel now for the concerns, and as far as is practicable they will be taken into all the conditions that are attached to the contract.

There being a disturbance in the gallery:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: As for my visit to China, I did a number of things while I was there. In Shanghai I visited Elders Fine Foods and wine; and, as an old Elders' executive, they wanted to show me their new facility. The cold rooms are stacked with T&R beef (which comes out of South Australia), a lot of Barossa fine lamb and seafood. They wanted to show me their facility and the opportunities for further growth of South Australian beef and lamb and also South Australian seafood.

We talked about options to increase their profile as far as South Australian wines are concerned. I returned and I have put a number of wineries in touch with Elders. I visited Michell's wool in Shanghai to have a look at its wool-processing facility. David Michell spent a day with me. He wanted me to meet the deputy director of the trade zone in which this facility is operated. There is an issue in there in that it is on a yearly contract. They felt that having a government minister might give a bit of longer term surety to their presence in Shanghai.

In Hong Kong I participated in the opening of the Hong Kong International Wine and Spirit Fair. Why that was important was because in addition to the fact that this is Asia's pre-eminent wine and spirit fair, with something like 450 exhibitors and 9,000 purchases, Australia this year is the partner country and we did not have ministerial representation either at the commonwealth

level or the state level. So, I was there basically representing the nation's wine producers. I believe that that is my role, because South Australia is pre-eminent in the wine industry, with something like 60 per cent of our production going overseas.

I auspiced a group of young South Australian wine producers from the Barossa, who needed a bit of representation—the Old Vine Charter boys—and I co-hosted with the Australian Consul General a lunch at his residence with a selection of Old Vine Charter wines. The interesting thing here is that we are going head to head with the French in this market, but, because of the phylloxera outbreak, the oldest grenache, shiraz and, I think, riesling wines are actually from the Barossa Valley. So, we have a very good story to tell in the Asian market in terms of the age and historic legacy attached to our wine industry.

I visited Shandong Jinan, and met with the Vice-Governor of Shandong province. We have a sister state relationship and I—

Mr Williams interjecting:

The SPEAKER: Order! Point of order.

Mr WILLIAMS: Are you going to get to timber?

Members interjecting:

The SPEAKER: Order! I cannot hear the minister and I cannot hear the deputy leader.

Mr WILLIAMS: On a point of order: the question was, did the minister discuss the sale of timber to the Chinese, and we did not expect to get a travelogue from the minister.

The SPEAKER: Minister, I think you could wind up your answer fairly shortly.

The Hon. M.F. O'BRIEN: Just to conclude, I thought the other side of the house might be interested, particularly in Elders and Michell, but at no stage did I have any meetings or have any discussions about the sale of timber.

FORESTRYSA

Mrs REDMOND (Heysen—Leader of the Opposition) (14:52): My question is again to the Minister for Forests. Does the minister agree with the Treasurer's comment today that what the minister said at the South-East forum should not have been made public, and who should the public of South Australia believe: the minister or the Treasurer?

The SPEAKER: Order! Before the Treasurer stands—you can choose to answer that question if you wish, minister.

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Northern Suburbs) (14:52): It was a closed meeting. An invitation was issued to the Treasurer and myself to address a public meeting. I said I would attend; I think the Treasurer was busy. It was then decided by the organisers in the South-East that they would make it a private meeting, and on the basis of it being a private meeting—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: The fact of the matter is that, if I had known that it was going to be a public meeting, the rules may have been a little different, but the information that I made available that evening was to a private meeting of concerned South-East business and community leaders, and I did the right thing by them.

Members interjecting:

The SPEAKER: Order!

CRANFIELD UNIVERSITY

Mr PISONI (Unley) (14:53): I wish I had a question for the agriculture minister, but I have not. I have one for the Premier. On which date was the Premier telling the truth? Yesterday, when he said that the Cranfield University did not offer degrees, or was he telling the truth when he told the house on 30 May—

The SPEAKER: Point of order. The Minister for Transport.

The Hon. P.F. CONLON: The nature of the question is that the Premier did not tell the truth to the house.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: What was implied in the question—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Wait for a moment. If you would let someone finish a sentence. If you could have the courtesy that you should have had when you were at the bar. If I can talk to you, Madam Speaker, instead of the rabble on the other side, the question implies that on one of the occasions the Premier did not tell the truth to the house. If they wish—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Anyone on that side should know—it is well known to everyone—if you wish to do that you must only do it by substantive motion or by raising a matter of privilege. They cannot ask a question like that.

The SPEAKER: I uphold that point of order, definitely. You either rewrite or reword your question, or we will move onto the next question, member for Unley.

Mr PISONI: Thank you very much for your sound and solemn advice, Madam Speaker. On which date was the Premier correct: yesterday, when he said that Cranfield—

The Hon. A. Koutsantonis interjecting:

Mr PISONI: No, wait for it, Tom. I know you're in a hurry.

Members interjecting:

The SPEAKER: Order!

Mr PISONI: On which date was the Premier correct: yesterday, when he said that Cranfield University did not offer degrees or when he told the house, on 30 May 2006, 30 May 2007 and 30 September 2007, that Cranfield University would offer degrees?

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: It is very interesting. I have just seen a press release from the shadow minister for education. It says—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: This is from the shadow minister for education. He won't—

Mr PISONI: Point of order.

The SPEAKER: Point of order, member for Unley. What number?

Mr PISONI: The question was not about food bank, it was about the Premier's claims about Cranfield University yesterday about degrees and, as usual, he's dodging the answer.

The SPEAKER: If you're talking about relevance, sit down. The Premier can answer the question.

The Hon. M.D. RANN: Absolutely about education. Rann's food bank hypocrisy—all spelt wrongly.

Members interjecting:

The SPEAKER: Order!

Mr PISONI: Point of order.

The SPEAKER: Point of order.

Mr PISONI: The question was about the Premier's claim that degrees were never to be offered at Cranfield University—nothing to do with food bank. Set up a Dorothy Dixer if you want to have a go at me but answer the question.

The SPEAKER: Order! Sit down, member for Unley. The question was directed, but the Premier has only just started answering his question. I suggest he gets to the point of the question.

The Hon. M.D. RANN: It is about education. The shadow minister for education who can't add up, can't spell—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —can't spot a forged document, can't run a business except—

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order! Point of order. Premier, sit down. Point of order, deputy leader.

Mr WILLIAMS: The question is seeking clarification on when the statements to the house from the Premier were correct.

Members interjecting:

The SPEAKER: Order! I direct the Premier back to the question.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: In the University City process we have seen a number of things happen: we have gone from 8,000 international students in this town and this state to about 35,000, and it is now our third biggest export. We have won $44 billion—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —worth of defence projects because that's the difference—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: And we have Carnegie Mellon here offering degrees, and we have University College London, No. 4 in the world, offering degrees, and we have the member for Waite—God bless him—praising the Royal Institution of Science that has come here and—

Mr PISONI: Point of order.

The SPEAKER: Point of order, member for Unley.

Mr PISONI: Point of order, relevance, Madam Speaker.

The SPEAKER: I don't think point of order of relevance comes into this. You are not listening, and you are not listening, so I think we can finish that question and move onto the next question. Do you have another question, member for Unley?

Mr PISONI: Madam Speaker, the Premier made claims in parliament yesterday that contradict claims he made on three previous occasions. I ask that you rule that he—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! If you sit down and be quiet I will let him finish the answer, but if you are going to keep gibbering I am not going to bother. We will finish question time. Premier, do you want to finish your answer?

The Hon. M.D. RANN: Thank you. So, we have these organisations offering degrees and, yes, Cranfield University in Britain does offer degrees. It is one of the world's great defence

industry universities, and we actually signed a deal with them for business development because we were trying to fill holes in the system of—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: We were trying to fill holes in the skills set that we were offering to win defence projects. There were areas where we were not strong, but we got them strong because we have people like Cranfield University now entering into relationships with universities here offering degrees in a whole range of areas that they are currently being negotiated.

The SPEAKER: Member for Unley, do you have another question?

Mr PISONI: I do, Madam Speaker.

CRANFIELD UNIVERSITY

Mr PISONI (Unley) (14:59): My question is for the Premier. Who should South Australians believe: the Premier's office, who told media outlets yesterday that Cranfield University has had 89 students, or Cranfield University's UK office, who told the South Australian parliamentary library in writing this month, 'Cranfield haven't registered any students at Adelaide since we are not, as yet, offering any courses'?

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:00): They are going to name a hamburger after him in a shop in Unley Road, I am told; it is going to be half tongue and half chicken because he always makes these wild, wild statements.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Cranfield University—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —on 23 August 2010—

The SPEAKER: Order Premier! Will we please have less noise on this side of the house. Premier, finish your answer.

The Hon. M.D. RANN: Cranfield University, on 23 August 2010, signed an MOU with the University of Adelaide to continue work for a joint degree—a joint degree—and/or joint executive education in electronic or information warfare. Cranfield has also commenced discussions with Flinders University in the fields of explosives ordnance and forensics. Cranfield is expected to formalise its relationship with Flinders University in explosives ordnance and forensics in 2011.

Cranfield is planning to commence its electronic delivery into Adelaide from its electronic classroom in March 2011 as part of its collaboration with university partners. For example, Professor Stephen Murray, head of the Department of Management and Security, has agreed to provide guest lectures to Flinders University honours students in March 2011 through electronic delivery.

Of course, Professor Ian Wallace, head of Cranfield Defence and Security, has agreed to continue work with the South Australian government following the expiry of the three-year business development agreement on 12 July 2010. Cranfield will continue to collaborate with partner universities in Adelaide. The model is to develop joint masters and/or joint executive education programs whereby the significant defence and security expertise of Cranfield will complement the expertise of local universities.

Cranfield's Professor of Resilience plans to develop their academic relationship with the Torrens Resilience Institute, which also has the University of Adelaide, the University of South Australia and Flinders University as their founding partners. The Director of the Torrens Resilience

Institute is actively working with the partners to secure further contracts to develop training modules and to undertake research projects. Also, Professor Ian Wallace is committed to an ongoing relationship with the SA government and collaboration with South Australian universities whereby Cranfield's specialist defence and security expertise is made available, particularly through electronic delivery.

I know you will be interested in this because you are absolutely serious about this: the establishment of the Torrens Resilience Institute. In November 2008 the University City Project began negotiations with Cranfield University for the establishment of the Torrens Resilience Institute in Adelaide, based on its existing UK Resilience Centre. Consultations regarding the feasibility of the Torrens Resilience Institute occurred with Cranfield University, the University of Adelaide, Flinders University and the University of South Australia. These four universities are the founding partners in the Torrens Resilience Institute.

Successful negotiations between the University City Project and Cranfield University secured the services of Mr Alastair McAslan to become the inaugural Director of the Torrens Resilience Institute in Adelaide. Mr McAslan was the former director of the—

The SPEAKER: Order! Point of order.

Mr WILLIAMS: The point of order is relevance. The question is about the discrepancy between—

The Hon. P.F. Conlon: Where is relevance in the standing orders?

The SPEAKER: Order!

Mr WILLIAMS: Standing order 98.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

Mr WILLIAMS: You got it horribly wrong yesterday, Patrick. You got it horribly wrong yesterday, my friend.

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: You got it horribly wrong.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order! The Minister for Transport will be quiet. You have a point of order?

Mr WILLIAMS: My point of order, standing order 98, which states—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: 'In answering such a question, a Minister or other Member replies to the substance of the question'—relevance; 'substance of the question'. The substance of the question asked was the discrepancy between—

The SPEAKER: Order!

Mr WILLIAMS: —what is coming out of Cranfield—

The SPEAKER: Order! Sit down! The deputy leader will sit down! Ninety-eight is about debating, not about relevance. However, Premier, would you like to finish your answer as soon as possible? We are nearly finished question time.

The Hon. M.D. RANN: I will finish off because I know that everybody wants to know what they have been doing. Successful negotiations between the University City Project and Cranfield University secured the services of Mr Alastair McAslan to become the inaugural Director of the Torrens Resilience Institute in Adelaide. He was the former director of the Humanitarian Resilience Centre at Cranfield University in the UK. He was awarded an Officer of the Order of the British Empire by Her Majesty the Queen in 2002 for his work in developing—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —international standards for humanitarian de-mining. In 2008, Cranfield University was awarded the Queen's Anniversary Prize for higher education for this project in developing national capabilities in post-conflict countries.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: He commenced work as Director of the Torrens Resilience Institute in the latter half of 2009. I am very pleased to inform the house that the institute—this is the thing; you do not think anything is happening—was awarded a grant of $290,000 from the federal Attorney-General's Department on 2 July 2010 to evaluate the national Emergency Alert Program, which was introduced following the Victorian bushfires but, no doubt, you will criticise that as well.

Members interjecting:

The SPEAKER: Order!

CRANFIELD UNIVERSITY

Mr PISONI (Unley) (15:06): I ask a supplementary question. Premier, do you stand by your office's advice to media outlets yesterday that 89 students had been enrolled at Cranfield University—yes or no?

The SPEAKER: Order!

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:06): I am not aware of what was advised. They run short executive courses and have been working on business development and working on the Resilience Institute—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —and working with the University of Adelaide and with Flinders, but they do not have degrees like the University College London or like Carnegie Mellon.

Members interjecting:

The SPEAKER: Order! I am going to count that as a question, not a supplementary question.

NUMERACY AND LITERACY

Ms FOX (Bright) (15:07): As a former teacher, I would be very interested in the answer to this question.

Ms Chapman interjecting:

Ms FOX: Don't you believe I was a teacher?

The SPEAKER: Order!

Mrs Redmond: It's hard to believe.

Ms FOX: It's hard to believe? Well, let me—

Members interjecting:

The SPEAKER: Order! The member for Bright will get back to her question.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

Ms FOX: I would actually like to point out that I do have a BA (First Class Honours), an MA, a Graduate Diploma in Education but, you know, if it hurts, I am sorry.

Members interjecting:

The SPEAKER: Member for Bright, can you get on with your question?

The Hon. I.F. Evans interjecting:

Ms FOX: Don't you have a BA? I'm sorry.

The Hon. I.F. Evans interjecting:

The SPEAKER: Member for Davenport, be quiet!

The Hon. I.F. Evans interjecting:

Ms FOX: It's not the same. Have you got an honours degree?

Members interjecting:

Ms FOX: Thank you. Can the Minister for Education give the house an update on numeracy—

Members interjecting:

The SPEAKER: Order! I cannot hear the question.

Ms FOX: —and literacy in South Australia?

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! The member for Davenport, be quiet! Minister, did you hear that question? I did not hear a word of it.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Attorney-General, are you going to answer the question?

The Hon. J.R. RAU: No, I am not; I was just going to—

The SPEAKER: Then what are you doing on your feet?

The Hon. J.R. RAU: I was going to indicate that I did not even hear the question.

The SPEAKER: Member for Bright, can you ask your question again? I do not even know who it is for.

Members interjecting:

The SPEAKER: Order! Be quiet.

Ms FOX: I don't think it is very nice to laugh at Adelaide University. Can the Minister for Education give the house an update on numeracy and literacy in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development) (15:09): I thank the honourable member for the question.

Members interjecting:

The SPEAKER: Order! The Minister for Education.

The Hon. J.W. WEATHERILL: Can I point out a range of very important initiatives that have been undertaken across South Australia to lift our numeracy and literacy? Not only is there a—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —more sophisticated analysis of the data so that we know what is going on in our schools, but we now have a dedicated literacy secretariat that is working on these matters. We also have, as part of the literacy and numeracy national partnership, 49 schools that are supported by literacy and numeracy coaches. We also have a primary mathematics and science strategy for primary schools, which involves one-off grants totalling $7.8 million to schools that need identified support in relation to maths and science. We have regional directors who are engaging with individual principals with our Principals as Literacy Leaders program.

However, I must sadly report to the house that there is a crisis in literacy and numeracy in South Australia, and it exists on the opposition benches. Can I say that the media release today issued by the shadow minister for education first uses the word hypocrisy spelt with an 'i' and then included in the release—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —is some allegation against the government that we might have removed—

The SPEAKER: Point of order, the member for Adelaide.

Ms SANDERSON: I refer to rule 27: digression and personal reflections on a member.

The SPEAKER: I can't uphold that point of order because I can't hear a word that the minister is saying. There are two minutes to go. Minister.

The Hon. J.W. WEATHERILL: This is a very serious matter. We have somebody who seeks to hold the position of leading our South Australian schooling system—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —and I think it is a very important matter if he can't add up or actually spell.

Members interjecting:

The SPEAKER: Order! The member for Norwood, the member for Bragg and other comments I can hear from that side of the house. I am just about to call question time to a halt. I have had enough of this today. Minister, do you want to finish your answer, or shall we all go?

The Hon. J.W. WEATHERILL: I think it is a very important matter when somebody is hurling allegations of hypocrisy spelt with an 'i' instead of a 'y' that they at least have the good grace to spell it accurately and at least include some numbers in the release that are factually accurate.

Mr PISONI: I seek leave to make a personal explanation.

The SPEAKER: At the end of question time, you can.

Mr PISONI: Unfortunately, I went through the education system when Labor was running it.

Members interjecting:

The SPEAKER: Order! Member for Bragg, question time is finished, the bell has just gone. We will go onto grievances, but before we do, I will just mention to the house that word has come through that there has been another explosion in the mine in New Zealand and all hope has been lost for the trapped miners. I think we need to reflect on that and how sad that is.

GRIEVANCE DEBATE

FORESTRYSA

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:13): I am deeply disturbed at that news you just gave the house and I feel very deeply for those people involved, as I am sure all members do. It is tough news.

Notwithstanding that, today I want to take the opportunity to talk about the forestry industry in the South-East, the importance of that industry to the state and the arrogant way in which this government is treating that industry and the livelihood and the welfare of all the people of the South-East of this state. If members of this government got out of their offices, got out of their ivory towers—

An honourable member interjecting:

Mr WILLIAMS: Yes, the Treasurer was in Darwin.

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: Yes, I was in Darwin too.

Members interjecting:

The SPEAKER: Order! We are now in grievance time. Will you please be quiet and listen to the member in silence, both sides of the house. Both sides of the house are as rude as each other.

Mr WILLIAMS: Thank you, Madam Speaker. I was saying that if the members of this government got out and connected with the community—as the Premier advised following the recent state election when the majority of the voters of this state sent a message that they did not want this government—they would understand that their decision to forward sell the rotations or the harvest rights of our forests is a dumb decision and it is one that the people, certainly those in the South-East, do not want.

If the members of this government had even walked out on the front steps of this building at midday today, they would have seen the level of feeling of the people from the South-East. The people of the South-East have faced up to almost a 1,000-kilometre round trip to come up here to inform the members of this government of their feelings. Yet, the Treasurer, the Premier and the Minister for Forests did not have the courtesy to walk out in front of this building and talk to those people—

The DEPUTY SPEAKER: Excuse me, member for MacKillop, I am sorry—you will have all of your time—but can I just remind the cameras in the Strangers Gallery that you are actually meant to filming the person on his feet and not anyone else. Thank you. Sorry, member for MacKillop.

Mr WILLIAMS: Thank you, Madam Deputy Speaker. I was saying that if the members of this government were connecting they would have had the courtesy to walk out the front door of this building today and mingle with people from the South-East they would have known instantly. They would not have to spend hundreds of thousands of dollars on a consultancy to work out what is going on and what is the mindset of the people in the South-East.

Might I say that the Treasurer will have us believe that he needs to maintain his AAA credit rating, and that is why he wants to flog off the forest. I invite members to pick up Budget Paper 3, turn to page B1 to the table headed 'General government key operating statement aggregates'. There are some interesting figures there. There are two columns, one that shows the percentage of GSP, which is the revenues of the gross state product, and the other column shows the percentage of GSP, which is the expenses of the gross state product—so, the government revenues as a percentage of the gross state product and the government expenses as a percentage of the gross state product.

This government has been in office since 2002. In 2001-02, the total expenditure of the government of South Australia was 15.9 per cent—15.9 per cent—of the gross state product. In the most recent financial year, 2009-10, that percentage has risen to 18.9 per cent, so the expenditure of the state government as a percentage of the gross state product has increased by three full percentage points, from 15.9 per cent to 18.9 per cent, under the watch of this government.

Might I suggest to members that therein lies the problem. It is not the global financial crisis. It has got nothing to do with what is happening in Ireland, Spain or Greece. It is the failure of this Treasurer, this cabinet and this government to manage the state's finances.

We have seen an increase in growth in expenditure. This increased figure that I have quoted has got nothing to do with the state gross domestic product falling; it is about an increase of some 76 per cent in the expenditure of the state government of South Australia between 2001-02 and 2009-10 from $8.7 billion to $15.8 billion.

In that same period, the full-time adult average earnings of South Australians increased from $805 to $1,172—a mere 46 per cent, virtually half of the increase in expenditure of this government under this failed Treasurer. That is why this Treasurer is spinning the line that he has to sell the state's forests. All he wants to do is flog them off, bring forward all the revenues which we would otherwise experience over the next 20 or 30 years, and spend it today.

The DEPUTY SPEAKER: Thank you, member for MacKillop. I should just reassure you that you did get the extra minute for when I interrupted you. The member for Mawson.

FARMERS

Mr BIGNELL (Mawson) (15:19): I rise today to wish our farmers all the very best for harvest, a harvest that I hope is an absolute bumper. It is a pity the rain is coming through today. I am looking at the radar here, and it is going to upset a few people out there. The member for MacKillop said that people on this side do not get out to the regions. I just got back from a seven-day trip, which started in Tanunda last Tuesday. I went to—

Mr Venning interjecting:

Mr BIGNELL: It's a great place to stay, you're right, member for Schubert. I went to Mallala, Balaklava, Port Hughes and Wallaroo, where I caught up with the member for Goyder at the very good Advantage SA Regional Awards. It was great to honour the people of the Yorke Peninsula and the Mid-North that night. From Wallaroo I went up to Port Pirie the next day and then Port Augusta, down around Quorn and Wilmington, and then over to Wudinna. I had a great time at Wudinna with the mayor over there, Tim Scholz, and a couple of the councillors.

They have done a fantastic job and have largely done a lot of it on their own, with a bit of help from federal and state governments. It shows that, even though they are a long way away and isolated, in terms of what they have done with recycled water and managing stormwater and also the building of their medical centre, communities like that do a fantastic job. I caught up with the member for Stuart in Port Augusta and it was great to sit down and discuss with him some of the issues that face his community. Like the member for Giles' electorate, it is a vast community with great distances between areas.

I was there in my role as parliamentary secretary to the minister for transport, energy and infrastructure carrying out regional consultation with Regional Development Australia members and also local councils to work out what it is that they would like to see in the State Infrastructure Plan over the next five to 15 years. Along the way I saw fantastic crops everywhere, and the people I talked to, particularly around Wudinna and Cleve, were really excited about not just the quantity of grain but also the quality.

Let us hope that the rain holds off and the locusts stay away and that this can be a fantastic harvest for the people in those regions, because when they do well the whole state does well. It really is the engine room and the economic underpinner of our economy. They have had a few poor seasons of late and I know we have prayed for rain for most of the past five or six years but now can we say a few prayers perhaps over the next few weeks that the rain stays away until all the grain is in and on ships and overseas. I know a lot of other countries have had bad crops, so it is a real opportunity for us here in South Australia to make the most of this great commodity that we have.

I want to thank a few people whom I met along the way. While there are the formal meetings that you have with councillors and RDA representatives, there are also the informal meetings. I was in the roadhouse at Wudinna on Saturday afternoon having a great schnitzel burger and there were a couple of tables full of truckies—fairly big blokes, with their blue singlets on. I could have quite easily sneaked out but, when you go out and connect with people in the regions, it is important to put your hand up and ask how you can help them.

So, I went over to this couple of tables and told them I was the parliamentary secretary to the Minister for Transport and asked how we can make their job a bit easier. An hour later, after having my ears ripped off and some pretty frank language, I got out of there, but I got the message pretty loudly and clearly on how we can help the trucking industry. I will bring that back and pass it on to the Minister for Transport.

On the way to Whyalla I went the long way through Cleve from Wudinna just so that I could have a look at the roads and some of the crops along the way too. I called into the bowls club at Cleve and they were playing Port Neill. I spent a fantastic hour or so just talking to people at the bowls club about how infrastructure affects them and how they are getting on. We talked about the great crops.

I met a guy, Bevan Pfitzner, who invited me to his place which is eight or nine kilometres south of Port Neill. It is the place with the big blue pig post box out the front, if anyone is driving that way and sees the big blue pig. I spent some time with him and his wife, Leonie, and it was very nice of them to have me in their house. They took me around and showed me Sheep Hill, along with Gary Carr (one of their neighbours) so I could have a look at where the proposed port will be to get commodities onto big ships and overseas.

I finished in Port Lincoln on Monday and attended a meeting there. On the drive home, at about 9.30 or 10 o'clock at night, I passed Crystal Brook and Snowtown and saw the harvesters out there doing a great job. I want to wish all the farmers all the very best for the harvest.

Time expired.

MINISTER FOR FORESTS

The Hon. I.F. EVANS (Davenport) (15:24): What an extraordinary question time. What we have at the end of this parliamentary year is a government that is tired, a government that is divided, a government that is arrogant and, as we could see today, a government that is at war. We had the extraordinary scenes today in the parliament of the Treasurer, the Deputy Premier, lambasting, effectively, the Minister for Forests in front of the whole parliament, in front of the whole media and in front of all the South-East forestry community. He said to them that what the Minister for Forests said should not have been said. He said that it was unfortunate, he said that it was not necessary and he said that the comments should not have been made.

This is extraordinary, that the Treasurer would come in and lambast the Minister for Forests the very day that we all know that the Minister for Forests is under pressure because we had thousands of people in the main street, thousands of people on North Terrace, protesting at Treasury's decision and the Treasurer's decision to save his AAA credit rating so that he can pay for Adelaide Oval by selling the forests.

The Minister for Forests went down to the South-East because the Treasurer would not. The Minister for Forests went down there as the delegated minister and he told them the truth. He told them that the decision was made in 2008: 'We needed to sell the forests to save the AAA credit rating. Decision over. But don't worry, we'll do a regional impact statement.'

The Treasurer sits here today and says that it may not go ahead if the regional impact statement has an adverse comment. The Minister for Forests is in the South-East telling all the forestry workers that he has already gone to Canberra to negotiate re-employment packages.

The Hon. M.F. O'Brien interjecting:

The Hon. I.F. EVANS: The media reports indicated that there was some discussion about going to Canberra to talk about new investments into the South-East to recover the employment loss as a result of the sale of the forests. That is what the media reports say. This government is tired. It has run out of steam. It is a government without an agenda. This government is divided, and it was divided the day after the election when the would-be premier, the Minister for Education, took on the Deputy Premier through a challenge, and from that moment on this government has been divided.

The reason that it has no direction is that everyone is looking over their shoulder, counting the numbers. They are not sure where to go. The poor old Premier is doing a lap of honour. He has lost his authority. He is doing a lap of honour, and he has lost his authority. No-one is listening to the Premier. If the Premier had authority, would the Deputy Premier and the Minister for Forests be having a verbal stoush in question time today?

We had the Minister for Forests, when given the opportunity to back up the Treasurer, say that it was a 'bloody nonsense'. He said that what the Treasurer said was bloody nonsense.

The DEPUTY SPEAKER: Order!

The Hon. I.F. EVANS: Madam Deputy Speaker, these are extraordinary scenes—

Members interjecting:

The DEPUTY SPEAKER: Order, member for Davenport! You can have your time in a minute. There seems to be a lot of shouting going on.

The Hon. A. Koutsantonis interjecting:

The DEPUTY SPEAKER: And that you includes, minister.

The Hon. A. Koutsantonis interjecting:

The DEPUTY SPEAKER: Minister, thank you.

Mr Pengilly: Throw him out!

The DEPUTY SPEAKER: And also you, member for Finniss. Now, let us—

The Hon. I.F. EVANS: Thank you, Madam Deputy Speaker.

The DEPUTY SPEAKER: I was still going, but, okay.

The Hon. I.F. EVANS: This government is at war. We had the Minister for Forests openly tell the parliament in the very same question time that what the Treasurer told the public was 'bloody nonsense'. They cannot both be right—either what the Treasurer said is right or what the Minister for Forests said is right, but it is open there for all to see. This government is divided. It is divided not only in the caucus room but, for the first time in history, you have a government openly divided on the floor of the house.

This government does not deserve to govern. This government is a rabble. You have lost your authority, you have lost your way, you are divided, you are tired, you are arrogant, and you are at war. Have a good Christmas!

There being a disturbance in the gallery:

The DEPUTY SPEAKER: Order! I remind the people in the gallery that it is excellent to care about something, but we do not really go for interjections or clapping at this point in time. I understand the excitement.

Mr Williams interjecting:

The DEPUTY SPEAKER: Actually, that is a BA with honours, I think we have already established, thank you. Laughing with myself there. The member for Florey.

THORPE, MS A.

Ms BEDFORD (Florey) (15:29): On 15 October, South Australia lost a true radio legend and a very special person who had brought great happiness to many in her own unique way. When I attended the funeral service, officiated by her friend and celebrant, Stewart Leggett, it occurred to me how little we often really know about the people we value and who are close to us—the acquaintances we meet on our life journey.

Andy Thorpe married twice and was the proud mother of three boys she absolutely adored, but not necessarily, I am told, in a maternal way. Her son, David Gwynne-Jones, the eldest, spoke at her service. He and younger son, Tom Gwynne-Jones, live in Sydney, and I know how much Andy used to look forward to her trips away. She was the grandmother to their children, Lucy, Harry and Darcy. Her middle son, Sam Gwynne-Jones, lived in Auburn and visited her regularly while she stayed in Riverton Hospital.

One of the early true personalities in Adelaide, Andy worked in radio for decades. She started on 5DN, and worked short stints on the ABC, but broke all the rules and made a huge impact when she started at Radio 5AD when the new talk format started in 1967. Andy landed that job after an interview with our former colleague, Joan Hall, a pivotal force herself in radio, and from that time on a lifelong friendship began.

Andy became a pioneer of this new genre and an influential and important member of the top rating team at 5AD for more than 10 years, especially known through being part of Bob and Andy, when she was teamed with still well-known and loved by many radio personality, Bob Francis. Bob also spoke at the service and it was obvious that his regard and esteem for his friend, forged in the furnace of live radio, was still as strong as ever.

Sadly for us, many of his amazing recollections could not be shared as, in the true spirit of camaraderie, what happened in the studio stayed in the studio. These two complete opposites had a rarely witnessed magic when the microphone was switched on, and they adored each other. This was in part because Andy was known specifically for her colourful language, wicked laugh and sense of humour, and feisty, outspoken and quarrelsome ways, which in those days were called feminism.

Andy was a passionate traveller and a champion for the promotion of backpacking. She loved Bali and India and returned there many, many times. This leads me to how I first met Andy, through a former member of this house and state attorney-general, the Hon. Peter Duncan. Peter has fond memories of Andy and their travels together and tells me of Andy's love for Kashmir, where she eventually lived on a houseboat for over six months, I am told, after selling everything she owned to go there in the late 1970s, after her retirement.

Back to radio, though, and over the years Andy interviewed numerous celebrities, politicians, actors and, particularly, journalists. David shared with us in his contribution how he

often met these people in the studio after school. Andy was one of the very beautiful and very glamorous photographic models in the early years after her move to Adelaide in the mid-sixties, and she established the Andy Thorpe Fashion and Modelling Studio, before her move to radio. When she retired from the radio in the seventies, she continued her travelling ways and on one occasion travelled to London on a crop duster with two friends.

She also worked with our former premier Don Dunstan in Victoria on South Australian tourism for about 12 months. Through her I met Don and became one of a group of people who spent much time with him towards the end of his life. She was a great person in promoting people to come forward with ideas and speak with Don, and it was through those times that I became close to him, and I am always grateful to her for that.

Through her, too, I met her Chinese 'godson', Jai Xiao, and his wife, Lei, and their children. She also had a close bond with our mutual friends, Sue Dyer and Chris Ball, and their beautiful daughter, Tian. I remember how ecstatic we all were when Tian arrived home to Adelaide and our special counter lunch with Andy not long after she moved to Riverton.

The latter years of her life were, of course, spent at Riverton Hospital, where the nursing staff and medical team cared for her with great compassion and kindness between laughing at her language and the many stories she told. I am sure they had difficulty believing them, but I know they were all true.

Another person who spoke at her funeral was her sister, Peg. Peg had travelled to Adelaide with her daughter, Andrena, Andy's namesake, and although I had to leave early to go to the airport and did not have time to speak with them then, it was wonderful to know, through Peg's contribution, how much of their life had been shared with love and happiness.

LOCAL GOVERNMENT ELECTIONS

Mr PENGILLY (Finniss) (15:34): A couple of weeks ago, we had the conclusion of the local government elections in South Australia, which were interesting to observe. I would like to make some personal remarks about what happened here. I find it totally ludicrous that in the state election, indeed very much so in the state election, within a few hours most of us knew whether we had won handsomely, lost, or won by a small margin.

However, I find it bizarre that when voting closed for the local government elections at 5 o'clock on Friday night, on Saturday night we had a few mayoral results—not all of them—but we then had to wait until the next Tuesday to get the results of the council candidates who had been elected. It is madness. Why a system has to be so out of tune I do not know, and I will make some further remarks in a moment.

Why councils are confused about the caretaker provisions is a debacle. At the Mitcham council nobody was saying anything about anything, yet other councils had candidates, existing councillors and mayors having plenty to say about everything. It is a load of nonsense. Our leader made comment on the mayoral position and how the system is bizarre in her view. I do not think she used the word 'bizarre' but the fact is that you can get some good mayoral candidates—two, three, four, five or whatever—but only one wins, so you lose the rest of the quality that could flow down to councillor positions, as happens in New Zealand and other places. That is something we need to look at.

Also, it is quite clear to me from feedback from councillors and people I have talked to in the community that they believe four-year terms are far too long. We have had discussions about two or three-year terms in here not so long ago. I picked up some comments that were made by the member for Croydon—who I very rarely agree with, but in this case I do—and others around the place. I think it is way past time that we had a total review of the local government sector, the Local Government Act and where it can go and, in particular, the number of councils in the city. This is my personal view. There are far too many and they are not all acting in the best interests of the City of Adelaide per se, the expanded City of Adelaide. Country councils, by and large, work much more efficiently than the host of councils we have in the city.

It worries me what takes place at some levels of local government. I am curious as to where the LGA sits in all of this. I am not convinced any more that the LGA is acting in the best interests of the people of South Australia. It may think it is, but I am wondering just what goes on these days. I had 17 years in local government and I know others in this place had plenty of time there. However, I wonder about cronyism, about decisions being made before council meetings

and everything being stitched up. At least in here we can have a good bunfight and eventually we come to a decision based on the numbers.

However, at council level it worries me that too much is happening before meetings, and there is almost an element, it would appear (and has been suggested to me), of some form of conspiracy over decisions that are made. Decisions have been made by councils that have now gone, but they are going to impact on new councils. Even today I had put to me some questions in relation to one council about matters of process for filling positions. My answers have gone back straight out of the act. They have to ascertain as to whether the councillors have acted properly—and I am sure they have—but there are too many questions.

I call on the government, once it gets its leadership spills happening and sorted out, to instigate a total review of local government in this state, to put somebody in there who knows what they are doing, someone who is not connected to local government, and to come back to the house with an upgraded local government act for debate. Let us sort it out once and for all. Let us try to get local government functioning as well as it possibly can in South Australia, rather than the sort of hit-and-miss approach that we have at the moment, and act in the best interests of all South Australians, which I am sure they think they are doing. I am fed up with the nonsense. I have endured a fair bit of nonsense over the past four years from various councils and others and I am fed up with it and I would like to see the parliament pick up on it.

GO HOME ON TIME DAY

Mr SIBBONS (Mitchell) (15:39): Today is national Go Home On Time Day, and I will talk about a critical economic and social challenge: the continued improvement of workplace participation and productivity whilst also seeking to enable a healthy work-life balance. A report released by the Australian Institute, entitled 'Something for nothing: unpaid overtime in Australia', noted that Australians work two billion hours of unpaid overtime each year; this equates to $72 billion in unpaid wages.

We currently work some of the longest hours in the Western world, with an average full-time employee working an average of 44 hours a week. While some people are compensated, unpaid overtime is now more common than paid overtime. In 1856, Melbourne stonemasons were the first workers in the world to achieve an eight-hour day, and by the mid-20th century this condition was widely achieved throughout the industrialised world. However, since the 1980s the trend has been in the opposite direction towards a longer working week.

SafeWork SA describes work-life balance as 'the relationship between work and life commitments and how they impact on one another'. The 2010 report by the Centre for Work + Life at the University of South Australia notes that proper work-life outcomes are associated with poorer health, increased use of prescription medications, more stress and more dissatisfaction, with close personal relationships failing.

A poor work-life balance imposes high costs on individuals, families and the broader community. It also affects workplace costs as, when workers leave employment due to unacceptable hours, unsympathetic management or overwork, substantial flow-on costs are incurred through retraining and a decrease in product or service quality. Therefore, the economic costs go well beyond the home and the workplace and negatively impact the larger economy as a whole.

However, this is not a simple challenge to address. Currently, there are approximately five working-age Australians for every one person over 65 years of age; by 2050, the ratio will fall to 2.7. The challenge of an ageing population means that we need to increase our workforce participation rates, but Centre for Work + Life data reveals that most full-time workers would like to work fewer hours, even allowing for a reduction in income, while two-thirds of part-time workers would like to work more hours.

If we could find the flexibility to realise these preferences for working hours, there would be a significant improvement in labour force participation. More work needs to be done in this area to find solutions that will ensure economic prosperity and social wellbeing into the future. However, as a small starting point, I say we should set an example today in the house and encourage everybody to go home on time on national Go Home On Time Day.

RECREATION GROUNDS (REGULATIONS) (PENALTIES) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

OCCUPATIONAL LICENSING NATIONAL LAW (SOUTH AUSTRALIA) BILL

Received from the Legislative Council and read a first time.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

Adjourned debate on second reading (resumed on motion).

Dr McFETRIDGE (Morphett) (15:45): I was talking about the policies of the Public Health Association of Australia, and some of their policies are really quite different from what you would expect. There was a policy on warfare and war and the effects on people. We were talking about the psychological health of people, which is a really important issue. I also spoke about the effects of environmental health legislation and the need for policies in that area.

The next set of policies by the Public Health Association are around food health. Food nutrition, monitoring and surveillance in Australia so important, and food security, as we know, is a real issue. We are having to import more and more food from overseas, which I think is just an absolute travesty in a country like Australia. We should be the food grower of the world; we should not have to be importing anything. There is nothing that we could not grow or manufacture in Australia. It just amazes me that we are importing so much food.

Once again, it is the duopoly of Coles and Woolies and their prices, and people shopping with their hip pocket, that drives the free market. That is what it is all about, I suppose, but I think our farmers are suffering. We will pay the price when we start importing vegetables from places that do not have the high standards that we have here and when we start importing meat products from places that do not have the high welfare standards that we have here, but we will still want that because it is cheaper than what is produced here. So, food nutrition, monitoring and surveillance in Australia is so important.

Health claims on food are very important. We see the national heart tick of approval on many foods. We now see it on some fast foods. It is so important that the tick from the Heart Foundation retains its credibility. So, health claims on food is a very important area for public health—food nutrition and health—to let people know that what they are eating is actually good for them or, at least, will not be doing them any harm, and it is all about moderation, not excess.

The other vital area of the food and health policy that is very topical at the moment is GM foods. I, personally—this is not Liberal Party policy—have no problem with the vast majority of GM foods that are being developed, and I think it will be one of the ways that we will be able to feed an ever increasingly hungry world. Having an agricultural science degree in crops and soils, I actually have some knowledge of where we have been in this area, and I certainly—

The DEPUTY SPEAKER: Sorry to interrupt you, member for Morphett, but would you like to list your degrees, because that is the mood of the day?

Dr McFETRIDGE: I do have three science degrees, so I am quite pleased to be able to speak with some authority on some things in this place. Not being a man to boast—just a humble veterinarian—I will continue with the debate. GM foods are a very serious issue, and I will be pleased to participate in any debates that we have in that area in the future.

Health service development is a very important area in primary health care. We have just seen that a preventative health agency is proposed to be set up under new legislation in Canberra. International health trade agreements are very important, and the Public Health Association of Australia has good policies in that area. Also, there is an important issue in health service development relating to prisoners' health. The health and nutrition of our prisoners is vital, because many of those people are from backgrounds where they have not had the opportunity to access the health facilities that many of us have. Some of them are from deprived backgrounds, where they have not had the sort of nutrition that we have had.

More importantly, the vast majority of prisoners in our prison system now—I think it is something like 70 per cent—have mental health issues. So, as a public health issue, mental health, once again, raises its head.

The last few policies we will talk about from the Public Health Association are those around immunisation. There is no particular policy that the association has in place at the moment. I understand that new policies are being developed as new vaccines and new protocols are being developed, but there is a very extensive policy area relating to infectious and transmissible diseases including hep C, HIV AIDS, smallpox and hep B vaccinations.

It is very important that we maintain vigilance not only here in the state and the nation but also around the world because of the way people are moving both nationally and globally. We should be concerned about watching how people are able to act as vectors to spread diseases, which in the case of viruses are particularly difficult to treat.

When I was at Roxby Downs a couple of weeks ago, I was talking to some of the people up there about the sorts of issues they see in the hospital. They were not talking out of turn, minister, but one of the staff said to me, 'We see boys and their toys with lifestyle injuries.' There is a good policy here from the Public Health Association about lifestyle injuries, and they can be as simple as falls (particularly in older people), injuries associated with the use of hand tools and sporting goods, but also firearms injuries, and one very important one that I have had a bit to do with over the years with my association with the Royal Life Saving Society (and I will be at their presentation on Saturday night, I think) is preventing drowning generally, but in rural and remote areas particularly.

The Public Health Association does go into other areas of mental health, obesity and oral health. In the area of oral health, the dental association is very concerned because, from what I read in its submission, oral health is not mentioned at all in the public health bill. Everybody knows that, if we do not have good oral health and good dentition, we cannot eat and then our nutritional intake is going to suffer and so will our health suffer.

The political economy of health is also listed here and women's health, including abortion, breastfeeding, gender and health, maternity leave, equity in women's and children's health, are the areas that the Public Health Association focuses on. I have just used that list of policies and those areas within those policies as an example of how vast and expansive the area of public health has become, and it is continuing to grow. It is getting bigger by the day with new discoveries in the ways of managing our health, treating accidents, illnesses and injuries and also managing lifestyle diseases.

The bill before us today incorporates a number of principles on which to base the whole direction of the bill and achieve the objectives of the bill, and they include the precautionary principle. I have a particular interest in and issue with the precautionary principle and have had for a number of years. I have spoken about it in this place before, but I will go back to it in a moment. There is also the sustainability principle, where public health, social and environmental factors should be considered in decision-making, and the principle of prevention, where administrative decisions and actions should be taken after considering, insofar as it is relevant, the means by which public health risks can be prevented and avoided.

There should be a population focus. The population focus principle is in there. Administrative decisions and actions should focus on the health of the population and the actions necessary to protect and improve the health of communities and, in doing so, the protection and promotion of the health of individuals should be considered. The priority of individuals over communities is something that will be an interesting discussion point.

The participation principle is included, where individuals and communities should be encouraged to take responsibility for their own health. I said this before: when do you stop being responsible for your own outcomes and, in this case, your own health? If you smoke, should you be paying an extra premium for your health care? That is quite a valid question, because even the principals of some of the big tobacco companies will quite openly tell you that smoking is the biggest cause of preventable deaths there is. I think that is a disgraceful situation. When you stop being responsible your own health outcomes are covered in the participation principle, which provides:

> The protection and promotion of public health requires collaboration and, in many cases, joint action across various sectors and levels of [local] government...

What we have to watch there, as was shown in the federal government's Hawker report from the early 2000s, is the triplication—and I use that word quite deliberately. Between the federal, state and local governments, service delivery amounted to $20 billion a year. We do not want to duplicate what is going on across federal, state and local government. There should be some areas of collaboration, participation and cooperation, but perhaps not duplication.

There should also be no cost shifting because the cost shifting that we see in many areas between federal, state and local government, and the argy-bargy that then goes on, is something that we really have to work at to make sure that the people who can do the job best are doing that job best. The equity principle provides:

Decisions and actions should not, as far as is reasonably practical, unduly or unfairly disadvantage individuals or communities and, as relevant, consideration should be given to health disparities between population groups and to strategies that can minimise or alleviate such disparities.

The specific principles under clause 14 provide:

The overriding principle is that members of the community have a right to be protected from a person whose infectious state or whose behaviour may present a risk, or an increased risk, of the transmission of a controlled notifiable [disease]...

This is emphasised. The idea of these principles is to try to give everybody a fair go. That said, the precautionary principle is one that is emphasised, not only in this legislation but also in the bill itself, where it takes up the majority of the legislation in talking about principles.

The precautionary principle in itself sounds really good because it is based on the concept of taking anticipatory action to prevent possible harm under circumstances where there is a level of scientific uncertainty. There has been much discussion on the diversity and opinion as to defining and applying this principle. That is one of the issues I have for a start. The principle at first glance looks good: 'If there is any doubt whatsoever, don't.' That is basically what it says, but that can be interpreted in a number of ways.

The precautionary principle emerged in European environmental movements and has begun to be incorporated into legislation and other agreements since the 1970s. It had its roots in the 1930s German concept in das Vorsorgeprinzip—and it means foresight planning.

The Hon. J.D. Hill interjecting:

Dr McFETRIDGE: It does sound a bit unparliamentary. It means foresight planning, and that is what public health legislation is about: as well as planning for today we should be planning for the future. The concept was used to distinguish between the dangers and risks caused by human behaviour.

Two different approaches were required: first, to prevent imminent danger and also the potential dangers and, secondly, where there was only a potential risk of those effects occurring. The precautionary principle is one of the basic premises of international environmental law. We are now seeing the precautionary principle being used not just in areas of laws based on pure science but also in social welfare areas, and this is one of the things we are seeing in this piece of legislation.

The precautionary principle appears in over 20 international treaties, protocols and declarations. Most notably, the precautionary principle has been specifically incorporated into principle No. 15 of the 1992 United Nations Conference on Environment and Development, the Rio declaration, which states:

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

However, it has gone on from that That is just an example of one of the treaties that is being invoked using the precautionary principle.

I can say a lot more about this principle but I am conscious of the time and there are others who want to speak today. The precautionary principle really is a principle that overlooks the possibility that real public health risks can be associated with eliminating minuscule hypothetical risks. The overuse of household disinfectants is an example of that.

I will not go on about the precautionary principle any more, but I emphasise the fact that there is a real need to balance the outcomes with the principles we are using, particularly principles where alarmist views, based not on fact—we know fear and greed are the two biggest motivators in the world—can shut down and outweigh any scientific input so we see good science being given a second berth to populist media hype.

I have mentioned previously one of the new areas that is of vital concern to me, that is, biosecurity. It is good to see that South Australia's biosecurity strategy has been considered and is being developed. I understand that, following public consultation, in September 2008 a final draft of the South Australian biosecurity strategy for 2009 to 2014 was being prepared. I looked for a copy of the South Australian biosecurity strategy but could not find it. I would be grateful to see a copy, because I think biosecurity is a vital part of looking after public health.

It is interesting to note that in the budget the Treasurer has introduced a biosecurity levy, so we must have a policy and a strategy because we have a levy—we not only have the $76 fee

for the property identification code (the PIC numbers) but also we have a $185 biosecurity fee being introduced.

I cannot find that biosecurity strategy. I would like to see it because it is very important and I look forward to seeing how it is put in place. I do not believe you have to slug South Australians $185 each, though, to implement that strategy. I think it should be across government and, as we have said before, across public health in all areas in all policies, not just making people pay for a particular area of policy.

The issues of biosecurity in South Australia and the strategy that we are developing here have been delayed a little because of the review of Australia's quarantine and biosecurity arrangements by the federal government. In its draft report it says (and these are points really worth noting):

> Australia depends on trade and this carries unavoidable risks. Managing these risks is becoming more challenging with the increased movement of goods and people between borders...
>
> The threat of agri-terrorism by extremist activists or terrorists is a growing concern. The urbanisation of rural regions and the intensification of agriculture also increase the challenge of containing a pest or disease if it does arrive on Australian shores.

The urbanisation of rural regions is certainly something that the people of Mount Barker are very concerned about at the moment. The federal government draft report goes on to say:

> Australia needs a biosecurity system that allows us to trade...at the same time protecting the integrity of our environment, our favourable pest and disease status and the productivity of our primary producers.

Biosecurity cannot be underestimated. All of us should be looking out for challenges, including fruit fly coming across the borders. I think it is very short-sighted to have proposed to shut down the fruit fly stations at the borders at night. Whether it is fruit fly or people bringing in goods from overseas that are banned (the threat of disease is part of people bringing back stuff from overseas), we have got to watch out for that.

Recently, we went to China with a group of politicians and people from the University of Adelaide, and we were given some sporting equipment to bring back. It was a sort of shuttlecock game that we were shown, and these shuttlecocks were given to us to bring back to Australia. I quickly pointed out to my colleagues that the shuttlecocks had feathers on them. While those feathers more than likely had been treated in some way, it is quite likely that they could have just been cut to shape and glued together on the shuttlecocks, then given to us, and we would have brought them back here.

It was a remote possibility but the consequences were still worth taking the actions that we did, that is, saying, 'No, we're not going to bring those back to Australia because they could be carrying something like Newcastle disease or some other avian virus that we do not have in Australia.' That is how simple it is; that is how careful we have to be with our virus security. I am pleased to say that we were on the ball there and made sure that nothing was brought back that was not able to be put through customs and declared.

The mention of biosecurity and agriterrorism or environmental terrorism brings us to the use of a lot of highly resistant microorganisms, not only by terrorists but also the presence of highly resistant microorganisms in our own environment. There is mention in the bill of declaring microorganisms. We just cannot understand, cannot believe, how devastating the effects of some of these microorganisms would be.

There is one at the moment. These are what are called superbugs, generally—HRMOs, highly resistant microorganisms. We think of MRSAs, which is multiple-resistant staphylococcus aureus (golden staph) and the VREs (vancomycin resistant enterococci). We think of those all the time. There is a bunch of them here: PNSP, which is penicillin-nonsusceptible streptococcus pneumococci, and ESBL, which is extended spectrum beta lactamase bacteria.

There is an MDR-TB, the multidrug resistant tuberculo bacilli, a really nasty tuberculosis bug. I had difficulty in finding out what one was, and it is a CRAB, which is a carbapenem-resistant pseudomonas and acinetobacter species. The one that I have been made aware of is carbapenem-resistant acinetobacter baumannii. That bug has the potential to put us back to where we were before penicillin and other antibiotics were developed.

There are other bugs similar to that particular CRAB that have the potential to be spread around the world through air travel. There is no known treatment for some of these new superbugs, and we should be absolutely vigilant regarding our biosecurity, not only with food products, foods

and animal products but also with people who have been overseas to areas where we know they could possibly be contaminated with superbugs. This particular bug, the CRAB (carbapenem-resistant acinetobacter baumannii), has been found in parts of India. I understand that it has also been seen in parts of South-East Asia.

This report I have was 10 days ago. It is not ancient history. This was 10 days ago in a journal article sent to me by one of my colleagues from the new vet school at Roseworthy. Superbugs is not just a name out there that we should worry about and wash our hands to cure; far more of an issue is going on.

What I would like do in the last little bit of my contribution is to go through quickly some parts of the bill. I want to re-emphasise the clause on page 9 under 'public health' and some of the definitions. The bill provides: 'For the purposes of this act, 'harm' includes physical or psychological harm.' Mental health should be a bigger part of this bill. I hope that, as part of the reviews and as part of setting up the chief public health officer's role we are including the issues of mental health in the bill.

It can be as simple as being stressed out over watching the 6.30 news or, as we have sadly heard today, another explosion in the mine in New Zealand, which is absolutely devastating, not only for us here to hear about, but also you can imagine what the families of those poor miners must be going through at the moment. Their need to have psychological support is vital and we need to be able to do that across the community if we need to, whether it is a localised disaster like that or, God forbid, another Ash Wednesday here in South Australia. On page 13 of the bill, clause 17(3) provides:

In addition the minister has the power to do anything necessary, expedient or incidental to performing the functions of the minister administering this act furthering the objects of the act.

At first glance you think 'anything necessary' makes this minister the most powerful minister in the government.

Quite honestly, I think that is what the health minister should be, because if I were the health minister I would want the power to be able to do anything if there was a serious threat. Having said that, he would obviously be acting on the advice of the chief public health officer and the chief executive of the Department of Health and he would be bombarded with advice, but you do need that power to do what you need to do and get on with the job and that is protecting the public of South Australia. On page 14 is a very interesting part of the bill, a good part, because we are creating this office for the first time, as I understand it. I seek leave to continue my remarks.

Debate adjourned; leave granted.

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

Consideration in committee of the Legislative Council's amendments.

The Hon. J.R. RAU: I move:

That the Legislative Council's amendments be disagreed to.

Motion carried.

SOUTH AUSTRALIAN PUBLIC HEALTH BILL

Adjourned debate on second reading (resumed on motion).

Dr McFETRIDGE (Morphett) (16:13): I continue my remarks on the South Australian Public Health Bill. I was talking about the position of the chief public health officer, which is a new position that is being created. It is a position that will be held by a member of the Public Service, which I have some concerns over in relation to independence. They are, obviously, going to be giving advice to the minister, and I hope that advice is without fear or favour.

The functions of the chief public health officer are vital. Clause 21(1)(b) provides that they are ‘to ensure this act and any designated health legislation are complied with’, and it is so important that the chief public health officer is able to do that. What I am concerned about (and I have had an amendment drawn up to have this act reviewed in a more timely fashion) is clause 21(1)(c); that is, that the chief public health officer can look at proposed legislative or administrative changes related to public health and so, hopefully, set a review of the act.

The role of the chief public health officer cannot be overestimated because it will be vital in coordinating (particularly in emergencies) the rollout of services to the people of the state. Why does the chief public health officer report on a biennial basis (every two years) and why not annually? I would like to hear about that, because the South Australian public health council will be reporting every 12 months. There may be a reason for that and I would like to hear more about it.

The South Australian public health council is being established to replace another council that has been around for many years. The South Australian public health council is going to consist of the chief public health officer and nine other members. There was a comment by members of the Aboriginal health community that there is nobody on the council who has an Aboriginal or Torres Strait Islander background. I am sure that can be incorporated and if the council has to sit on particular issues they can seek advice from people with expertise in those areas.

The important thing we have emphasised is the across-government role of public health policy—federal, state and local. On page 20, division 4 talks about the functions of local government and the functions of councils and the series of functions that are conferred on councils. I just hope there is no cost shifting in here and it is just an expansion of their responsibilities without an expansion of their costs. Ratepayers of South Australia think that they pay far too many rates as it is.

Immunisation services are a very important part of public health delivered by councils and that is an area where they are still going to have a vital role. Under clause 38(3) it states:

The minister must take reasonable steps to enter into and maintain a memorandum of understanding with the LGA about the provision of immunisation services and support.

I hope that is financial support as well as logistical and other professional support. The power of the chief public health officer is such that it can take over the role of the council if necessary. I hope that never becomes necessary but it is in there, and I think if a council is unable, for some reason, to do the job it has been given to do then somebody has to do it for the sake of public health in South Australia.

The council should remember, though, that when it is giving or having its powers taken by the state government it will still have to pay any costs that may be associated with the delivery of a particular service or outcome that is being handed over. I hope that is a negotiable thing because, obviously, we would not like to see councils put into a position where they are financially embarrassed.

The other very important part of this bill, which I talked about briefly before, is the introduction of a state public health plan and regional public health plans. Regional public health plans can involve either one council or groups of councils together. It is important to put down plans and protocols and have them in place so that if something does happen you can act immediately without having to sit down and discuss where we are, where we want to go and how we are going to get there. It is a good thing that these are in there and I look forward to seeing them being developed. The public health plan is reviewed every five years. That may be a short enough term—perhaps every three years could be considered. However, it is every five years in the bill and is the same as councils that are expected to review their regional public health plans every five years.

The development of public health plans obviously relies on public health policies. On page 32 of the bill, section 53, it states:

The minister may prepare and maintain policies under this part that relate to any area of public health in the state.

I assume 'any area of public health' means not country or city but as in the various areas of policy that we talked about with the Public Health Association of Australia, in that vast list of policy development that it has.

Procedures for policy making, preparing of drafts and making those drafts available for comment are included, so there is good provision for feedback. The development of those plans and policies is something I look forward to being able to participate in by providing submissions and feedback, because it is vital we develop good quality plans. I am sure, with the calibre of people working in the health services in South Australia, they will be good plans.

Part 6—General duty is on page 34. There is a general duty that:

A person must take all reasonable steps to prevent or minimise any harm to public health caused by, or likely to be caused by, anything done or omitted to be done by the person.

It sounds pretty broad; it is pretty broad, but you need to make people aware that they do have responsibility for not only their own outcomes but also putting those around them at risk, particularly if there is a material risk to the public, which is covered in clause 57. Serious risk to public health is covered in clause 58. Subclause (1) provides:

> A person who causes a serious risk to public health intentionally or recklessly and with the knowledge that harm to public health will result is guilty of an offence.

To show how seriously we are taking this offence, there is a $1 million fine or imprisonment for 10 years, or both. Serious risk to public health is something that we should not tolerate.

Part 8 of the bill talks about prevention of non-communicable conditions. I would like to see a list of these non-communicable conditions. Obviously, the first ones that spring to mind are obesity and diabetes, but there is a long list of them. We do not want to become the nanny state, though, with clause 62 where we are issuing codes of practice. We do want to give some indication of what is acceptable, but I do not think we need to be overly prescriptive in that area.

Notifiable conditions and contaminants are interesting. There is a range of contaminants that we are seeing nowadays. PCBs are spreading across the world and we are seeing ever-increasing reports on their effects, so we need to be vigilant in watching out for contaminants in the food we are importing and in the general environment around us. I think the Environment Protection Authority was concerned that there was not much of a mention here about environmental consequences of offences against the act.

There is the ability to declare a notifiable condition. I cannot find the word 'microorganism' in here, but I know there were some concerns about declaring particular microorganisms in the legislation from some of the food-producing groups. I have no particular issue about prescribing individual microorganisms. Some of those I listed before are particularly nasty and I think we should be prescribing some of those.

There are a number of clauses in the bill which, on the surface, are quite broad in their initial interpretation. Having considered the bill, I do not have any particular issues with the range of powers, but I do have a couple of issues with clause 75, which relates to detention and the power to give directions. Clause 75 provides:

> (1) If—
>
> (a) the chief public health officer has reasonable grounds to believe that a person has, or has been exposed to, a controlled notifiable condition…

the chief public health officer can then direct various actions to be taken, particularly relating to an individual. The directions that may be imposed by an order under this section include the following: that the person remain isolated, refrain from carrying out specified activities, refrain from visiting specified places, and refrain from associating with specified persons or specified classes of persons. The person can be ordered to take specified action, attend meetings, and place him or herself under the supervision of a member of the staff of the department or a medical practitioner or other health professional. That is okay under particular circumstances, and I look forward to seeing how that is all going to be applied. The concern, when you have all those things that can be done by the chief public health officer, is that clause 75(5)(a), on page 47, provides:

> The Chief Public Health Officer—
>
> (a) must not impose a direction under subsection (4)(h) or (i) if the Chief Public Health Officer is satisfied that the person has a conscientious objection to the relevant examination of treatment (as the case may be) due to a religious, cultural or other similar ground;

I question how we are going to balance that with the outcomes for public health because, surely, a person cannot refuse to be confined, to undertake tests, to participate in treatments, or other actions, on religious or conscientious grounds if there is a risk to the health of the public, so I do question that. On page 48, clause 75(6) provides:

> However, if a direction under subsection(4)(h) or (i) would relate to a child, the Chief Public Health Officer may make a direction under either (or both) paragraphs despite a conscientious objection of a parent or guardian of the child if the Chief Public Health Officer considers that the relevant examination or treatment (as the case may be) is in the best interests of the child (and reasonably necessary in the interests of public health).

So, if it is okay to do that for a child, why is it not okay to do that for an adult? I see that as a bit strange if it is in the best interests of public health. It states 'and reasonably necessary in the interests of public health', so you can do it with kids, but you cannot do it with adults, and I do have

some issues with that. I think it should be both. I am not going to try to take the kids out of the picture, because we should be acting in the interests of the children, but we should also be acting in the interests of public health.

I will finish by skipping to the powers of detention. There are two forms, and I thank the Hon. Stephen Wade, the shadow attorney-general in the upper house, for some advice on this. The background is that there are two forms of detention available under the South Australian Public Health Bill 2010. One form is in clauses 77 to 79, the detention of a person with a controlled notifiable condition by the chief public health officer. That is initially for up to 30 days and is subject to review by the Supreme Court at any time.

The second form of detention is the detention of a person in the course of a public health incident or emergency (clause 90) by the Chief Executive Officer of the Department of Health. There are no time limits, although detention could only continue while an incident or an emergency is running. A declaration of an emergency beyond the initial 14 days can only be made by the Governor, but there are no appeal provisions. I would have thought that there should be an appeal provision in there somewhere, and I will be interested to hear what the minister has to say about that.

I find it interesting that you cannot exhume a body if you need to investigate a public health incident of some sort but, other than that, I think this bill is very comprehensive, and I congratulate all those who were involved in its development. As I said, it was started in 2000 with Dean Brown, and we have seen it develop from there. We have seen public health issues develop rapidly. Let us hope that it is not another 10 years before we have this bill back before the house for a complete review and update. We are way past the Health Act of 1935, the Noxious Trades Act of 1934 and Venereal Diseases Act of 1947, and we have to keep looking at the ever-expanding areas of public health in South Australia. I commend the bill to the house and repeat that the opposition supports the bill.

Mr GRIFFITHS (Goyder) (16:29): Far be it from me to think that I could ever try to compare in any way with the member for Morphett (the shadow minister) and the contribution that he has made on this South Australian Public Health Bill 2010, so I will be brief.

The Hon. J.D. Hill interjecting:

Mr GRIFFITHS: No, when I say that, I mean that because the shadow minister has certainly given a very detailed response to the issues that have been raised with the opposition. He has demonstrated his intimate knowledge of this area and the consultation that he has undertaken, and he has expressed quite well the concerns and the issues the opposition has had. There is no doubt, though—and reading the briefing paper that the member for Morphett has prepared really does highlight it to me—that this is a key point and a key bit of legislation for consideration by the chamber.

Health is essential to everything in our community and it is important that we ensure that the processes will support whatever level of community government response needs to occur when situations arise and that it has the powers that it requires to do that. We certainly live in a very different world. September 11, 2001 really highlighted that, no matter where you live in the world, no matter how safe you may be, there are issues that can occur that you have no control over and that there needs to be an immediate response to.

We live in a world in which disease can spread so quickly with the global travel that occurs. It is important that governments have the opportunity to respond very quickly to issues and to ensure that the right decisions are made from an informed position to ensure the safety and wellbeing of others around us. This bill goes into so many different areas, but for me it comes back to highlighting the fact that, after some 10 years of review, and extensive consultation over the last six months—and certainly the ability that the minister provided to all members of parliament to be briefed on this bill—the government has made every effort to get it right. It does have its genesis from when the Hon. Dean Brown was the minister for health so it has been some 10 years in its formation, but we are about trying to get a system in place that will ensure that South Australians live in the safest possible community.

It does obviously have an effect on the Public and Environmental Health Act 1997 with which local government—which I previously worked for before coming into this chamber—has a close involvement. I know when the briefing was provided by the minister, I posed a question to him and it refers to a closer working relationship between state and local government and the consultation and the cooperation that will occur: indeed is that going to translate into more

responsibilities upon local government and if those responsibilities come at a cost, is there an expectation of some level of financial contribution and support from the state towards those costs?

Local government is a primary driver in this. It is well connected to the community and it has the ability to get the message out to the community about issues that it needs to be prepared on and it has the ability to put programs in place to ensure that the level of not only education but also health prevention actually is occurring out there. I know that each council tries to employ very skilled people. It is quite hard to find public and environmental health officers, but I hope that from this there can be a stimulation of great career opportunities for people who want to go into those areas too.

Education, as I said, is the key thing for me here too, because a community that is aware of what can occur knows how to react. It makes our awareness far better. We are alert to issues as they arise. There is a level of knowledge within a family structure or a business or corporate structure on the way in which an appropriate response has to be developed, and it ensures that indeed we are able to get things moving properly.

The briefing paper prepared by the shadow minister talks about so many things. Certainly he has identified the key issues and established the objectives. It talks about the definition of the role between minister and local government; it talks about establishing a statutory position of a chief public health officer. He refers to the requirement for public health planning and reporting against those plans, and I think that is a very good move. We have to ensure that plans are in place, that training takes place, that reports against those yearly objectives are published and where deficiencies occur, that the objectives are actually met in future times.

It talks about the development of state public health policy. It talks about the general duty of preventing harm to the public health and, again, the consultation and cooperation between state and local governments. It talks about incorporating provisions for emergency incidents. That is a key one, too: there will be situations that arise that you just cannot plan for. As much as a community thinks they are prepared for that, we need to make sure that the flexibility exists in these emergency service providers to make sure that they are actually skilled in what they need to be to make sure that we actually cover that.

It talks about identifying notifiable microorganisms. Again, that is part of the global world in which we live, where there is an ability for those microorganisms to be transported so very quickly. There are amazing movies and television programs sometimes about pandemics and epidemics, how quickly they are transported and the number of people who can be affected by them in a very short time.

Having that planning in place will ensure the ability to control that. It may mean, as the shadow minister said, having the ability to detain people from time to time in the interests of the public good. Getting that right without inconveniencing the freedom that people have is also important, but we have to have that flexibility.

I am aware that consultation on this bill has been quite extensive. Any bill that has taken some 10 years before it is presented to the parliament does rely on the fact that consultation has been extensive. I am sure that the minister will ensure that he has done everything possible. I note that there have been 59 submissions. To me, that certainly indicates that there has been a wide variety of views canvassed and that efforts have been made to ensure that those views will be incorporated in any changes that might have been made to the draft.

Agriculture is really important to South Australia. For our export potential and our economic opportunities we want to make sure that controls are in place to ensure that there is no risk. That is where the ability to control disease outbreaks is very important. I know that, in this state, the agriculture industry goes to an immense degree of effort to ensure that it minimises that risk as much as possible, but let us hope that the support provided by this bill will ensure that it is only going to be easier for our farmers to undertake that.

We all want to see the swift passage of this bill. It has been something that has been talked about. The shadow minister gave a very detailed response to the joint party meeting and any questions that were posed. The small number of speakers from the opposition is not reflective of the support and the concern that we have for this. We hope that the swift passage of the bill will allow for improvement in the health and wellbeing of South Australians now and into the future and that surety will exist for our economic wellbeing by ensuring that our export opportunities are not harmed in any way.

Mr PICCOLO (Light) (16:37): I rise in support of this bill. I would just like to make some general comments regarding the bill and provide some background, given that this bill seeks to overhaul an act dating back to 1873.

Ms Bedford interjecting:

Mr PICCOLO: It was a good year, 1873. While public health legislation is important, it sometimes appears that it is not always reviewed as urgent and perhaps it does not always command the legislative attention it deserves. South Australia passed its first public health legislation, as I mentioned, in 1873. This basic act provided the model for several further pieces of legislation.

Further public health acts of 1876, 1884, 1898, and 1935 simply restated and refined the basic provisions of the 1873 act. Even the 1987 act, which this bill is designed to replace, can trace a clear and linear connection back to 1873. While this shows the continuity of sound public health measures, it is also important for this house to consider the significant changes that have taken place in public understanding and expectations about health and the significant changes that have developed in public health practice and knowledge since 1873.

The 1873 act and many of the subsequent pieces of public health legislation were developed at a time when the principal public health threats came from infectious diseases often caused or made worse by poor living conditions and a lack of proper sanitary systems and infrastructure. Also, for most of human history and well into the 19th century we had very little scientific certainty about what caused the spread of illness in the community, and this lack of knowledge was reflected in our laws. For example, throughout much of the 19th century, the miasma theory was dominant, and I will explain what this theory is. It holds that disease was spread through noxious odours.

Today, however, often as a result of successful public health initiatives, many of these 19th century health risks have been largely eliminated or controlled. These initiatives have led to cleaner air, safer drinking water, efficient waste disposal, safer and higher quality food and food storage systems, and generally better living conditions, such as better housing and safer products.

While these traditional health challenges are now well controlled through sound environmental health measures and modern medical practices, we now realise that, since the latter part of the 20th century and into this century, new public health risks have emerged. Risks that confront our public health authorities today include issues such as:

- the epidemic spread of chronic conditions and conditions related to obesity;
- illnesses caused through what the World Health Organisation refers to as the 'social determinants of health';
- the public health impacts of climate change;
- new or recurring diseases resistant to modern drugs; and
- pathogens, chemicals and other contaminants which may find their way into our environment or into our food and the food chain and potentially damage our health.

We must ensure our public health authorities have sufficient powers to deal with these issues and continue the historic task of preserving and improving health. While our understanding of public health has changed markedly since 1873, the basic mission of public health remains the same. The 1873 act was 'to make provision for the preservation and improvement of public health'.

The other great core of the 1873 act, which has been reflected in all subsequent acts and continues in this bill, is the strong partnership between state and local governments. Local governments in earlier acts were constituted as local boards of health. In fact, in an earlier life, I think I was a member of the local board of health when I was a member of the district council of Munno Para.

This new bill continues the recognition of the role of councils by making it clear that they are local public health authorities. It is a clear recognition that, while our health can be impacted by many global factors and wide-scale social and economic circumstances, much of what also impacts on our health is very local. Having local government as an equal partner in public health means that South Australians can rely on their elected representatives and public health officials to work closely to make sure that public health strategies are both effective and accountable to the community—and accountability is very important.

What the bill does is allow these powers and provisions to be applied to today's and tomorrow's public health concerns. Many lessons have been learnt in the last century about the best way to develop and deliver sound public health strategies. Advances in science, medicine, toxicology, environmental health, and other social sciences and biochemistry mean that we can now have a far wider range of tools available to combat public health threats.

But the greatest lesson of the last century has been the recognition that public health is everyone's business. We all have a role to play and the best way to mobilise against public health problems is to work with people (particularly those most affected by the risks), encourage their participation and work in partnership to preserve and promote health.

Australia's success in stemming the HIV/AIDS epidemic in this country was due to the determined efforts of public health experts to work collaboratively with those communities most affected by this disease. Without this full cooperation and genuine partnership, this success would not have occurred. These lessons have been well learnt and have been incorporated into this bill. Not only are there strong powers to ensure the protection of the public's health, but also these powers are balanced by strong guarantees and safeguards in the bill. I will now canvass some of these guarantees and safeguards which will ensure that public health in this state remains sensible, accountable and effective.

First, there is a set of principles spelt out at the beginning of the bill which will be used to guide the administration and practice of the legislation. They must be used to inform the decisions made and the powers exercised under the law. For example, the precautionary principle (clause 6) ensures that action can be taken to deal with an assessed public health risk, even though there may not be full scientific certainty. Nevertheless, those actions must be undertaken only after careful evaluation and assessment, and then only with minimal disruption to individuals, communities or commercial activities as are necessary to protect against identified risks.

Secondly, clause 7—Principle of Proportionate Regulation ensures that regulatory measures contemplated under this legislation should take into account ways to minimise adverse impacts on business and members of the community. There are also principles which ensure participation and partnership (namely, clauses 11 and 12). These principles make it clear that individuals and communities will be encouraged to take responsibility for their own health and participate in decisions and planning for their own health and the health of their communities.

Where strong powers are required (for example, in the case of highly-infectious diseases where it may be necessary to exercise controls over certain individual's behaviour), there are a range of protective safeguards. Strong public health powers to order a person to conduct themselves in certain ways, to be under supervision, to undergo examinations and even to be detained have always been part of public health's legal capabilities here and around the world.

For the first time, however, these powers were exercised within the context of a clear statement of rights for the affected person. These rights are described in clause 14 and must be applied to parts 10 and 11 of the bill. These rights include:

- the right of the individual to have his or her privacy respected and to have the benefit of patient confidentiality;
- the right to appropriate care and treatment which respects the individual's dignity and which is provided without unnecessary discrimination;
- the right to be involved in decisions about themselves where practicable and to be given reasons for decision made about them; and
- the right, where they are subject to restrictions on their liberty, to have those restrictions be proportionate to the risks.

These clear statements of rights are consistent with the requirements of the World Health Organisation's International Health Regulations, which were last revised in 2005. These rights will be adhered to, but the most important of all rights is the right for the community to be protected from harm, and this bill makes this very clear.

The system of control orders is also subject to appeals to the District Court, and where a person is detained it is subject to regular judicial oversight by the Supreme Court. There are several provisions within this bill which require the minister and the chief public health officer to consult before taking action or to consult about how they might formulate policies, guidelines, regulations and other codes of practice or plans.

For example, where regulations are contemplated in order to make certain contaminants notifiable, the chief public health officer, under clause 67(13), is required to consult with representatives from those industries and groups that will be directly affected. Also, under clause 62(4), where the minister is developing a code of practice for an industry or sector to help prevent or reduce the incidence of non-communicable conditions, the minister, again, must take reasonable steps to consult with affected persons or organisations.

These are some of the examples of how this bill balances the need for strong and clear public health powers and action with the equally important need to ensure that people's rights are protected, of how impositions are kept to the minimum necessary and that participation and partnerships are supported and encouraged, and consultation mandated in many instances.

In conclusion, this bill continues the great and historic task of public health to preserve, protect and improve the public's health as it was set out in 1873. It continues a strong and historic partnership between state and local government. It recognises and provides powers to respond to 21st century public health challenges, and it secures good, contemporary public health values and practices of working with people and communities, respecting their rights and encouraging their participation.

Ms BEDFORD (Florey) (16:48): The South Australian Public Health Bill has been the result of an extensive review and consultation process. This review was initiated by the former minister for human services, the Hon. Dean Brown. This review builds on the global renewal of public health legislation that began around the turn of the century—as the member for Light said, 1873, that fine year.

Here in Australia, most other states and territories have either recently renewed their legislation or are in the process of reviewing it. Some, such as New South Wales and Western Australia, commenced their reviews before South Australia and are yet to conclude. Taking all this experience of legislative reform into account means that South Australia can learn from the best of national and international approaches, but it can also build and extend them to make sure that they meet our local needs and challenges and reflect our local experiences.

The contribution of local government and the contribution of environmental health officers to this review have been exemplary. Those working on the front line of enforcement know best how the current legislation works and, more particularly, how it can be improved. I join with the minister in expressing my thanks to local government, the Local Government Association, Environmental Health Australia and all those locally based environmental health officers who contributed their time, energy and insights to this review.

This bill not only allows us to look backwards to make sure that we deal with perennial public health problems and ensure we retain those tried-and-true public health powers that we need to deal with known public health risks, but it allows us to push forward, to anticipate new public health challenges and to prepare for the unexpected. The experience of those who have worked with the current legislation, combined with national and international reform experience and blended with the contribution of public health law experts, has given this state a bill which I am sure will help us preserve, protect and promote our people's health well into this century.

I particularly wish to highlight the range of provisions within the bill which clearly strengthen South Australia's public health effort and provide the basis for ensuring that our community's health is protected and promoted. Firstly, I wish to draw the house's attention to the establishment of the state's first statutory position of chief public health officer. Clauses 20 through to 25 are the operative clauses. For the first time in South Australia's history, this parliament will establish, through this bill, an independent officer who will have public health expertise and experience and whose charter is to be a clear voice to advise the minister, the health system, the government, the parliament and the people of South Australia on matters which affect their health.

The chief public health officer also has powers to intervene and act where there is a clear public health danger or breakdown in usual functioning. This leadership role will have the force and the strength of law to ensure that it can be undertaken. Most other similar jurisdictions around the world have such a position. It is time for South Australia to catch up.

This bill also continues a high-level consultative and advisory body. Under the current Public and Environmental Health Act, the Public and Environmental Health Council provides this role. In many ways this body reproduced the leadership functions of the Central Board of Health, which was established under the earlier public health legislation. This bill also establishes such a body at clauses 26 through to 36, but with clearer and more strategic terms of reference and a

broader membership which reflects the scope and diversity of public health stakeholders in this century.

For example, included in the membership of this new council are persons with expertise in health promotion, persons from the non-government sector, and persons with expertise in communicable diseases. This body will ensure that the minister, as well as the chief public health officer, has formal access to the best public health advice.

Further to this, clauses 37 and 38 make it far clearer that local councils need to sustain their historic and continuing role as the local public health authorities. These provisions do not extend the responsibilities of local councils; what they do is clarify and codify the broad range of tasks that councils have always had to undertake in order to protect and advance the health of their communities.

I most particularly note that authorised officers appointed by this legislation have identical powers as under the current act, congruent with the powers similarly provided by this parliament in other acts that establish a scheme for authorised officers. This is appropriate and proper. It is important that when public health is threatened, those charged with its protection have the full authority that the law can provide in order for them to do their job to protect our health.

There are also several key innovations in this bill which strengthen our community's capacity to secure an advanced public health. Clause 56 establishes a general duty not to harm public health. This provision mirrors similar statutory general duties established under other legislation, for example, the Environment Protection Act establishes a general duty not to cause environmental harm. This provides for a generally applied community standard and reinforces that we all have a role to play when it comes to protecting public health. As such, it is a significant educational opportunity to reinforce our joint responsibilities.

More particularly, as with most statutory general duties, whilst breaches do not constitute an offence, failure to comply with a properly constituted notice under this provision may give rise to an offence. This provision in many ways replaces and improves sections 15 to 17 of the current act. The bill improves this area of public health by providing a clear scheme for how harm, as well as risks to health, can be systematically assessed. This provides clear guidance to authorised officers to undertake consistent assessments prior to taking necessary action.

I am informed that the current sections of the act are so antiquated that they reflect pre-germ theory understanding of what may cause risks to health. Section 17 of the current act speaks of the emissions of offensive material or odours. This is pure miasma theory; the view that disease was spread through noxious odours is long since outdated.

The bill also establishes two specific offences of material risk and serious risks to public health at clauses 57 and 58. These are general offences which can be applied to any situation of public health risk. Using a well-established risk assessment framework, authorised officers will now have the capacity to consistently assess any situation that might cause a risk to health and take whatever appropriate and proportionate action is necessary to remedy the situation. Some examples of what may constitute an offence of a risk to health include:

- operating a tattoo parlour in such a way as to risk the spread of disease to clients—a prosecution might occur if there is a repeated failure to comply with a notice under the general duty or an immediate case for prosecution can be made if there are cases of infection that can be traced back to the parlour and the procedures used;
- failure to maintain a system to prevent overflow of potentially hazardous effluent—a prosecution might occur if effluent has overflowed in circumstances where persons have been exposed to toxic or infectious material which may result in actual or potential harm; and
- a therapeutic health or lifestyle procedure (for example, colonic irrigation) presents a risk—a prosecution might occur if, despite orders being issues or statements made about the inherent danger of the procedure, a person continues to provide the procedure in a manner likely to cause harm or there are actual cases where persons have been physically harmed as a result of undergoing this procedure.

Over and above providing strong and clear measures for dealing with public health offences, the bill also provides for measures which can help prevent harm from occurring in the first place.

Members will note that the bill in part 4 provides for a scheme for state and regional public health planning. This has been a feature of legislation interstate for some time but not in South Australia.

Again, it is time for South Australia to catch up. Such planning will allow both state and local government agencies to coordinate their activities, plan for public health protection and improvement strategies based on a local assessment of needs and set an overarching framework of priorities for public health action in our state.

The bill also establishes a scheme for the notification of prescribed contaminants which may cause risk to health. This occurs at clauses 67 and 68. For example, with the cooperation of food processors, if certain contaminants—such as a microorganism or other contaminant such as a heavy metal—are detected at a certain stage of processing, notifying public health officials will ensure that immediate action can be taken by both the company working in concert with public health well before any harm is done and well before the contaminated product can enter the retail market. This is the essence of prevention—taking action to prevent a clear potential harm.

There are several other provisions in the bill, such as in part 8, the development of codes of practice for the prevention of non-communicable conditions, which is designed to get ahead of the public health risk and designed to enlist the cooperation of industry and other sectors of the community. Taken together, the bill provides a set of provisions to take quick action where harm or potential harm is occurring or imminent, as well as a set of measures which will allow us to get ahead of potential problems, assess public health needs, jointly plan for coordinated action and prevent harm from occurring in the first place.

These are the very things that our community rightly expects when it comes to public health law. The community rightly expects where damage or harm is occurring that we can take immediate action, and the community rightly expects that if we can prevent harm we should not hesitate to act. The community rightly expects that if we can develop the conditions which will keep us healthy, then that is precisely what we should do. The bill provides for such a suite of approaches, and I commend the bill to the house.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (16:57): I thank members on both sides of the house for their contributions to the debate. I particularly thank the opposition for its expression of support for the legislation. I want to briefly turn to some of the issues the member for Morphett raised and try to address them if I can. I am grateful for the notes I have been provided to do this.

The member raised the issue of the precautionary principle, clause 6. I am advised that it is balanced by two clauses in clause 6; that is, there has to be careful evaluation, assessment of risk and minimum disruption. Also, principle 7, proportionate regulation means regulations must minimise adverse impacts on businesses and community. So, it is true that there is a precautionary principle that is balanced by other principles, and I guess that is the point. The minister also issues guidelines as to how principles are to be used, and guidelines are prepared in conjunction with local government.

The second point was in relation to clause 23, biennial reports of the CPHO (chief public health officer). The advice I have is that it is a two-yearly report because it is meant to identify trends, activities and indications and the implementation of the public health plans, and so it is supposed to have a longer time frame. There are a longer-term issues, and two years is considered to be an appropriate period to identify changing trends, and the Southern Australian public health council will report on activities on a yearly basis anyway. So, there is a yearly report but this is above that report.

Thirdly, direction powers under clause 75, I am advised that these powers are exactly the same as in the current act. Adults who have a conscientious objection to treatment or examination can exercise that but can still be supervised or detained, so the other provisions of clause 75 would apply. Fourthly, detention in emergencies, clause 90. This is the same as amendments to the Public and Environmental Health Act last year, already passed by the parliament, and will only apply in declared emergencies, so I hope that covers it.

The member also mentioned the possibility of a review after a few years by the Social Development Committee. I am not opposed to that; I am happy to get some advice. It might be that we have a review. I gather there is a five-year plan that is required under this legislation. It might be appropriate that we link the review to the planning process. Without being specific about the time frame, I am not opposed to the idea that we should have a review by the Social Development

Committee, so perhaps we can do some work between the houses. I am happy to agree to something, I just do not quite know yet what it would be.

I take the point the member for Morphett made that this legislation has been a long time in the making. It is a very complex bit of legislation, as members would have heard from the description by the member for Morphett and from their own reading of the legislation. It does cover the field. It is really a seismic shift in the way we approach these kinds of issues, from a very traditional method of rules and regulations and what you can and cannot do to a broader approach, I suppose similar to the way we manage environmental legislation. I commend the legislation to the house. I am glad it has bipartisan support because these kinds of measures do need that level of support from the political leadership.

In these last few minutes, I thank the departmental officers. I do not know if they have all been working on this for 10 years, but some of them have been working on it for a very long time. The principal contributors are Danny Broderick, Kevin Buckett and Kay Anastassiadis, and they have certainly been working on this for as long as I have been Health Minister. They are here in the chamber—I am not supposed to draw attention to the chamber, but I do thank them. I know they have been helped by an extensive team.

I would also like to thank Dr Chris Reynolds, who until recently was at Flinders University. He has made a very significant contribution to the drafting of the bill and, of course, parliamentary counsel Richard Dennis who, as usual, does a mighty job. I particularly thank the Local Government Association, with whom we have a strong partnership in relation to this, obviously, for their forbearance as we have gone through this very long process.

I understand the LGA is seeking some assurance in relation to resources identified for the implementation of the legislation and I give them that undertaking. I understand that the department is working with the LGA and Environmental Health Australia, SA Branch, to develop specific implementation plans. This planning will be carried out by a joint implementation steering committee, which includes representations from both the LGA and Environmental Health Australia.

A plan needs to be developed in the first instance so that costings can be determined and the plan funded accordingly, so I certainly look forward to receiving the business case which will support the plan once it is developed. In saying this, I wish to assure the LGA and EHA that the department and I are committed to making sure the legislation is properly implemented and identifying reasonable and appropriate resources to support its implementation. I also understand the department has already identified some resources in advance of the legislation passing to assist the LGA in developing capacity to support councils to undertake regional public health planning.

This is a new way of approaching this. It has been consulted on and thought through in great depth over a long period of time. I am very pleased it has now reached the stage where this parliament can consider it. Once again, I thank the opposition and particularly the member for Morphett for his expression of support, and my own colleagues for their support as well. I commend the legislation to the house.

Bill read a second time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (17:04): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ADJOURNMENT DEBATE

CYCLIST SAFETY

Ms SANDERSON (Adelaide) (17:05): I rise today to speak on issues that affect cyclists but, really, it could be argued that they affect us all. Primarily, I wish to talk about cyclist safety and encourage this government to show a real commitment to cyclist safety and bike lanes in the redevelopment of our transport corridors.

More specifically, I would like to discuss the upgrade of two arterial roads, Churchill Road and Prospect Road, that are within the City of Prospect council area, although under the control of DTEI and, therefore, the state government. The Rann government developed a policy entitled,

Safety in Numbers—A Cycling Strategy for South Australia 2006-2010, which recognised—and I quote:

> ...that many people choose not to cycle because they perceive cycling to be unsafe...Whether cycling for recreation or transport, safety is a barrier to getting more people to take up cycling.

Despite this policy, DTEI has supported the Prospect Road Masterplan, including providing funding of $1.1 million to support the development of the Prospect Road Village Heart, which many cyclists feel is a development detrimental to cyclist safety.

This year, five groups got together to promote Active Transport. They are: the Australian Local Government Association, the Bus Industry Confederation, the Cycling Promotion Fund, the Heart Foundation of Australia and the International Association of Public Transport. In a media release, the Active Transport group stated that 16,000 lives could be saved by positive active transportation measures. Major political parties have been urged to embrace Active Transport as part of the policy cure for the challenges of chronic disease, climate change, congestion and pollution.

Prospect council appears to be out of step with its LGA in its upgrade design of arterial and freight route, Churchill Road. This will be so hazardous for cyclists that it will discourage sustainable transport of the bicycle and Active Transport. As a city, we want to encourage people to leave their car at home and cycle to work. Cycling as a form of transport is beneficial to an individual's health as well as their hip pocket and to the broader society; the environmental benefits are enormous. Increased uptake of cycling decreases congestion on roads and generally makes our city a greener and more inviting place to be.

When we redevelop roads, we need to make sure that we include appropriate infrastructure that encourages, not discourages, cycling. Suggestions from other states include: coloured tracks, buffer zones, the use of candlesticks, bikes riding closest to the footpath with a buffer and then parked cars to provide more safety, and buses with bike racks on them. There are many other ideas that would encourage more cycling. We cannot lose the opportunity to have a fantastic example of a cycle-safe transport corridor on Churchill Road rather than wasting taxpayers' money on a bad design and having to re-do it later.

It is my understanding through practical evidence supplied to me by my constituents that Churchill Road has become more dangerous for cyclists and does not follow Austroads' guidelines for cycling safety and infrastructure. Austroads 2009 states:

> Due to wind force exerted on cyclists from heavy vehicles, roads should be designed to provide satisfactory clearances between the cyclist envelope and the vehicle. The recommended minimum clearance in a 60 km/h area is one metre.

Despite Churchill Road's primary use as a freight route, with an annual average daily traffic of approximately 22,000 at the Torrens Road entrance, increasing to 27,900 vehicles per day north of Regency Road, the road is being narrowed to allow for extended footpaths and indented car parking. There are 19 sections of the plan for the redevelopment of Churchill Road. The plan ambiguously states that the cycle lanes will generally be 1.5 metres in width. Looking at the plans, there are sections where there does not appear to be a bike lane present at all.

The road is being narrowed to widths of 3.3 and 3.5 metres. Within this short width, trucks of up to 2.8 metres wide (including their side mirrors) will be required to fit. The reduction in the width of the road will mean that other road users will also be affected by the reduction in width. The most vulnerable of these road users are the cyclists. The coordinator decided to collect a cycling petition, and she first sought advice from the minister's office on the wording. The minister's office did not confirm the required wording and, unfortunately, a petition with over 3,433 signatures was collected but cannot be presented to this house because the wording is incorrect.

What this does show is that there is a strong wave of support within the community for the need for greater bicycle safety and bicycle infrastructure when our roads are constructed and upgraded. Cycling and walking infrastructure is cheap, provides significant benefits for all communities and is ideal for getting to our local public transport trip.

In closing, I encourage female members to join me in the Gear Up Girls bike ride this Sunday. I also remind the house that on Ride to Work Day this year a cyclist was killed on another freight route, that is, the Port Expressway. Will the upgraded freight route of Churchill Road be the next freight route where a cyclist dies?

KLEMZIG PRIMARY SCHOOL

Mrs GERAGHTY (Torrens) (17:11): I want to talk about a great pleasure I had recently. I attended the celebration of 50 years of education at the Klemzig Primary School. I have to say that the celebration was extremely well attended, even though the day was a bit rainy. We had not only current students and their parents attending but also past teachers, past students and a number of friends of the school.

Klemzig Primary School and the Centre for Hearing Impaired are totally integrated to provide a bilingual, bicultural program where hearing-impaired and deaf students and hearing students all learn Auslan (the Australian sign language) and English. The school also provides an Auslan early learning program, a preschool program for deaf and hearing-impaired children, as well as for children with deaf parents or siblings.

In 1970, the school's first time capsule was unveiled and buried by the then minister for education, the Hon. Hugh Hudson. Thirty years later, in 2000, the time capsule was opened and I had the pleasure of attending that, along with many past students. Quite a number of former teachers gathered with the local school community to share the memories that they had when they filled the time capsule and to share the sense of history the capsule ignited during the opening.

Throughout the seventies and eighties, enrolments gradually declined at Klemzig due to the ageing suburb, and in 2005 I think it had the lowest enrolments recorded, with 165 students at that time. During the past five years, a rapid growth in the school's population has occurred, mainly the result of the urban renewal in the Klemzig area but particularly, I think, due to the outstanding work undertaken by the school's current leadership team in promoting the school. I have to say that Tony Zed, who is the principal, is extremely active in promoting the school. The current enrolments now stand at 279, so I think that speaks for itself.

A new transportable was added in 2008 to accommodate rising student numbers, and it is reassuring to know that the state government's recent budget commitment of $7.1 million through the capital works program will now allow for further expansion, and we are extremely proud of that $7.1 million. The capital works program will provide the school with a purpose-built facility for the bilingual program, which will provide space for integrated deaf and hearing students and an area for the preschool's Auslan early learning program.

Auslan is taught across the whole school community. It is actually a great thing to see the language of the deaf shared by the whole school community. It is wonderful to see hearing and non-hearing children communicating out in the playground. I have a brother-in-law who has been deaf from birth, and I remember the struggles that he had in the early days, so seeing students with a hearing difficulty being able to communicate so ably and integrate with communities is a fantastic thing.

The capital works program will also allow for upgrades to the existing classrooms in the two-storey building, which will create four dual classrooms with space for small community work—so they can do that separately—and the refurbishment of all the boys' and girls' toilets on both floors of the two-storey building. On the issue of school toilets I have to say, if you go to schools a lot, some of them need a bit of attention. It might seem silly to be excited about that, but it is very important. The program will also allow for the provision of rainwater tanks and a solar generation package, which is very important.

At the 50-year commemoration I had the immense pleasure of taking part in the sealing of Klemzig Primary School's second time capsule. I placed the first shovel of cement on top. You can imagine what it will be like in 25 years' time—the excitement—which will be in 2035, if my arithmetic is any good. When the capsule that we had just sealed is unearthed, it will be extremely exciting.

The capsule has all sorts of memorabilia in it, including school uniforms, newsletters, copies of the school magazine and a DVD of each classroom in action. We had a debate about what kind of equipment they will have to be able to read a DVD down the track. I suppose they will be like us looking to play those old cassettes that we used to have. It will be really exciting. I just have to make very special mention of the performance of the junior primary signing choir. They sang to us in sign language. They did a performance. It was such a sweet and memorable performance of the *Tutti Ta* song. I had never seen—

The Hon. J.D. Hill: Go on, sing it!

Mrs GERAGHTY: Well, you have to act it out, and I am not sure I could do all the actions. It just had this huge assembled audience in fits of laughter, and it was just the most delightful thing. It brought tears to the eye. I thoroughly enjoyed it along with everyone else. I want to commend the primary school. I know that students who currently attend the school just love it. Klemzig will attract, through specialists programs and the new facilities it has, a huge number of students in the future. I want to congratulate everyone. It was a fantastic day, and I certainly hope I am around in the year 2035 when they open the next time capsule.

Ms Bedford interjecting:

Mrs GERAGHTY: My colleague the member for Florey is suggesting that perhaps that might not be the case. She may be right, doing the maths, she says. Well done to everyone; it was a fantastic day.

GOVERNMENT PERFORMANCE

Mr PISONI (Unley) (17:18): We saw some extraordinary scenes in the parliament today. We saw the Treasurer chastise 'the world's greatest agriculture minister'. In fact, everybody knows that when we call the agriculture minister 'the world's greatest agriculture minister' we are taking the piss, and yet we have the Treasurer himself using that—

The SPEAKER: Order! Point of order, member for Torrens.

Mrs GERAGHTY: My point of order is that, while things over the last few days of sitting have deteriorated incredibly in this chamber with the behaviour of members opposite, I do not think resorting to inappropriate language adds to parliamentary procedure or to the decorum of the parliament.

The SPEAKER: I would advise the member for Unley to be very careful with this language and what are he is saying.

Mr PISONI: They do not like hearing it, but they have got to hear it because we have a right to speak in this place. The facts are that this government is a house of cards and the cards are falling out. What is obvious about this government, what is obvious about the performance that we saw today, is that it is a house of cards full of jokers, absolutely full of jokers. I think that if we go back to the Premier and his defence of Cranfield University—you can still get this off the Premier's website.

This is the Premier's speech addressed to the National Press Club on 11 June 2008. It is a mid-term boast in the lead-up to the next election. We know the Premier has developed an extraordinary ability to over-spruik anything as part of a potential achievement—because it is always gunna. We heard a whole lot of gunna from the minister again today. We should call premier Mike Rann the gunna minister because he never delivers on what he promises. What did he say at the National Press Club that day? He said 'We are also home to a campus of UK-based Cranfield University.'

And what did he say yesterday? There was never a campus. Read *Hansard* and he said there was never a campus. It is a presence. What is that—a gift? I don't know; I am still trying to work it out. It is certainly a gift for the opposition, I will tell members that right now. The Premier's behaviour in the parliament today is a real gift for the opposition. What else did he say yesterday? Yesterday, when asked about degrees that have happened as a result of Cranfield University, he said:

> If you actually had been following things—there were never any degrees; that's the whole point. They organise short, executive courses.

That is *Hansard* of yesterday. What did he say on 30 May 2006? This is the boast again, the over-spruik that the Premier has become famous for. He said:

> So, we will have two world famous universities, Carnegie Mellon and Britain's Cranfield, one offering US degrees and the other offering British postgraduate degrees.

What did he say exactly one year later on 30 June 2007? He said:

> During the initial three-year business development period, Cranfield will continue to teach a wider range of executive short courses, begin teaching dual post-graduate degrees with existing South Australian universities, and commence teaching specialist defence-related masters degrees.

What did he say nearly three months later on 13 September 2007? He said, 'As Cranfield develops a suite of defence degrees,' but the only suite I saw over there at Victoria Square was a broom cupboard, and an empty one at that—with a nice Cranfield sign on it, I must admit.

This is on top of the Premier's over-spruiking of Carnegie Mellon's arrival in South Australia well before the 2006 election when he talked about two campuses. One of them was the entertainment technology centre, and he said students at that campus would be able to work for Disney and Pixar. Remember that? He loves to stand next to those famous people. Remember the Kennedys and some connection to the Kennedys? Of course, it all comes at the expense of taxpayers' money. Taxpayers pay for the Premier to spruik his nonsense.

Time expired.

NEIGHBOURHOOD WATCH

Mr PICCOLO (Light) (17:23): With the few moments left to me to speak today, I would like to take this opportunity to speak about a special group of volunteers in the community; that is, those volunteers who are active in the various Neighbourhood Watch programs throughout my area. Today, I would like to talk about Neighbourhood Watch in the Barossa region.

On Tuesday night last week I attended the inaugural Neighbourhood Watch awards for the Barossa region. The awards night was organised by Senior Constable Ian Skewes and his wife, Susie Skewes, and was also attended by Deputy Commissioner Gary Burns. It was a very good night. There were probably 140 people who attended the evening in Gawler, and the purpose of the awards night was to acknowledge the contribution made by a whole range of volunteers in making our community safer.

The award night was split into three sections: police, community and business volunteers. The police award acknowledged the contribution made by local police. One local police officer (I think it was Constable Chris King) was acknowledged for the contribution he has made to a whole range of local Neighbourhood Watch schemes. Under 'community and business', a number of community members and business people—who are not part of the watch but who make a contribution in supporting the watch either through photocopying newsletters or providing other prizes, etc., and support for the Neighbourhood Watch groups—were acknowledged, as well as the volunteers themselves.

These are the people who, day in and day out, do small things but important things—and, when you add them up, they are very important things—to support and to make our community safer. A number of volunteers were acknowledged. Many have been involved with Neighbourhood Watch for many years and rightfully were acknowledged for their contribution.

The Neighbourhood Watch members do things like prepare and distribute newsletters, and they do other small projects in promoting home security and home safety, etc. A number of them are involved in anti-graffiti work around the town, which is very important. If nothing else, a lot of these people just literally walk the streets and get to know their communities and, through that effort, they bring people outside their homes and build that sense of community (which is very important) into supporting and building up the Neighbourhood Watch program.

The Neighbourhood Watch program is about community safety. It is about individual members of our community working with local police and other agencies, again, making a contribution to make our communities safe. I would like to take this opportunity to acknowledge all those volunteers who won awards on that night.

Time expired.

At 17:26 the house adjourned until Thursday 25 November 2010 at 10:30.