LEGISLATIVE COUNCIL

Tuesday 5 June 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.18 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

Regulation under the following Act—
Harbors and Navigation Act 1993—Renmark Speed Restrictions

Rules of Court—
Magistrates Court—Magistrates Court Act 1991—Forensic Procedure Warrant

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

City of Tea Tree Gully Local Heritage (Phase 2)—Plan Amendment Report

By the Minister for Correctional Services (Hon. C. Zollo)—

Report on the Death in Custody of Barry Michael Turner and Troy Michael Glennie—Department for Correctional Services—April 2007

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Regulation under the following Act—
Liquor Licensing Act 1997—Dry Zones—Ardrossan

By the Minister for Mental Health and Substance Abuse (Hon. G.E. Gago)—

Regulation under the following Act—
Controlled Substances Act 1984—Domestic Partner.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY: I move:

That the members of the council appointed to the committee under the Parliamentary Committees Act 1991 have permission to meet during the sitting of the council today.

Motion carried.

POLICE DOCUMENTS

The Hon. D.W. RIDGWAY (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Police a question about the stolen police documents.

Leave granted.

The Hon. D.W. RIDGWAY: An article on the front page of today's *Advertiser*, which is entitled 'Exposed', states as follows:

Police hold serious fears for the safety of secret informants whose identities may be revealed in documents stolen from an unmarked police car. Moves have been made to protect informants who can be identified in the documents amid concerns they could be tracked down by bikies.

The article continues:

A senior officer involved with the inquiry yesterday said the documents were highly sensitive because they not only contained details of individual police officers but could identify their informants. 'They have the names of the officers, their work mobile numbers, their private mobile numbers and the jobs they were working on,' he said. 'It is definitely possible to identify their informants by looking at the files. You can work it out, for sure. What is concerning everyone is that bikies will start tracking them down to do their own interrogations to find out what they have been talking about. It looks like anywhere between six to 10 major investigations are going to have to be scrapped.'

This morning, the minister was interviewed by ABC personnel on 891 radio. In his interview he stated that it was 'inconvenient' but that it did not necessarily pose a risk to the officers or the people involved. He then went on to say:

I find it a bit extraordinary with *The Advertiser* this morning. Just a couple of weeks ago they'd been attacking the police in the courts for not providing information in relation to the identity of the HIV carrier when the police argued before the courts that would compromise their investigation. So I think there is a bit of a double standard.

Was the minister in that bizarre statement this morning suggesting that it was a double standard for *The Advertiser*, on the one hand, to inform the community of the identity of the person knowingly spreading HIV and, on the other hand, criticising the police for the fact that the identities of undercover police officers and informants were now in the hands of the very people whom they had been investigating?

The Hon. P. HOLLOWAY (Minister for Police): In relation to the latter matter, I think the publication of any information that jeopardises a police investigation is unfortunate. The fact is (as the Deputy Leader of the Opposition in another place said) that a photograph of that individual with HIV should have been released. The police view was that that should not be done at least until the identification exercises—

The Hon. D.W. Ridgway: The AMA is calling for the list.

The Hon. P. HOLLOWAY: Well, I don't care what the AMA does at all, because it's not doing the investigation. What the Deputy Leader of the Opposition and some sections of the media were saying was that they should publish the picture. The police said, 'Well, look, wait until the appropriate time.' That is fortunately what happened so that that investigation could be completed. I was just making the point that, in relation to the use of documents, we are continually told, particularly by members opposite, about how this government is secret and how we are not releasing documents. When you have this unfortunate situation—

The Hon. R.I. Lucas: This is the freedom of information policy of minister Holloway.

The Hon. P. HOLLOWAY: No—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order, the Hon. Mr Lucas!

The Hon. R.I. Lucas: They just leave the documents in the police car.

The Hon. P. HOLLOWAY: No, that was the policy that was actually applied by Joan Hall, I believe, when her documents were stolen from the back of her car in front of the Feathers Hotel, if I recall. I believe that is what happened on that occasion. It does make the point—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, it was different; nonetheless, documents were taken. My advice from the South Australia Police is that the folder containing confidential police documents was locked and secured within an unmarked police vehicle parked in the driveway of private premises. SAPOL has a strict policy in place to control the security of such documents, and, in particular, such documents should not be left in a motor vehicle overnight. I understand that photographic equipment—

The Hon. D.W. Ridgway: So, they were stolen overnight?

The Hon. P. HOLLOWAY: Well, the theft took place some time between 12.30 and the early hours of the morning. I will come to those details in a moment. I understand that photographic equipment and other miscellaneous items were also stolen. The photographic equipment, along with some of the documents, has been recovered. Police identified that the documents are now in the possession of a member of an outlaw motorcycle gang. This information has resulted in a number of locations being searched; however, the police have been unsuccessful in retrieving the outstanding documents. Extensive resources have been allocated by South Australia Police to retrieve the outstanding documents, and investigations are continuing further.

The police have examined what information was taken, and have undertaken a number of steps to minimise the impact of this theft of documents in relation to police officers' numbers. Obviously, they can be changed. An internal inquiry has commenced to determine the nature of the security breach relating to the theft of documents, and an evaluation is underway to identify opportunities for improving the security arrangements relating to the carriage of such documents within vehicles. Clearly, documents should not be left in cars. I am sure that the officer concerned will face an internal inquiry; however, I do not think that it will necessarily help anyone to chastise that officer. Obviously, an investigation will proceed and the appropriate steps taken.

As I indicated earlier, cabinet ministers, such as Joan Hall, have had cabinet documents stolen from vehicles. The message is the same: people should not leave them unattended. However, people are fallible, and they do these things. I guess that this is not the first time that documents have been stolen from a motor vehicle, and it will not be the last. I am sure that the particular police officer, knowing the consequences of the actions, will probably want to crawl into a hole. That will not solve anything.

The police are taking whatever action is necessary to minimise the impact. All the people who supplied information have been contacted by police and appropriate action taken. If nothing else, one hopes that this exercise will serve to remind everyone, not just members of the police force but other people in the community who hold sensitive documents, to take adequate care to protect them.

The Hon. D.W. RIDGWAY: As a supplementary question, the statement the minister made this morning that the theft did not necessarily pose a risk but only an inconvenience demonstrates his gross underestimation of this issue. Will the minister step down as the Minister for Police?

The Hon. P. HOLLOWAY: I think it is a somewhat new interpretation of being responsible that, because documents were left in a police car and those documents were stolen, somehow or other I should bear the full responsibility for that.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway will come to order and listen to the answer.

The Hon. P. HOLLOWAY: I have indicated that the police have undertaken all the steps necessary to mitigate the impact of this—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, in relation to those police officer numbers, yes, it is little more than that, because mobile phone numbers can be changed. That was the point which I made on the radio today and which I reiterate now. In relation to police officers, yes, there is a lot of inconvenience in relation to changing phone numbers, but my advice from the police is that no police officer would be put in a compromising position as a result of that. As I indicated to the leader earlier, the police have contacted anyone who might be identified and taken appropriate action.

There are a number of things they can do. As they are operational matters, I do not intend to provide any more information in relation to that operation. Clearly, the police officers can do a number of things when events such as this occur. Obviously, they can do a number of things to mitigate any impact this has upon people who might be mentioned in documents, and that action has been taken.

GREAT ARTESIAN BASIN

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Environment and Conservation a question about the Great Artesian Basin.

Leave granted.

The Hon. J.M.A. LENSINK: The Great Artesian Basin Sustainability Initiative (GABSI) is a joint commonwealth-state funded program, the main purpose of which is to achieve an increase in artesian pressure as well as more sustainable infrastructure and groundwater management through the capping control and decommissioning of bores. A report into the scheme published in October 2003 advised that, at the time of reporting, New South Wales had exceeded its five-year target and South Australia had made 'more modest gains in pressure'.

The Great Artesian Basin Strategic Management Plan aims to save 211 gigalitres over a 15-year period. The opposition has been advised that, because the water is coming out of the ground at such extreme temperatures, the polypipe used in the cooling grids is failing and that fibreglass resins used to rehabilitate and decommission bores is failing. Urgent attention is needed to 'uncontrol' bores which are a threat to occupational health and safety and to the environment. Some 20 bores remain uncapped or rehabilitated and one bore is seeping 14 litres per second which, on my calculations, is more than 20 000 litres a day or nearly 7.5 million litres. My questions to the minister are:

1. Will she provide a progress report of GABSI?

2. Will she advise whether the government is considering alternative material which is better able to withstand the pressures and temperatures?

3. Did South Australia fully match the commonwealth funding?

4. Is phase 3 of the program the final stage?

The Hon. G.E. GAGO (Minister for Environment and Conservation): Indeed, GABSI commenced in 1999-2000 and, as members know, it is jointly funded by the state and commonwealth governments. The two components of the initiative are the well and bore drain replacement programs. To date under the initiative, nine wells have been decommissioned, three rehabilitated and 12 replacement wells drilled, saving 6.6 megalitres per day, which is 2 407 megalitres a year.

Work has commenced on the drilling of a replacement well for Mt Gason bore on the Birdsville track. The original Mt Gason bore will be decommissioned on completion of a replacement well. There are 37 uncontrolled flowing wells remaining in the Great Artesian Basin, of which 29 wells are considered eligible for initiative type funding. The bore drain replacement program has delivered approximately 185 kilometres of pipe and associated tanks and troughs to 22 pastoral

leases, saving an estimated 53 megalitres per day—and that translates to about 19 345 megalitres a year.

As members can see, there are quite substantial savings from these significant works. The benefits which have resulted from investments under the initiative include obviously greater security of water supply for existing users and groundwater dependent wetlands, including the mound springs and other related ecosystems; improved management of pastoral leases; and, of course, increased availability of water for new development and users. A business plan for investment in risk management and infrastructure in the Great Artesian Basin has been prepared by DWLBC, and its aim is to complete outstanding works under the initiative involving well rehabilitation, removal of bore drains and construction of cooling grids; investigate the failure of the fibreglass case wells where that has occurred; and investigate the possibility of establishing a contributory funding scheme for pastoralists to take up responsibility for the long-term maintenance or replacement of bores in the basin.

An economic analysis on the feasibility of those options for a bore insurance scheme has also undergone some preliminary work. The issues that have emerged in relation to the failure of several bores with this fibreglass casing and a work program have been submitted with the business plan to investigate the cause of the failure. It is very disappointing. We initially spent a great deal in putting in a very high quality fibreglass casing. We could have gone for a much cheaper option but went for the one which was suggested to be the best product of the day. We went for that option, rather than going for anything cheaper. Obviously, we put a lot of work and consideration into the type of casings used.

Issues have emerged in relation to the depositing of a carbonate material and also algae blooms on the cooling grids used to lower temperatures—the water comes out at a very high temperature in some of these water systems—and a water circulation device and epoxy resin have been trialled on a cooling grid to reduce the depositing of that carbonate material. That is work in progress and we are monitoring how that is going. In terms of future well maintenance, obviously the responsibility for bores resides with pastoralists and lessees of the land, and acceptance of this responsibility is obviously constrained by the high replacement costs—around $250 000 to $700 000 per bore. Members can see that it involves large amounts of money.

The higher costs are incurred by the bores which require deeper placement, and also the higher pressure and the higher temperatures that can be associated with those bores. In developing a business plan, DWLBC has investigated the feasibility of potential funding models for contributory funding schemes, as I mentioned, to help them take up long-term funding responsibilities in the longer term. In terms of the future phasings, they are under negotiation with the commonwealth government and the chamber will be informed when that has been finalised.

The Hon. J.M.A. LENSINK: I have a supplementary question arising from the answer. Can the minister advise whether the business plan includes a contingency for pastoralists who did not previously take up the offer to participate in the scheme?

The Hon. G.E. GAGO: I do not have the answer to that question. I doubt it, but I am happy to check and bring back a response.

MOBILE PHONES

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Road Safety a question relating to the use of mobile phones in cars.

Leave granted.

The Hon. S.G. WADE: In March 2006 Mr Mark Patrick Burns was charged with breaching rule 300 of the Australian Road Rules. He was found guilty and his conviction was affirmed on appeal. Yesterday, on Radio FIVEaa, the minister indicated that she expected SAPOL officers to 'enforce the spirit and the intent of the legislation as it now stands'. That is, to allow people to use a mobile phone hands-free in a car.

Considering that the law as it stood yesterday morning is the same law that stood when Mr Burns was charged last March, I ask the minister whether the government will acknowledge that Mr Burns was acting in the spirit of the law and provide an ex gratia payment to Mr Burns to cover the cost of the fine and the related legal proceedings?

An honourable member interjecting:

The Hon. CARMEL ZOLLO (Minister for Road Safety): My colleague just asked, 'How does he know what he was doing?' I refer the honourable member to the media release, put out late yesterday afternoon, to get some facts in relation to this matter. We all know that some drivers use mobile phones inappropriately; they text while driving or answer calls with the phone up to their ear, and some even play games or use the calculator function. It is dangerous behaviour and that is why rule 300—Handheld Mobile Phones has been in the Australian Road Rules since they were first introduced in 1999. This law has the support of the Road Safety Advisory Council.

By way of background, on 14 March 2006 in the Supreme Court case of Kyriakopoulos v Police a driver, who was using one hand to hold the phone's earpiece with the speaker microphone to his ear, was found guilty. It was found that Kyriakopoulos did not have both hands available for driving. In his judgment, Justice White said, 'mobile phones which are hands-free may be used.' So the court judgment upheld the common interpretation that hands-free was okay.

On 29 September 2006, the Australian Transport Council agreed, in an out of session vote, to approve amendments to rule 300. The purpose of this was to clarify the intention of this road rule to ensure that it would only be an offence to use a mobile phone while holding it. This would make hands-free use of a mobile phone legal. That was in response to changing technology and increased hands-free usage in the community. I reiterate that we did not believe there was any particular problem with the existing South Australian regulations at the time.

As we now know, Justice Gray of the Supreme Court recently dismissed an appeal by Mr Mark Burns against a conviction for driving while using a hand-held mobile phone. The judgment summary states:

> It is not necessary for someone to be holding the mobile phone in their hand at the time that they use it in order to be convicted under rule 300—this interpretation accords with the purpose behind rule 300 of ensuring that the safety of motorists and pedestrians is not adversely affected by motorists using hand-held mobile phones.

I have to say that the court decision was unexpected; I was not advised by SAPOL that this matter was being prosecuted. However, this is an operational matter and I understand that a synopsis of the judgment is being undertaken at this time. Whilst SAPOL is investigating this matter, it is important to note that Mr Burns was detected driving while talking on his

mobile in March 2006. The decision to make the changes to rule 300 was 6 months later. As the media release reiterated yesterday, South Australia is the first Australian state to change rule 300. The amendment, which came into effect from midnight on Monday, stipulates:

> The driver of a vehicle, except an emergency vehicle or police vehicle, must not use a mobile phone that the driver is holding in his or her hand while the vehicle is moving, or is stationary but not parked, unless the driver is exempt from this rule under another law of this jurisdiction.

'Mobile phone' does not include a CB radio or any other two-way radio. 'Use' in relation to a mobile phone includes the following: holding the phone to or near the ear, whether or not engaged in a phone call; holding the phone while writing, sending or reading a text message on the phone; holding the phone when turning the phone on or off (clearly, some people need to put in their security code); and holding the phone to operate any other function of the phone.

These changes to the Australian Road Rules were part of a large package to tidy up existing laws, and many were minor in nature. After being informed of the Burns judgment, it was important to clarify the situation by implementing the ATC approved amendments. I am confident that this matter has been clarified and that South Australian drivers can confidently use their hands-free kits while driving. As Minister for Road Safety, I remind drivers to exercise caution when driving. If anyone drives unsafely, they can still be charged with the offence of driving without due care.

I reiterate that the second Supreme Court decision on 25 May was unexpected. However, once the decision was handed down, it was necessary to act quickly to clarify the legislation by implementing the ATC approved amendments, which reinstated the common interpretation. I also remind the chamber that, in relation to ATC approved amendments, there was no obligation to approve them immediately; it does not impose a timetable for doing so. Implementation issues are different in each jurisdiction and need to be worked through before the amendments are adopted by a jurisdiction. ATC approval of the amendments does not give them any legal force and, as I said before, more importantly, South Australia is the first state to amend the rule. No other jurisdiction expects to introduce a fifth package of amendments until late this year or early 2008. However, Victoria has indicated that it, too, will amend rule 300 by 1 July, in conjunction with other amendments it plans to undertake.

Having learned of the court decision last Friday afternoon, and having looked at the judgment at the weekend and spoken with my officers, I do not think that I could have introduced the regulation change any faster than one whole day, with a cabinet submission and approval in Executive Council. Let us acknowledge how expeditiously this state has responded.

Members interjecting:

The PRESIDENT: Order!

The Hon. S.G. WADE: Can I clarify the minister's statement that the amendments introduced yesterday were ATC approved. Do I take it that those amendments were available last November, in which case would it not have been more expeditious to introduce them at that time, rather than eight months later?

The Hon. CARMEL ZOLLO: I have just placed on record that they were part of a package of, I think, 170 very minor amendments and clarifications, which every state expected to introduce, not piecemeal but as a package—most of us, by the end of this year or early next year. Given the recent court case last week, it was important to act expeditiously. I had one day to do it, and we did it in exactly one day.

The Hon. NICK XENOPHON: As a supplementary question: will the minister advise whether the police will be seeking costs against Mr Burns in relation to the judgment and, if so, whether she thinks that is appropriate in the circumstances?

The Hon. CARMEL ZOLLO: I advise the chamber that the police are undertaking a synopsis of the judgment at this time. I do not have any other information to give to the chamber.

The Hon. J.M.A. LENSINK: As a supplementary question: in relation to cradle or in-car kits, will the minister clarify what is and is not legal now, whether it is dialling, sending SMS messages, turning the phone on and off and so forth?

The Hon. CARMEL ZOLLO: I thought I ruled that out but, essentially, rule 300 will provide that the driver of a vehicle other than an emergency or police vehicle must not use a mobile phone that the driver is holding in his or her hand. So, hands-free are able to be used. As I said, as Minister for Road Safety I would urge everybody to be responsible. Those who do have a hands-free kit or use bluetooth or earpieces should be like most responsible people and, yes, receive a call and, if they need to, make a call, but always drive in accordance with the conditions on the road. If it is not appropriate for them to be doing that, they should not do it. It is a privilege to hold a licence.

Members interjecting:

The Hon. CARMEL ZOLLO: I'm not giving you a lecture: I am giving you the truth. I am the Minister for Road Safety and I am giving you the truth.

WILDERNESS PROTECTION

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about wilderness protection.

Leave granted.

The Hon. I.K. HUNTER: South Australia's Riverland region is recognised internationally for its ecology and biodiversity and as home to many rare and endangered birds, reptiles and mammals. Preserving these remnant wilderness areas is vitally important. Will the minister inform the chamber of new measures to better protect the fragile environment found in the Riverland?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for this most important question and for his ongoing interest in these important policy areas. On this World Environment Day I am very pleased to announce that some of the most precious wilderness in two of South Australia's conservation parks will be given the highest form of protection. Part of Danggali Conservation Park (203 500 hectares) and all of Billiat Conservation Park (59 260 hectares) in the Riverland will be declared wilderness protection areas. Since the Rann government was first elected we have increased the amount of wilderness in South Australia from 69 000 when we came to office in 2002 to just under one million hectares. That is 950 000 hectares of land classified as wilderness—an enormous achievement. Of course, Labor was responsible for the first 69 000 hectares, too. Not one bit of land has been

protected under wilderness protection legislation by the Liberals—an absolute shame.

The Wilderness Advisory Committee, an independent committee that assesses the wilderness value of areas in South Australia, recommended that two areas be declared wilderness protection areas on the basis that they contain large tracts of intact native vegetation.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas could learn to be quiet, for a start.

Members interjecting:

The PRESIDENT: Order! The council will come to order. If you want to waste your question time that is entirely up to the opposition.

The Hon. G.E. GAGO: Thank you for your protection, Mr President. The Wilderness Advisory Committee, which is an independent committee that assesses the wilderness value of areas in South Australia, recommended that two areas be declared wilderness protection areas on the basis that they contain large tracts of native vegetation. What we have achieved by protecting this wilderness is a haven for biodiversity and assisted in the conservation of endangered species by protecting the remainder of those native habitats. This move means that future generations will have an opportunity to see and experience unspoilt landscape.

I should inform the chamber that I also considered a proposal to declare 145 800 hectares of land within the Ngarkat Conservation Park in the Murray-Mallee as a wilderness protection area. However, it became clear during the three-month consultation period that there were some serious concerns about how fire was to be managed, given that it does have quite a serious fire-ravaged history. Therefore, I determined that maintaining that area as a conservation park would better enable fire management in that area.

Most of these parks are rich in biodiversity and, for that reason, have long been favoured destinations for ornithologists and, of course, students of native animals. I can inform the chamber that the Billiatt Conservation Park contains about 268 species of flora, of which 28 are known to be of conservation significance. Given that I was asked about this, I can say that it ranges from plants uncommon in the Murray-Mallee region to nationally endangered species. Only five of the 268 species are exotic weeds. I am advised that this is an indication of how little the land within the park has been disturbed in the past. It is quite unspoilt and very precious country. Billiatt is also a favoured location for the Mallee emu-wren and the regent parrot, 29 reptile species, eight native mammal species, including Mitchell's hopping mouse and the common dunnart.

Danggali Conservation Park has an abundance of large mallees and black oaks, and these are very useful and good for attracting birds because they provide good nesting hollows. Birds found there include 10 native bird species that are classified as rare or vulnerable, and one classified as endangered. Two of these species are the malleefowl, which is nationally classified as vulnerable, and the nationally classified endangered black-eared miner.

The park contains 27 mammal species and a large number of bat species—the broadest range in South Australia—including the little pied bat and the greater long-eared bat, which are classified as vulnerable at both state and national level. The park is also replete with reptiles, with 51 species being recorded within the park, two of which are considered rare at a state level, such as the olive snake-lizard. In all, these two parks are amongst the jewels of our biodiversity treasures in South Australia, and I am both pleased and very proud to be able to add them to the areas protected by our Wilderness Protection Act.

The Hon. J.S.L. DAWKINS: Given that the boundary of the Danggali Conservation Park significantly coincides with the New South Wales state border, will the minister indicate whether the New South Wales government was consulted about this move?

Members interjecting:

The Hon. G.E. GAGO: All relevant stakeholders were consulted, as I understand it. That is the advice I have been given.

RAINWATER TANKS

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question concerning planning laws with respect to the installation of rainwater tanks in new homes.

Leave granted.

The Hon. D.G.E. HOOD: As the minister has just said, today is World Environment Day, and one of the most precious resources in our environment is, of course, the water that we have. My question relates to the government's scheme for generating water savings by mandating the installation of rainwater tanks in all new homes after 1 July 2006, a policy which Family First wholeheartedly supports. In the *Sunday Mail* of 28 January this year, the minister was quoted as saying:

> Under SA development regulations a new home cannot be occupied until the approved water supply is connected.

The minister's comment came in response to claims that builders were constructing new homes but then were saying it was the duty of the homeowner and not the builder to install the rainwater tanks connected to the household supply. Apparently, the builders claimed the homeowners were telling them not to put the tank in and that they would do it later. Homeowners were, therefore, allegedly moving into their new homes without complying with the law. Some constituents have contacted my office, alleging that this practice by builders is continuing and is causing some frustration in the construction industry about a potential legal loophole regarding rainwater tanks. My questions to the minister are:

1. How many homes have been constructed during this period (since 1 July last year), and how many of those were constructed without a rainwater tank installed according to the law?

2. Can the minister clarify whether the obligation falls upon the builder or the homeowner to install the rainwater tank?

3. Has he taken action to rectify any of the situations outlined above during that period?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the Hon. Dennis Hood for his important question. Since 1 July 2006, every development application for a new house or an extension that involves alterations to the plumbing has been required to have a rainwater tank plumbed to the house in order to obtain a development approval. The technical provisions require a one kilolitre tank (a standard modular tank will suffice) connected to either the toilet, the water heater or the laundry. The provisions also have a performance requirement to allow water reuse schemes (such as at Mawson Lakes) to be used

in lieu of rainwater tanks. On completion, the tank must be installed before a house can be occupied.

Building owners often decide to undertake part of the building work themselves to reduce costs. This means that a builder's contract often will not cover all the building work that is necessary for compliance with the development approval. The onus is then on the owner to complete the work that they have undertaken to do within the three-year period allowed by the regulations. If an owner decides to arrange for the installation of the rainwater tank, the whole of the water supply system, including the tank, must be connected and operational before the house is occupied. To ensure that this happens, amendments to the development regulations may be necessary to clarify the intent of regulation 83A and require a minimum level of final house inspection to be undertaken by councils. Rainwater tanks may also be required for a house in a bushfire prone area in order to ensure the necessary water supply for firefighting purposes.

These are mandatory minimum requirements for the provision of rainwater tanks in certain circumstances. In most instances, any other rainwater tank can be installed without development approval. Unless they are associated with a state or local heritage place, rainwater tanks are the only development that requires approval when it passes three tests: it must be part of a roof drainage system, it must have a floor area exceeding 10 square metres and the top must be higher than four metres above the ground. To pass all three tests means that only very large and elevated rainwater tanks on stands require development approval. For instance, a standard 20 000 litre tank on the ground will not pass all three tests and will require development approval. However, the test is slightly different for Colonel Light Gardens, where the area is six square metres and the height is governed by the eaves of the building. That, of course, is a heritage area. I hope that outlines the legal provisions to the satisfaction of the honourable member.

The Hon. Mr Hood asked how many dwellings had been erected. I know that the figure is about 7 500 dwellings per year over recent years, but I will obtain the exact figure for the honourable member. It is something of that order. In answer to the member's second question, I think I have indicated what the obligations are. In relation to action to ensure that builders are complying, as I said, we are looking at some amendments. I have had the opportunity, through HUDAC, which is the advisory committee on which all the major groups are represented—such as the Master Builders Association, the Housing Industry Association, the Property Council and other bodies—to speak to them and indicate, through them, to their members, that the government will not tolerate a situation where people are deliberately seeking to circumvent those laws.

POLICE WATCH-HOUSE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the Adelaide City Watch-house.

Leave granted.

The Hon. R.D. LAWSON: It was recently reported that Judge Marie Shaw of the District Court of South Australia had visited the Adelaide City Watch-house under provisions that allow judges to make such inspections. As a result, there was some publicity about the fact that remand prisoners were being held in the Adelaide City Watch-house in contravention of international covenants, to which Australia is a party. It also appears that those remand prisoners—persons who are still awaiting trial, who are still presumed to be innocent—are being held in the Adelaide city watch-house for very extended periods.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The newspaper reporter who wrote the story was able to obtain quotes from a number of people; however, the minister declined to comment on the grounds that it was allegedly an operational matter. My questions are:

1. What steps has the minister taken to satisfy herself that South Australia is complying with its international obligations in relation to the holding of prisoners?

2. What steps does the government propose taking in relation to the fact that there are insufficient places presently available in the system for remand prisoners, and that the situation will continue to at least the year 2011-12 when the new facilities at Mobilong come on-stream?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): In relation to comments I apparently made in the media, my office, at this stage, does not recall anybody asking us, but I will stand corrected. The city watch-house is gazetted as a prison and can be used as a correctional services facility. The stay of prisoners at the city watch-house is kept to an absolute minimum. All prisoners are assessed upon admission by correctional staff and medical staff. Their immediate welfare and medical needs are attended to. Regarding what obligations we are undertaking, a visiting inspector is assigned to the watch-house to deal with any prisoner grievances. The Ombudsman maintains a watching brief over the use of the watch-house by the Department for Correctional Services and is in regular dialogue with the department.

This government has already conveyed that it is pursuing a strategy to fund an additional 125 beds to deal with the current bed space pressures. In the 2006-07 budget, the government has already funded 12 additional beds for women's prisons, and they will be available next month. Some of the additional beds will be ready for use within the next week or so, including 16 beds at the Adelaide Remand Centre, 11 at Port Augusta prison and five at Yatala, and 29 are currently being processed at Mount Gambier Prison. The department has also implemented additional emergency capacity at the women's prison and Port Augusta prison to be used for short periods of time.

We all acknowledge that, while the use of the watch-house is not desirable, every effort is made to ensure proper conditions for prisoners and the implementation of alternative strategies for prisoner accommodation until the new prisons become operational. As I have said many times on the floor of this chamber, this is the first government to commit to new a prison complex at Mobilong, a new women's prison, a new men's prison, and pre-release centres for both. I think the honourable member opposite should congratulate this government for taking this stance.

The Hon. R.D. LAWSON: I have a supplementary question. Does the minister deny the truth of the following statement in an article in *The Advertiser*:

> A spokeswoman for Correctional Services Minister Carmel Zollo has told *The Advertiser* managing prisoners was the department's operational responsibility.

The Hon. CARMEL ZOLLO: Did the honourable member say 'spokeswoman' or 'spokesman'?

The Hon. R.D. Lawson: A spokeswoman.

The Hon. CARMEL ZOLLO: The reason I questioned that is that, at the time, I did not have a media spokeswoman. She was on leave, and I had a media spokesman. As I said, I stand to be corrected, but perhaps the comments were made before she had gone on leave. I must admit that I did query it at the time because I did not remember making it.

POLICE, SOUTHERN SUBURBS

The Hon. R.P. WORTLEY: Will the Minister for Police explain what action the government has taken to provide a greater police presence in Adelaide's rapidly-growing south.

The Hon. P. HOLLOWAY (Minister for Police): I thank the honourable member for his question, and I acknowledge his continuing strong support for our police in South Australia. Last month I had the pleasure of attending the official opening ceremony of the new Aldinga Police Station. I noted that the new shadow police minister also attended, together with my cabinet colleague, the Hon. John Hill, and the local MP Leon Bignell.

This $1.9 million facility—funded by the government—provides a new 24-hour patrol base for the region, further enhancing the delivery of police services in Adelaide's south. The new Aldinga Police Station is the latest in a series of important police facility projects around the state. In recent times, new police stations and courthouses have been constructed in locations such as Port Lincoln, Victor Harbor, Mount Barker, Gawler and Port Pirie as part of the state government's very successful $40 billion PPP project. Along with the PPP project, the state government has also funded this new Aldinga Police Station and patrol base and the $4.3 million major upgrade of the Christies Beach Police Station.

These initiatives, plus the new station at Victor Harbor, represent a transformation of policing and police facilities for the South Coast Local Service Area and ensure that appropriate police services are available for this rapidly expanding region of our state. The new Aldinga Police Station and patrol base will service a population of more than 30 000 from Mount Compass in the south, Willunga in the ranges to the east, Seaford Rise to the north and the coastal communities to the west. Most importantly, the Aldinga project has been delivered on time and on budget, which is testimony to all those involved in the project, including Kennett Builders, Hassell Pty Ltd, TMK Consulting Engineers, Rider Hunt Australia and, of course, SAPOL and the Department for Transport, Energy and Infrastructure.

I would like to say that the SAPOL staff involved in the project should be especially proud of the excellent result of their work. The new 24-hour patrol facility replaces the limited police shopfront presence at the Aldinga Shopping Centre, meaning expanded police services for the local community. The new stations around the state, the record level of funding for SAPOL and the record number of police now on the beat are all tangible evidence of the government's commitment to ensuring that our police have the resources they need to deliver their vital services for all South Australians.

I believe that more South Australians are realising that only the Rann government is prepared to fully support and properly resource the state's police, while the opposition chooses to criticise and carp about our police at every opportunity and never has any alternative policies or constructive suggestions.

The Hon. D.W. RIDGWAY: As a supplementary question, in relation to the opening of the Aldinga Police Station, in what capacity was the Australian Labor Party's candidate for the federal seat of Kingston an invited guest on that day?

The PRESIDENT: I do not see how that arises out of the answer.

The Hon. P. HOLLOWAY: Given that police stations are community facilities, a broad-cross section of people with connections to the community were invited to that station, including the shadow police minister.

The Hon. T.J. STEPHENS: As a supplementary question, how many positions are vacant in that LSA as of today?

The Hon. P. HOLLOWAY: I do not check LSA vacancies on a daily basis, but I will take the question on notice.

The Hon. T.J. STEPHENS: As a supplementary question, the minister just stated that he does not study the vacancies on a daily basis. It should not be hard for him to find out, so can we expect an early reply to that question?

The PRESIDENT: The minister said that he would reply to the honourable member's question.

ABORIGINAL HOUSING AND WELFARE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Police, representing the Minister for Families and Communities (and I also recognise that the Minister for Correctional Services might have an interest in this), questions about housing and the welfare of Aboriginal people.

Leave granted.

The Hon. SANDRA KANCK: I am aware of Aboriginal people, women in particular in the community, who are facing housing crises caused by bureaucracy. I have had drawn to my attention a number of recent examples, but one in particular is of a grandmother who was caring for her three grandchildren in the Housing SA home of her daughter and partner. The daughter and partner both had drug dependence. The daughter's partner, who was the leaseholder, was in prison, came out, took drugs and died apparently of an overdose. As a result, the grandmother was removed from the house by six police officers and thrown on to the street. She had kept up all the rent payments during the time the leaseholder was imprisoned. So, a family dealing with the issues of drug abuse and death are now also dealing with issues of homelessness. Unfortunately, this case is far from unusual. I understand that a Western Australian study showed that Aboriginal men released from prison had an eleven-fold risk of death compared with a white person. My questions are:

1. Where children are being cared for in a Housing SA home, what consideration is given to their wellbeing before an eviction is carried out?

2. Was any cost benefit analysis done in this case, comparing the cost of maintaining the tenancy to the cost of providing emergency services for the displaced family?

3. Has the minister access to any data on post-release deaths of Aboriginal prisoners in South Australia? If so, what actions are being taken to support prisoners, particularly those at risk of accidental self harm when they are released from prison?

4. What level of discretion does a Housing SA manager have to allow a family to remain unified and in housing in exceptional circumstances?

5. Is there a mandatory Aboriginal cultural awareness requirement for Housing SA managers?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I believe that I represent the Minister for Families and Communities in the other place, and I will undertake to get some responses from him in relation to Housing Trust matters. In relation to support for Aboriginal prisoners post-release from prison, we do have APOSS (Aboriginal Prisoners and Offenders Support Services)—of which the honourable member would probably be aware—and it does provide a range of services to Aboriginal prisoners, offenders and their families that promote wellbeing in order to break that cycle of incarceration. APOSS has access to funding to support a special house for prisoners exiting prison with drug and substance abuse issues in particular.

The organisation also has a block of flats that belongs to the Aboriginal Housing Authority. The Department for Correctional Services has a partnership agreement with APOSS. That supports the return of Aboriginal prisoners to the community. As part of that agreement, the department provides APOSS with approximately funding of $60 000 per annum for social inclusion homelessness issues. APOSS also supports the department's Aboriginal liaison officers by sharing information and case managing the transitional prisoners into the community. As I said to the honourable member, in relation to the other questions about Housing Trust specifics, I will undertake to get some information from the Hon. Jay Weatherill in the other place and bring back a response.

CALA, Dr A.

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Leader of the Government a question about the state's top pathologist.

Leave granted.

The Hon. T.J. STEPHENS: I have been advised that there have been serious allegations of incompetence regarding our state's pathologist, Dr Allan Cala. Dr Cala's case was featured on Channel 7's *Today Tonight* program last evening.

The Hon. B.V. Finnigan: Very authoritative.

The Hon. T.J. STEPHENS: The Hon. Mr Finnigan poo-poos this, but I can assure you, Mr President, that it is quite serious—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: The Hon. Mr Finnigan is out of order!

The Hon. T.J. STEPHENS: I refer to an article which appeared in *The Daily Telegraph* and which states:

> The possibility of a mass review by health authorities follows a finding that a senior forensic pathologist Dr Allan Cala was guilty of unsatisfactory professional conduct after he wrongly ruled a double murder was an accident.
>
> The findings of the NSW Medical Board's professional standards committee can now be revealed after a suppression order was lifted. Dr Cala, who worked at the Glebe institute but is now South Australia's top pathologist, was fined $5 500 for bungling the inquiry into the deaths of Pam and Bill Weightman, who were murdered by their adopted son David in 2000.
>
> The Weightmans' bodies were found in their car at the bottom of an embankment at Heathcote, south of Sydney. Dr Cala, who performed post mortem examinations on the couple, ruled they had died in a car accident. But, last year, it was revealed David Weightman had staged the accident after he drugged, strangled and suffocated his parents. Their bruises were sustained as they fought for their lives.
>
> The Health Care Complaints Commission later took action against Dr Cala, whose high-profile cases include the Norfolk Island murder of Janelle Patton. Dr Cala told the hearing he had requested more information from the police, but completed his autopsy report without receiving it. He also failed to document his concerns to the police and the coroner, the committee found. Photographs of the bodies, which Dr Cala initially denied taking before saying he had, have gone missing. In a further bungle, Dr Cala discovered he had prepared a post-mortem report on the wrong body after typing an incorrect number for Mr Weightman's brain into his computer.

The report goes on. My question is: can the Leader of the Government inform the council of the level of confidence his government has in Dr Cala's ability and advise what he will do to reassure the people of South Australia that they can have confidence in the part Dr Cala plays in the judicial system?

The Hon. P. HOLLOWAY (Minister for Police): The forensic pathology section comes under the jurisdiction of my colleague the Attorney-General. I will refer that question to him and bring back the appropriate answer.

MUSLIM COMMUNITY

The Hon. B.V. FINNIGAN: Can the Minister Assisting the Minister for Multicultural Affairs tell the council what the government is doing to improve public understanding and awareness of Islam and the Muslim community in South Australia?

The Hon. CARMEL ZOLLO (Minister Assisting the Minister for Multicultural Affairs): I thank the honourable member for his important question. In late 2005 the Premier announced that a special working group would be appointed to work out short, medium and long-term strategies to improve community relations and promote interface dialogue and inter-racial harmony. The government appointed the South Australian Government Muslim Reference Group, reflecting the different mosques, sects, religion, ethnic and age groups of South Australian Muslim communities, and Mr Hieu Van Le, chairman of the South Australian Multicultural and Ethnic Affairs Commission and now Lieutenant-Governor-Designate, was appointed as chairman of the reference group.

The South Australian Muslim Reference Group was given the task of advising the government on plans aimed at promoting a balanced public awareness of the Muslim community in South Australia, educating the public about Islam, and addressing physical and verbal attacks on Muslims. The reference group did an excellent job and provided me with a raft of suggestions for consideration. Based on its comprehensive and carefully considered advice, the government developed a detailed action plan to be implemented over the short, medium and longer terms.

The group quickly identified media relations as being important to the success of any measures it suggested and, as a result, even before the reference group had finalised its advice it proposed that there be media training aimed at building the skills of Muslim community representatives in managing media interviews and relationships. This was approved and the training was provided in March 2006. Shortly after, the reference group appointed spokespersons to deal with media inquiries.

I think I have previously advised the council that late last year I was pleased to host the South Australian launch of the media guide *Islam and Muslims in Australia*, which was developed through a commonwealth Living in Harmony grant in conjunction with the Islam Women's Welfare Council of

Victoria. This guide attempts to balance the way Australian journalists cover issues relating to Muslims by providing factual information. The launch was attended by many of South Australia's leading journalists and media representatives and it was rewarding to note that, following the launch, media articles have been better informed on Islam and Muslim community issues.

Members in this chamber would be pleased to know that in April this year I met with members of the reference group for detailed discussions about the implementation of the action plan. The meeting focused on the actions that had been completed and those that are still in progress,and I am pleased to be able to report that the implementation of the plan is proceeding well and according to schedule. The implementation has been supported by a financial contribution of $50 000 from the commonwealth Department of Immigration and Citizenship.

As part of the action plan, Multicultural SA has developed website pages on Islamic information, resources and contacts relevant to South Australian Muslim communities and has prepared media articles and information relevant to key Muslim dates and events for distribution to the media. Multicultural SA has prepared a resource pack introducing Islam and Muslims in Australia, and this has been made available for use in schools. I wrote to the education minister in April this year about the resource pack, and she has indicated that she has no hesitation in endorsing such a timely curriculum response. The materials are contemporary, easily accessed online and of high quality. Many of the articles, films, novels, study guides and websites are already being promoted and utilised in cross-curriculum multicultural education programs.

Multicultural SA has also worked with Muslim community organisations and major public event managers to facilitate increased Muslim community participation in mainstream community activities. As a result, there has been significant Muslim community involvement in activities such as the Christmas Pageant, the Australia Day parade and the Anzac Day Eve Youth Vigil. Multicultural SA is also involved in another project longer term in nature. It is working with journalists and members of the South Australian Muslim community on the 'I am a South Australian—I am a Muslim' initiative. This project introduces South Australian Muslims as everyday South Australians—as workers, volunteers, neighbours, parents, professionals, and business people—through special interest and more general publications that are found in homes, workplaces, waiting rooms, and elsewhere.

The action plan highlights the importance of youth development, and Multicultural SA will be working with the Office of Youth, the heads of Islamic colleges and Muslim communities to promote the Duke of Edinburgh Award, a program that can assist Muslim young people to develop leadership and life skills that will enable them to make a difference to them and their community. This is a matter of much importance, not only for members of the Muslim community but also for community harmony across our entire society.

I have taken a close interest in the development and implementation of this action plan, and I am committed to maintaining links between the government and the Muslim communities. Indeed, I have already visited several mosques and will visit others in the very near future. I am sure that council members agree that the implementation of the action plan will make South Australia a better place for members of the Muslim community and for all South Australians.

WALSH REPORT

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a ministerial statement on Mr Walsh QC's report on Stuart McDonald and guidelines related to persons who knowingly place others at risk of HIV infection made by the Hon. John Hill (Minister for Health).

REPLY TO QUESTION

PENOLA PULP MILL

In reply to **Hon. M. PARNELL** (24 April).

The Hon. P. HOLLOWAY: The Minister for Forests has provided the following information:

There has never been a 'rush to make Penola the preferred site'. The government is considering legislation to provide this important project with a level of certainty commensurate with the magnitude of the investment.

I will not be insisting that a formal environmental impact study be undertaken. However, any bill that is introduced into parliament will prescribe specific environmental standards to be met. These standards will be consistent with the current minimum statutory environmental limits for emissions, noise, odour and waste disposal.

PROTECTIVE SECURITY BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 250.)

The Hon. A.M. BRESSINGTON: I commend the government on the introduction of the bill and indicate my support for the intent of the bill. I also acknowledge the support flagged last week by the Hon. David Ridgway in this place. It is conceivable that there will be a need to ensure higher levels of security than Adelaide residents have been accustomed to in the past in order to deliver safety and protection to the public. However, with the increased threat of acts of violence in our community, which we see overseas, I believe that it is the government's responsibility to ensure that all measures are taken to protect the safety and security of South Australians. I support the bill.

The Hon. D.G.E. HOOD: I rise to support the second reading of the bill and, like the Hon. Ann Bressington, I acknowledge the government's work in introducing it. Family First certainly supports the thrust of the bill. It seeks to restructure the existing Protective Security Services Branch (PSSB) as part of the police force under the supervision of the Commissioner of Police. I will not repeat how the bill came about, as other honourable members have outlined the review process that brought this bill before us. We have also received a briefing about the matter.

It surprised me to discover that the protective security officers we see at the entrance to Parliament House, who look and act like police officers, in fact have no greater power to arrest someone who is committing a crime than you or I—that is, to make a citizen's arrest. I suppose it is one of the best kept secrets in this building—and perhaps in the police

force—because I am sure that every visitor who comes to the building assumes that these men and women are police officers, armed with a weapon and handcuffs and ready to deal with any crisis appropriately.

This bill gives us an upgraded protective security force in that some officers who are identified by a training and selection process will be allowed to bear arms. However, a number of them—and many of the existing officers—do not have the training at this stage to bear arms and act like normal police officers. They will continue doing as they have been doing. Further, the standard protective security officer will have only the power to stop and physically restrain a suspect; they must then deliver those suspects to the South Australia Police. By and large, they will not have any cells to hold prisoners, although I am advised that on some government sites there may be a designated room for the holding of suspects for no longer than 30 minutes. I would be grateful if in his summing up the minister would explain some of the scenarios where this sort of detention might be warranted.

The protective security officers' rights to arrest, etc. under this bill will be invoked only in the precincts of the asset they are protecting. I think this demonstrates how different they are from police officers. They cannot go about finding evidence, they cannot question suspects and they cannot commandeer vehicles, for example. I think members will have to put out of their mind anything they may have read in crime novels and the like. Indeed, the protective security officer is a person empowered only by their proximity to the place they are tasked to protect.

I note that the minister can declare an area worthy of protection. By way of illustration, it was explained to me that a vehicle occupied by a visiting dignitary, for example, might be such a place to which protective security officers are tasked. When you consider their expertise in securing a building or asset, this makes sense, rather than sending police officers without that particular training to guard that asset. It is also useful to note that protective security officers will be under the supervision of the Police Complaints Authority, although they will have their own disciplinary tribunal separate from the SA Police Disciplinary Tribunal.

Family First can see merit in the reform of this branch of the state's protective security services, because surely there is a deficiency in the powers they currently have. We would be grateful if the minister advised the number of officers to be deployed in this manner—it may be that this is explained in the forthcoming budget—because we in Family First are always concerned that the laws we make in this place have a law enforcement element that will actually be enforced. In other words, we hope that with this reform we will in fact see protection of our public assets, and we hope we will never again see an event like the murder of Margaret Tobin.

You can never prevent every evil thing, but for the sake of the families and the people who work in public buildings and the like—and, indeed, in this institution—I do hope that the reformed protective security force can represent the government's utmost attempts to protect employees, visitors and their families. In summary, Family First wholeheartedly supports this bill and commends the government for its introduction.

The Hon. NICK XENOPHON: I rise to endorse the comments of my crossbench colleagues, the Hon. Dennis Hood and the Hon. Ann Bressington. I, too, support this bill. We need flexibility (given the post 11 September world) with respect to protecting our public assets. It is not necessary to have police officers undertake these duties that appropriately trained protective security officers can undertake, and that level of flexibility is necessary and essential. I also note that, in terms of disciplinary proceedings, there will be almost a parallel body to the Police Complaints Authority constituted in a very similar way, and that obviously makes sense.

I add the caveat that I believe that there ought to be some reform with respect to the Police Complaints Authority in the context of certain people having the right to attend disciplinary hearings. That relates to a matter about which I asked a question of the Minister for Police only last week. That is a matter for another day about the transparency and robustness of that process. Overall, this is necessary legislation, and I join with my colleagues in supporting it and wishing its speedy passage in this place.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their contribution to this bill and their indication of support. I believe the only question that was asked in relation to this bill was from the Leader of the Opposition. I can respond to him that all legislative recommendations of the review of the Police Security Services Branch have been included in this bill. The review of the Police Security Services Branch extended across the complete organisation of the branch and was more far reaching than simply providing officers with legislative powers. Many of the recommended measures involved the organisational structure and policy of SAPOL and government and these have been or will be addressed separately. I again thank honourable members for their indication of support and look forward to the speedy passage of the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: If I may, I want to ask a question. This question was raised with me but I did not have an answer for it, so I thought perhaps I would raise it here today. This is a new group of people who need to meet special training requirements in order to be members of the Police Security Services Branch. Other private security firms use people for crowd control at the football, at cricket and at nightclubs, and there are also the Armagard type people, who provide security for cash movements, and the like. What level of training do these people have to meet to be certified or registered, and how does that compare to what we are talking about here today?

The Hon. P. HOLLOWAY: My advice is that the private security guards come under the Private Security Agents Act, which is administered by the Office of Consumer and Business Affairs. In relation to the specific training, my advice is that there is a series of TAFE level qualifications available, depending on the level of duties that the private security guard may have. Presumably, for example, if they carry firearms they would need a special licence. There is a range of certificates that apply to those private security guards.

The Hon. D.W. RIDGWAY: I have a further question but I accept that it is probably not within the scope of this bill, so if the minister chooses not to answer it that is fine. Has the government given any consideration to having more standardisation, shall we say, and more consistency between the levels of training and capabilities of these individuals and also the private security operators?

The Hon. P. HOLLOWAY: I think the point to be made here is that, under the Protective Security Bill, obviously members of the Police Security Services Branch would require a higher level of qualification than those outside because of the greater powers and responsibilities available to them. Speaking generally, obviously we would like the highest standards possible. In this bill we are just upgrading the requirements for the protective security agents.

In relation to the private guards, obviously, we are also seeking (and have done so on a number of occasions) to improve the quality and performance of those agents. For example, I could refer to the amendments made some time ago to try to weed out members of bikie gangs from the private security service companies. That has been pretty successful. I believe that a large number of those agents, when we brought in fingerprint testing and the like, chose not to renew their licence, and that is a good thing. So, those changes have been successful in weeding out some of the undesirable elements.

Obviously, it is a matter for the private industry that uses these guards but, generally speaking, the government would like to see the highest level of training possible because, as we have seen, there have been instances involving private security guards in various incidents here and interstate—and the David Hookes case is one that comes to mind. Obviously, the higher the level of training that is available, the better.

Clause passed.

Remaining clauses (2 to 44), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 253.)

The Hon. D.W. RIDGWAY: Mr Acting President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. SANDRA KANCK: This is a reintroduction of the bill which was initially introduced late last year but which failed to complete the second reading stage by the end of the session. I must say that I am extremely disappointed that the government has ignored the many representations that I know have been made to the minister about this bill, because people have provided copies of their letters to me. They have—

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: I'm delighted to hear that; thank you, minister. At this stage, they have reintroduced it in an unaltered form with all the limitations and flaws that I raised when I made my second reading speech in March. When I made that speech, I mentioned that I had held a meeting prior to the introduction of the legislation. I introduced into my second reading speech some of the concerns raised at that meeting. We had that meeting without the benefit of the bill.

Now, of course, we have the bill and, when the last session of parliament concluded, I convened another meeting that, in addition to the people from the environment movement and local government (both formally and informally), also included arboriculturalists. There were even more concerns expressed about the bill than had been expressed at the initial meeting I held about what the bill might contain. Everything that I said on 13 March in my earlier speech on the bill still holds, but now I have even more concerns as a consequence of the second meeting.

I will not repeat what I said on 13 March; rather, I will raise the concerns that came out of the second meeting. Those concerns are probably best encapsulated by an observation made by one of the arboriculturalists that the legislation assumes that trees do not have value and that those who want to preserve them must prove that those values are there. One would think that it ought to be the other way around. I ask members to just stop and think about the value of trees. This is not from an environmentalist point of view; this is from a practical point of view.

We know that trees have value. We know that they have value for their beauty, for the shade that they give us in summer, for the production of oxygen, as a shelter for birds and animals, as windbreaks, as a practical means of holding soil together to stop soil erosion, as a way of reducing the energy rating of homes, as a tool in managing on-site stormwater, as a means of reducing soil salinity, and as carbon sinks. There are so many positive values, and I may have missed some. I think the legislation ought to begin from a perspective that the trees have value, and that those who want to remove them must prove that they do not have value or that the value they have is substantially overridden by factors such as public safety or the fact that a tree is either dying or is dead.

One of the consequences of this bill will be a two-tier system which will result in more layers of reporting and assessing, which of course will increase costs. I ask: who will meet those extra costs? Will it be local government? Will it be the person who is applying to have the trees cut down?

One of the proposals in this bill is the establishment of an urban tree fund. With that fund, it appears that it might not be a two-tier system, but, in fact, it will be a three-tier system, with the third tier being available only to rich developers who can go in and bargain with the council, and say, 'I'm prepared to pay X amount of dollars into your tree fund'—which, obviously, would be attractive to a council—'in return for letting me bulldoze these eight trees.' I think the fact that, effectively, money will be able to buy tree clearance ought to be a matter of great concern in this chamber.

Questions also arise as to how the value of a tree will be determined. The people who attended my meeting and I believe that such discussions and communication between a developer and local government must be transparent and accountable. I intend to move an amendment that will require this process and its results to be made public. When I spoke earlier in the year on the bill, I gave the thumbs up to the make-good orders. Whilst I maintain that they are a positive step forward, it does raise a question: if someone cuts down a 300-year old tree, how many trees will have to be planted now in recompense to ensure that one of them will be surviving in 300 years?

I will be very interested to hear whether the minister can provide any sort of formula from that perspective. It is clear that fines for the illegal cutting down of trees have never been either substantial enough or, if they have been, the perpetrators have not been pursued. In the context of this debate, I raise as an example the cutting down of 300-year old grey box trees on a site off Beach Road, Noarlunga some years ago. I have been shocked to find out that, despite that very obvious vandalism that occurred at that point and the fact that

it was very clear that the contractors knew that what they were doing was illegal, no-one has been charged. I would appreciate some feedback from the minister about that case when he sums up, because it is an example, I think, of the worst that happens in relation to significant trees in this state.

One amendment I will be proposing will be the creation of a specialist panel which could be a subgroup of the Development Assessment Commission and which could instead look at some of the onerous decisions of local government. Tree clearance applications take up a lot of time for councils. I was informed that, last year, Onkaparinga council had 230 applications for tree clearance relating only to council-owned land, and of those 186 had been approved. I have no figures for other councils but, again, it shows, first, the amount of time that council has to spend on these applications and the number of them; and, secondly, the fact that, in the majority of cases, the trees are cut down or mutilated.

We now have local development assessment panels (DAPs) with a majority of independent representation. I know that, in the process of dealing with that legislation and in the ads that went into the newspaper after the legislation was passed, the government was keen to get more planners onto the local DAPs. However, the question does arise for me and for many others as to what knowledge a planner has of significant trees. One would think that, if we are dealing with significant trees (or regulated trees as this bill creates), one group that ought to be involved (and I propose this in this specialist group that I will be moving to include) is arboriculturalists.

I must say that my concerns about this bill have continued to grow, so much so that I will need convincing that an unamended bill will be worth supporting. However, I will support the second reading and, in committee, I will move to amend the bill to provide a measure which I hope will be acceptable and under which trees will really be protected.

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to speak to this bill which, obviously, was introduced last year prior to the prorogation of parliament. I say at the outset that the opposition is still unclear and has a number of concerns about this piece of legislation. As always, we consult major stakeholders in relation to amendments to the Development Act, including the Local Government Association, the Property Council, the UDIA, the HIA and the like in South Australia. I would have to say that, without exception, all of them have a number of problems with this piece of legislation and, in particular, the Local Government Association.

We have always respected its particular points of view on a whole range of issues in relation to amendments to the Development Act and have delayed speaking on the bill for some months now because of its request for extra time to consider it and to arrive at a position. Unfortunately, at this time, it has still not reached a position. I will make some general comments in relation to the bill but, at the end of my contribution, I will seek leave to conclude my remarks later. I give the government an undertaking that we are keen to achieve a good bill and a good outcome, but we need to ensure that we consider all the concerns of the stakeholders and get them to the table.

The Development (Significant Trees) Amendment Act 2002 amended the Development Act 1993 to apply legislative controls to tree removal by putting an assessment proposal in place for trees above a threshold of a trunk circumference size. Incidentally, I had a couple of trees on my property at Mitcham which were above that size. I lodged a removal application and, thankfully, the Mitcham city council agreed that they were posing a threat to the property and they were removed. There were some white ant and termite issues involved as well.

The introduction of controls has been interpreted by some to mean that trees above a threshold size cannot be removed. This is not correct. The threshold size purely establishes that the removal application must be addressed by the development planning authority, as I indicated with the Mitcham council. Applicants have been required by most councils to provide at their own cost an arborist report at the time of lodging the tree removal application. This has added a significant amount to the maximum development assessment fee.

The arborist report is not a statutory requirement but simply an administrative requirement by the council, which puts a burden on the local community when applying to remove these particular trees. I know of an example recently where someone had bought a property which had a red gum growing on it and which obviously is a native tree to South Australia. It had been planted on the property at the time the original house was built. They knocked the old house down and built a new house but are unable to remove that tree and cannot get approval to remove it, yet it is doing significant damage to fencing and dropping debris in the gutters, etc.

One of the thoughts which I have had and which I have floated with a number of stakeholders is: why could not trees which have been planted by a previous owner of the property—it is about 50 years old—be removed and replaced with another tree (or two trees)? That would give the current owner of the property the joy of watching them grow over the next 30 or 40 years. I assumed that the person who spoke to me was approximately 40 years of age, with a young family. They may live there for another 30 years. Once they moved, it would not be their problem and the next person, say, in 20 years, may cut them down and replace them. There are some opportunities to be a little more creative.

The purpose of the bill is to clarify the intent of the application of the tree removal controls by simplifying the process for most trees above the prescribed trunk circumference. This will be achieved through a proposed two-tiered system. The system determines regulated trees purely by quantitative measure of the two metre circumference threshold. The trees determined to be regulated trees must then fit a certain qualitative criteria in order to be identified as significant trees. This criteria relates to the contribution of the tree to the character and the visual amenity of the site and the surrounds and the biodiversity value of the tree. I know the member for Fisher in another place has raised the issue of trees that perhaps do not meet the size requirement but meet a requirement on the basis that they are extremely old or they add some special amenity to an area.

Of course, we also know that the member for Fisher has had a long-standing opposition to deciduous trees so there is always a great divergence of views regarding what is a deciduous tree and what role it plays in the community. A number of members in my party room have also raised concerns, which are addressed in this bill, in relation to radiata pines and some other non-native trees that grow very well in certain areas (although I will not go so far as to say they are feral trees), which are problematic.

So we have this second tier. Should we have a tree reach a second tier, only then shall its removal application be

subject to more stringent development processes. Further, at this point a council may request an arborist's report, and the financial burden on applicants required to pay for an arborist's report under the current legislation is a pertinent issue that has been raised by many members of the community. The bill will enable councils to set up urban trees funds for the purpose of planting trees in the council area. Payment into a fund will apply as an option where the removal of a regulated tree of a class prescribed by the regulation is approved.

I can see some real problems—and I am sorry if I appear to be boring you, Mr Acting President. Let us say that we have a suburb with 1 000 trees and 200 applications are made. They pay into the fund and those 200 trees are removed and they are established somewhere else on another piece of land owned by the council. Then you have only 800 trees. Surely the value of trees in a community would go up if you have already taken 20 per cent of them. So I am not quite certain how the minister, or this bill, proposes to arrive at the value of the tree (I think it will be set by each individual council) to be paid into that fund to have a tree planted somewhere else. I believe it will become an unworkable system—development by cheque book, if you like, and the opposition is not convinced that that is the best way to go.

Many people have argued that the two-tiered system is a mechanism for lowering the standard of protection for trees, but it is clear that a new system is needed. Dangerous or damaging trees have been major development issues and a financial burden, and safety issues and the inconvenience that many people have demonstrated highlight the need for legislative changes. I was on the ERD committee with the member for West Torrens in the previous parliament, before the last election—

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

The Hon. D.W. RIDGWAY: And I miss him, yes; I miss being on the ERD committee with Mr Koutsantonis. On a number of occasions he raised his concerns about constituents in his electorate who may be elderly people with large trees that they are not able to remove. The trees may be cracking and damaging footpaths around their properties or putting debris into the gutters (probably not a fire hazard in his electorate but certainly an inconvenience for stormwater containment), or rusting out gutters. These elderly people cannot remove the tree and are no longer capable of dealing with the maintenance and ongoing problems those trees cause, and I can see that there are certainly some real problems in the sense that those people should be allowed to remove the trees.

I have also been contacted by other stakeholders and constituents who may have a tree on a neighbouring property that is damaging their property but the owner of the tree does not see it as being a problem. So you have, if you like, a situation where your tree is damaging my property but, because it is not damaging your property, you do not want to have it trimmed or removed. We need to get more clarity on trees that damage a third party property and also on trees that are damaging houses, fences, footpaths, etc., and where there are these elderly people and perhaps an absentee landlord situation. In the case of the person who contacted me, the owner of the property lived in Sydney and was not interested in any of the issues related to the trees at the rear of their property yet they were causing significant concerns to their neighbours.

I would like to quickly turn to some of the issues in the bill that the opposition sees as problems. Clause 7(5)(d) provides for the payment into a fund for the removal of a tree. The issue here is that the contribution will be 'of an amount calculated in accordance with the determination of the relevant council', and I suspect the problem will be that the value of the tree will be different across all 68 councils. It has been suggested by the Conservation Council that this fund may need something to define its role and protect the actual funds. It is fine to say, 'Just pay it into a fund,' but a number of problems need to be addressed.

In clause 7, proposed new subsection (8) provides for the protection of trees planted and maintained within the urban trees fund and states that, when established, they will constitute significant trees under the act. This raises the question of what constitutes establishment and whether the same protection applies to trees planted by a property owner who has removed the significant or regulated tree. Other stakeholders and the LGA have sought further clarification on the details of the fund. My understanding is that the LGA has had discussions with Planning SA, but we are still uncertain as to where those are at.

In clause 10, proposed new subsection (1)(b) defines make-good orders which may apply to breaches of the act as determined by the court. One of these is to remove any buildings, works or vegetation that have been erected, undertaken or planted at or near the place where the regulated tree was situated since the breach occurred. The order seems a little futile, considering that it is unlikely that a tree can be replaced. You can hardly make good if you have cut down a 100 year old red gum. How can you put it back in its place? It seems that, in most cases, the issue would relate to the council's approval of the development in the first place. If it is a breach of the council approval or non-approval, we are uncertain as to where the role of the fund would come in, and it would render these make-good orders somewhat clumsy. Certainly, we will not get trees replaced. In Victoria Square recently—

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: The minister interjects that they are increasing the incentives to stop people breaching the order. However, I cannot understand how you can make good if you have removed a 100 year old tree, unless you go through the very expensive exercise we saw the government go through with the transplantation of the kurrajong in Victoria Square.

The Hon. J.M.A. Lensink: It cost a hundred thousand bucks.

The Hon. D.W. RIDGWAY: Yes—in excess of $100 000 to shift a tree. It was a lovely tree. I am not sure of its age, but it was between 70 and 100 years old. It is almost impossible to have a make-good order if you have removed a tree, and it seems a little clumsy. In clause 10, proposed new subsection (4) provides that the person who is not an owner or occupier of the relevant land to which a breach applies may enter and carry out an order on the land. There is an absence here of any notification system for the person who owns the property or is the owner-occupier of the land. The owner-occupier has no legislative rights in this case, and the Local Government Association concurs with the opposition that some notification system should be in place to deal with this.

The Local Government Association has concerns about the lack of any draft regulations that accompany this bill. Regulations underpin some of the most crucial aspects of the bill, and consideration of those is needed before making any final decision. The point has been raised that local planning

officers at the local council will need to judge the local amenity in order for the tree to fit the significant tree criteria. They will not have any professional guidance in order to do this, and it is arguable that, particularly in the circumstances of a tree damaging a property, an independent expert or body should be commissioned by council to consider the tree. The LGA's concerns have been forwarded to Planning SA. However, at present there are no amendments to the bill, and the concerns have not been addressed.

As I mentioned earlier, other key groups have demonstrated that they do not support the bill as it stands and believe that it needs substantial amendment. In fact, the Property Council has indicated to me—perhaps not in writing but certainly verbally—that the bill needs to be completely redrafted. With those words, the opposition broadly supports the second reading. However, it has a range of other comments, and I seek leave to conclude my remarks on another day.

Leave granted; debate adjourned.

WATER STORAGE

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to Adelaide's water storage made earlier today in another place by my colleague the Premier.

PSYCHOLOGICAL PRACTICE BILL

In committee.

Clause 1.

The Hon. G.E. GAGO: A number of questions were asked during the second reading stage to which I gave a commitment to bring back answers in committee. I will use clause 1 to provide those answers. The issue of recognition of specialists has been raised by the Hon. Nick Xenophon. Psychometric testing is not a specialist field. Psychologists use psychometric testing in all specialist fields of psychology. The South Australian Psychological board does not support specialist registers. The board has agreed that it will add a notation to a psychiatrist's name on the register acknowledging their specialist area.

In relation to questions asked by the Hon. Ann Bressington, it is not easy for an unqualified person to access significant psychometric tests. Access is rigorously controlled by the test publishers and distributors. The concerns of the members of the opposition are not well evidenced, as stated by the Hon. Sandra Kanck, in regard to potential misuse. Any organisation that wants a credible result will need to use an appropriate test (not one from the internet) and a qualified psychologist to administer and interpret the test, especially if such test results are required for administrative criminal justice purposes. This would also be the case for any tests sought or required by the court because of the need to ensure just or fair decisions.

The Hon. Dennis Hood raised concerns from some counselling professionals that this bill will prescribe the terms 'psychotherapy', 'cognitive behavioural therapy' and 'counselling'. It will not do so, given that these terms are used by many health professionals. The term 'counselling' is even more widely used to describe a service that involves giving advice.

The Hon. J.M.A. LENSINK: In the debate in the House of Assembly the Minister for Health undertook to consider four matters in the bill prior to its debate in the Legislative Council. These are, specifically: regulation of potential harm from hypnotherapy; the possibility of developing a code of conduct for unregistered health professionals, including hypnotherapy practitioners; the potential for registration and associated costs for individuals and/or professionals who conduct psychometric testing; and whether any of the universities intend establishing a six-year undergraduate training course for psychologists. I understand that the minister may want to get back to us on those. The minister undertook to consider these matters prior to the bill being debated in the Legislative Council.

The Hon. G.E. GAGO: The Minister for Health did, indeed, give an undertaking in the other place in relation to the current concerns about the deregulating of hypnosis, there being no legislative measures in place that would prevent an unqualified, untrained or inadequately trained person from advertising and providing their services to members of the public.

The Minister for Health gave an undertaking to the parliament that the Department of Health would investigate issues of potential harm of hypnotherapy and the possibility of a code of conduct to provide for unregistered and deregistered health practitioners, including hypnotherapy practitioners. The Minister for Health advised the parliament that he would bring a report back to parliament on this issue within the coming months. This investigation has already commenced and, amongst other things, it will examine the recent New South Wales parliamentary inquiry that recommended a code of conduct for unregistered health practitioners to cover things such as sexual misconduct, financial exploitation, privacy and confidentiality, informed consent, record keeping and the provision of accurate information to the consumer, so it is under way.

The Hon. J.M.A. LENSINK: I thank the minister for that explanation. I understand, after reading *Hansard*, that there were a couple of other areas that the minister was going to look at as well. One of the issues was registration and associated costs for individuals and/or professionals who conduct psychometric testing. Another issue was in relation to students and whether any of the universities intend establishing a six-year undergraduate training course for psychologists.

The Hon. G.E. GAGO: Yes, the Minister for Health in another place also gave an undertaking to ask the South Australian Psychological Board to provide information on potential costs for regulating psychometric testing, including any oversight role that it might have. The board noted that it would be an extremely difficult and expensive exercise to create a list of those tests that should be restricted to psychologists for South Australia, as there are multiple sources for tests both in Australia and overseas.

The cost of meeting this responsibility and administering this provision is estimated by the registrar of the Psychology Board to be approximately $200 000—that is, to establish the administrative system—and $125 000 per annum to maintain it. If this cost was fully passed on to the profession, it would increase the registration fee and the annual practice fee by approximately 50 per cent. Currently it is $250 and it would go to about $375 per annum per practitioner.

In respect of the last question, the Minister for Health in another place also noted in *Hansard* that the establishment of a six-year undergraduate course was a possibility, albeit remote, and work is being undertaken to investigate the possibility and feasibility of that.

The Hon. J.M.A. LENSINK: In relation to that university course, will the minister advise which, if any, of the universities might be looking into it, and if there is some sort of rough timetable as to when that feasibility might be completed?

The Hon. G.E. GAGO: At this point in time we are not aware that any university is seeking to do so. We are obviously in the very early stages of the inquiry and, as yet, we do not have a clear time frame, but a commitment has been given to investigate the possibility of it.

The Hon. J.M.A. LENSINK: In relation to the response that the minister provided about the cost of psychometric testing, can she advise whether that was the cost associated with registering individuals as opposed to registering the tests by the board or registering classes of tests?

The Hon. G.E. GAGO: The costing involved was based on the filed amendment of the Hon. Vickie Chapman in another place, and it involved two aspects. The first aspect was prescribing tests and, therefore, investigating which tests should be prescribed and also maintaining a list. Of course, maintaining a list is quite a complex matter, because it requires continual reviewing and updating. The second aspect was the approval by the board of persons who may be able to administer psychometric tests. Again, that is a very involved process, because it ensures that people meet particular qualifications to provide those tests at any given time.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. A.M. BRESSINGTON: I move:

Page 5, after line 25—After paragraph (a) insert:

(ab) prescribed intelligence testing; and

I have put forward this amendment to also include intelligence testing as a skill that psychologists could implement under this bill if they chose to do so. I know the minister stated that it is highly unlikely that unqualified persons would access this kind of testing through either publications or the internet but, in fact, it does occur. I know of at least one situation where a person was asked to complete an internet test for a position within an organisation and was refused employment based on the results of that test, and intelligence testing was also a part of that internet access testing.

I know that it is a bit of a nuisance to be too prescriptive in legislation. However, I believe that, when we are dealing with best practice for practitioners, we should be prescriptive, to ensure that practitioners are not restricted by legislation and also that they do not have a free hand with respect to this type of thing. Basically, my amendment is to ensure that intellectual testing (IQ tests) is carried out by professionals and that it is recognised as part of their role under this legislation.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Ms Bressington's amendment.

The Hon. M. PARNELL: The Greens support this amendment.

The Hon. G.E. GAGO: This amendment proposes to add prescribed intelligence testing within the interpretation of psychological services or psychology. The government does not support the amendment. The addition of these words will require unnecessary prescription of specific tests of intelligence. Test suppliers, such as Harcourt Education Australia and the Australian Council of Educational Research, already restrict these tests and require psychologists to supply their state registration number and qualifications to access these tests. No evidence to justify this restriction has been presented by the psychological associations or the registration board that this is in the interests of the public. I have already answered the question about the internet.

The Hon. J.M.A. LENSINK: I support the spirit of this amendment, which I believe is identical to the one filed by the Hon. Kris Hanna in another place. I will probably speak in some detail about so-called psychometric testing at some point. I have received a lot of correspondence from various psychological associations over the past four or five working days, and this is not one that they will die in a ditch over. However, they will die in a ditch over the issue of psychometric testing in general. I will present some evidence when I move my amendment to insert a new clause 35A, and I will save my comments until then. The opposition does not support the amendment.

Amendment negatived; clause passed.

Clauses 4 to 13 passed.

Clause 14.

The Hon. A.M. BRESSINGTON: I move:

Page 11, line 7—Insert:

(ga) to examine whether there are opportunities for enhanced competition, in the public interest, in the provision of psychological services, or any unnecessary impediments to such competition, and provide advice to the minister;

This particular amendment will provide for new testing assessment or other practice methods to be made available after the psychological profession has endorsed a particular therapy that would be beneficial to the health and wellbeing of members of the public. I can cite one example of a new therapy that has not yet been endorsed by the psychological association; however, in the United States this has been proven to be a very beneficial therapy for post-traumatic stress disorder. The 'emotional freedom technique' has been used extensively in the United States for returned veterans of the Vietnam War. It has also been proven to be quite effective for abuse and trauma victims. However, this particular practice is not, as I said, endorsed by the psychological association as yet. There is plenty of evidence to show that it could be included as a beneficial and, again, a drug-free therapy for people who have suffered extensive trauma. This amendment just allows for a new kind of therapy to be included after it has been assessed, evaluated and endorsed to save legislative change being required, and it also allows the psychological association to keep some level of control or monitoring on what the association considers to be a useful new tool.

The Hon. G.E. GAGO: Are we talking to amendment No. 2, clause 14?

The CHAIRMAN: Yes.

The Hon. G.E. GAGO: The advice that I have in respect of the amendment put forward is that it proposes an additional function for the board that will require it to provide policy advice on opportunities for enhanced competition in the public interest in the provision of psychological services, or any unnecessary impediments to such competition. It does not gel, but that is my advice.

The Hon. A.M. BRESSINGTON: I do not have any person here from parliamentary counsel with whom to consult. This is about the ability to allow the board to identify whether there are new psychological services that could be used within the practice of psychology outside of the psychometric testing and the normal psychological roles and

functions. As I said, this amendment would require the board to undertake an assessment and evaluation of a new therapy and put it forward as an approved therapy. At the moment, in the United States, with the emotional freedom technique, this unnecessary impediment to this sort of practice is occurring because of their legislation. It is about not allowing bureaucracy or the minister, who is not involved in psychological practice, to put any restrictions on psychological therapies that could be used after the board has actually assessed them as suitable.

The Hon. G.E. GAGO: As I said, the advice that I have is that this amendment proposes an additional function for the board that will require it to provide policy advice on opportunities for enhanced competition in the public interest in the provision of psychological services or any unnecessary impediments to such competition. The government does not support this amendment. This amendment is not consistent with the objectives of the act.

The board, like every other health practitioner registration board, is established to protect the health and safety of the public by maintaining, in the public interest, a register of persons deemed competent to provide psychological services. It is not the role of the board to advise government on competition policy issues, nor does the board support this proposed role. So, the board itself does not support expanding its role into this function.

It is not the role of any registration board to provide policy advice in this area to the government, and it is not consistent with the functions of any of the boards recently established under this legislation. This amendment will muddy the role of the board by requiring it to provide a type of industry advice. This role is not consistent with its primary function to protect public health and safety by maintaining a register in the public interest. Its current composition and expertise is appropriate to that primary function.

The Hon. J.M.A. LENSINK: I happened to cast my eyes back to the amendments filed in the House of Assembly, and I understand that this amendment is identical to one moved by the Liberal spokesperson for health, the member for Bragg. As such, we will support this amendment, which I understand is in relation to enhanced competition.

The Hon. M. PARNELL: The Greens do not support the amendment but, also, we do not accept everything that the minister just said in her response to the Hon. Anne Bressington. I do not support it because I do not believe it is necessary. I accept that it is a form of advice that may well be a little outside the brief of the board; however, I note that the functions of the board already include the ability to provide advice to the minister as the board considers appropriate, and therefore that would catch any other matters. I believe that it would be overly prescriptive to put in the words the Hon. Ann Bressington suggests, so I do not support this amendment.

The committee divided on the amendment:

AYES (12)

Bressington, A. M. (teller)	Dawkins, J. S. L.
Evans, A.I.	Hood, D. G. E.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Schaefer, C. V.	Stephens, T. J.
Wade, S. G.	Xenophon, N.

NOES (9)

Finnigan, B. V.	Gago, G. E. (teller)
Gazzola, J. M.	Holloway, P.
Hunter, I.	Kanck, S. M.

NOES (cont.)

Parnell, M.	Wortley, R.
Zollo, C.	

Majority of 3 for the ayes.

Amendment thus carried.

The Hon. A.M. BRESSINGTON: I move:

Page 11, line 8—After 'minister' insert:
on any other matter

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 15 to 26 passed.

Clause 27.

The Hon. A.M. BRESSINGTON: I move:

Page 18, lines 19 to 24—
Delete subclause (1) and substitute:
(1) A person is not entitled to provide psychological services as part of a postgraduate course of study related to psychology (including such a course being undertaken by the person outside the state) unless the person is registered under this section as a student psychologist.

This amendment basically raises the bar for persons who can take on the roles and responsibilities of a psychologist within an organisation or a government department. The reason I have moved this amendment is that a number of psychologists have expressed concerns about the age and experience of psychologists in certain areas in that their life experience and also their training is considerably lacking in making what could be life changing decisions.

I am referring to issues around some decisions within Families SA where a particular psychologist made the comment that we have in this department 12-year old social workers following the directions of 14-year old psychologists. This amendment basically raises the bar to a person as a postgraduate, rather than an undergraduate, and also ensures that the person is registered as a student under this section of the bill and registered with the psychological association.

The Hon. G.E. GAGO: The amendment changes the purpose and intent of clause 27 and clause 60. The government does not support the amendment. The current clause 27(1) in the bill prohibits any person from providing psychological services as part of a course of study that provides qualifications for registration on the register of psychologists, unless the person is registered as a student psychologist. The same amendment was moved in the other place by the Hon. Vickie Chapman. The Minister for Health gave an undertaking to seek advice on this amendment and its effect compared with the wording of clause 27 of the bill. The advice received indicates that clause 27(1)(a) requires two elements to be satisfied. First, that a student is providing psychological services as determined by the interpretation of psychological services or psychology given in clause 3.

The second element requires students to register only where those students are providing services as part of a course of study that provides qualifications for registration. The second element does not require students to register if they are simply undertaking undergraduate or postgraduate study that includes subjects related to psychology. The board will approve those courses of study that it accepts as providing qualifications for registration.

The words in the amendment 'a course of study related to psychology' are clearly wider than the words 'a course of study that provides qualifications for registration on the register of psychologists' and may have a wider impact than is intended. Clause 27 (as drafted) will not result in the capture of students who may be undertaking psychology

studies. It will ensure only those students who are required to provide psychological services as part of a course that leads to registration on the register of psychologists will need to be registered. Clause 27 (as worded) meets the bill's primary purpose to protect the health and safety of the public.

The Hon. J.M.A. LENSINK: I will give a slightly long-winded version of my explanation for whether or not the Liberal opposition supports this amendment. Indeed, as the minister pointed out, this is one of a series of amendments that was moved by the Hon. Vickie Chapman in another place, and a number of those were provided to the Liberal opposition by members of the psychological associations. This provision demonstrates the fact that the so-called health acts do not demonstrate a one size fits all approach in that a student who is undertaking some subjects in psychology is not necessarily aiming to become a psychologist at the completion of their undergraduate qualification, which is quite different from all the other health professionals. I am a physiotherapist, and people would not enrol in that particular course unless their intention was to become a physiotherapist—or unless they had a love of doing vast quantities of study, but I would suggest that they would be few and far between.

We did share some concerns that undergraduate students might be captured by the wording that was in the bill. I am grateful for the advice of parliamentary counsel in relation to this and the subsequent amendment of the Hon. Ann Bressington. I said to parliamentary counsel that it has been suggested to me that, because the qualifications leading to registration are so diverse and cannot necessarily be determined by the level of qualification, the board should accredit those courses which require students to be registered, and hence that provides the board with the responsibility to manage that process. The advice is that that is already the case.

In addition, I was concerned that the profession wanted to make it clear that only students completing a specialist training program—I use the term 'specialist' loosely—at the masters or clinical doctorate level—that is, those who are offering supervised treatment to the public—are covered by the student registration provision and clearly not undergraduates, graduate honours and research postgraduate students. Again, the advice from parliamentary counsel has been that that will be the case with the existing provisions in the bill. So, while we did move these amendments in the other house and supported them there (I believe they were actually withdrawn), we will not be supporting them, on the advice we have received.

Amendment negatived; clause passed.

Clauses 28 to 35 passed.

New clause 35A.

The Hon. J.M.A. LENSINK: I move:

Page 23, after line 2—insert:

35A—Restriction on administration and interpretation of certain psychological tests

(1) A person must not personally administer or interpret a prescribed psychological test unless—

(a) the person is a psychologist or psychiatrist acting in the ordinary course of his or her profession; or

(b) the person administers or interprets the test under the direct supervision of a psychologist or psychiatrist; or

(c) the person administers or interprets the test with the approval of the board.

Maximum penalty: $75 000.

(2) An applicant for approval under this section must, if the board so requires, provide the board with specified information to enable the board to determine the application.

(3) The board may, before giving its approval under this section, require the applicant to obtain qualifications or experience specified by the board and for that purpose may require the applicant to undertake a specified course of instruction or training.

(4) An approval under this section may be subject to such conditions as the board thinks fit.

(5) A person must not contravene, or fail to comply with, a condition of the person's approval under this section.

Maximum penalty: $75 000.

(6) If a person contravenes, or fails to comply with, a condition of the person's approval under this section, the board may, by written notice to the person, revoke the approval.

(7) In this section—

'psychiatrist' means a medical practitioner registered on the specialist register under the Medical Practice Act 2004 in the speciality of psychiatry.

This relates to so-called psychometric testing—although that language may no longer be in vogue, depending on to whom you speak. Various sections of the psychological industry approached the Liberal opposition, and I am advised that the amendments filed by the Hon. Vicki Chapman were supported by the following organisations:

- the National Office of the Psychological Society;
- the Psychologist Association, SA Branch;
- the state branch of the Australian Psychological Society;
- the Australian Society of Hypnotherapists;
- the College of Clinical Psychologists;
- the College of Clinical and Neuropsychologists;
- the College of Forensic Psychologists;
- the College of Counselling Psychologists;
- the College of Sports Psychologists;
- the College of Health Psychologists; and
- the College of Organisational Psychologists.

I do recognise that some of those colleges may actually be sub-colleges of the Australian Psychological Association.

In my second reading speech I referred to someone I know in Sydney who went through a recruitment firm and, while I will not go through all the detail, they underwent a personality/intelligence test which, I think, turned out to be clearly wrong. Just today I have received an anonymous note from a group of people who claim to be registered psychologists, and I would like to quote from that note. It is quite long, but I think it is worth reading into the record because it is quite significant and demonstrates the potential danger of completely deregulating this aspect of the act. The note reads:

Currently as you are aware, no formal regulation of psychological/psychometric tests exists in other states, apart from the set of rules individually set by each of the many different test publishers. In fact, as it stands, 'any' organisation can call themselves a 'publisher/distributor' and therefore determine their 'own' set of rules. It was only a matter of time that business realised no actual 'laws' were in place to stop them from exploiting these tests in the name of profit!

Recently in the Eastern States the improper and unethical distribution of several major international personality tests has emerged. A very old and reputable assessment tool called the 16PF (version 5) was purchased from the USA-based owners IPAT approximately two years ago. The British company, OPP Inc. who purchased the 16PF, abruptly withdrew the traditional distribution rights from the Australian Council for Educational Research (ACER), Melbourne and instead made a deal with a small firm [which I will not name].

If any honourable members wish to go onto ACER's site at www.acer.edu.au and click on 'Psychological Tests' there are a number of classes of these tests listed there. The note continues:

In the USA where the 16PF is still distributed by IPAT, very strict requirements remain in place for users to purchase this test.

This is regardless of who owns the rights! The 16PF is one of the most recognised and powerful assessments of personality of its kind. The 16PF has clinical, counselling, vocational, recruitment and other applications and has primary and global scales which relate to anxiety, neuroticism, mood state and many other psychological traits. As such it should only be available to appropriately qualified professionals.

I will go on but will exclude a name mentioned in the note:

. . . has now created a short and very expensive accreditation program in the Eastern States, to qualify virtually anyone with the money and a spare few days, to use this powerful assessment tool freehold! If the current Psych Bill passes without amendment, similar courses will surely commence here in South Australia within a very short period of time.

This is attributed to no laws being in place in the eastern states, and so forth. The note continues:

The current situation with the 16PF is a clear example where lack of legislation of psychological tests themselves, has now opened up the way for similar deals to be potentially made with all other psychological tests in our country! This may be neuro-psychological, clinical, vocational, and psychiatric and indeed all forms of psychological testing

It goes on:

No-one envisaged the prospect of small businesses calling themselves 'publishers/distributors' and exploiting the lack of existing law. The fact is, in Australia, we currently have one of the weakest legal frameworks for protecting the public from test misuse, in any developed western country.

Further, it suggests (and this may be something for COAG to take up):

. . . why not give the main test publishers and distributors a 'uniform' code of distribution and the power to enforce this code by law? Most are very highly regarded within the profession. Laws would simply enforce what they and the rest of the industry decide. But laws are needed.

I agree particularly with the last paragraph. I am not inclined to accept that these things will be picked up by COAG in the fullness of time. We are told that all the health professionals will come under a template piece of legislation to be run nationally by, I think, 2008. Having worked inside government, I would be sceptical about that process but, in the meantime, we will be left without any form of regulation. The APS in South Australia also stated that it had consulted its members and that this was identified consistently as the single most widely supported issue. Clearly, they do not wish this to be deregulated in the way that has been suggested.

I conclude with my explanation of the alterations to the original clause, which was moved by Vickie Chapman in another place. For obvious reasons, we have included psychiatrists, who ought to be able to administer similar tests, because they undertake similar training. We have also left the registration to regulation. Parliamentary counsel has advised me that similar areas of scope of practice are within the Medical Practice Act and the Pharmacy Practice Act; that is, a subset of practice can be proscribed by regulation and, if this becomes an issue, it will enable certain classes (as I have decided to call them) to be inserted into the regulations. With those comments, I seek the support of other members.

The Hon. G.E. GAGO: This amendment modifies that filed by the Hon. Michelle Lensink, reorders subclause (1) and changes the term 'applicant' to 'person'. It also adds a provision enabling the board to approve a class of persons for the purposes of subclause (1). The amendment is not supported by the government. Its effect is the same as that of the original amendment. It requires regulation to identify and list those intelligence tests that psychologists may perform. It establishes a prohibition on the performance on the Wechsler scales of intelligence tests and other prescribed tests by any person other than a psychologist, or through direct supervision or the instrumentality of a psychologist, unless the person has the approval of the board.

The amendment is not supported by the government because access to the significant psychometric tests used by the profession is already effectively regulated by the industry that produces these tests. The publishers make the tests available to those persons who can present to them evidence of qualifications and/or acceptable training in a particular test. Many medical practitioners, psychiatrists, occupational therapists, speech therapists and some human resource practitioners are qualified to administer tests available to psychologists, and this amendment could severely obstruct legitimate access to these tests in ways that have not applied or been necessary to apply in the past.

For over 30 years, the current Psychological Practice Act 1972 has allowed for the regulation of psychometric tests by prescribing them in the regulations. None has ever been proscribed, and no real evidence of harm to the public or the profession has ever been presented. For these reasons, the amendment is not consistent with the government's commitment to the national competition policy principles. In addition, it is not wise to regulate in the act a particular test, since the test may be superseded or change its name, in which case the act would need amendment in each instance. This amendment has no mechanism for letting the public or the classes of persons know which persons or classes of persons are approved by the board. The amendment would place additional regulatory responsibilities on the Psychological Board of South Australia which it does not support.

The Minister for Health gave an undertaking to ask the South Australian Psychological Board to provide information on potential costs of regulating psychometric testing, including any oversight role it may have. The board noted that it would be an extremely difficult and expensive exercise to create a list of those tests that should be restricted to psychologists for South Australia, as there are multiple sources of tests, both in Australia and overseas. The cost of meeting this responsibility and administering this provision is estimated by the Registrar of the Psychological Board to be approximately $200 000 to establish the administrative system and $125 000 per annum to maintain it. If this cost were passed on to the profession, it would increase its registration fee and annual practice fee by approximately 50 per cent, that is, currently $250 per annum to $375 per annum per practitioner.

South Australia would be the only jurisdiction in Australia to regulate psychometric testing. The board recommended that, since national registration of psychologists is proposed to be implemented by 1 July 2008, or soon thereafter, it may be better to leave that matter for the national Psychologists Board to research and implement. It should be noted that, whilst the registration board does not support the amendment, and the Australian Psychological Society (APS) does not seek such an amendment—

The Hon. J.M.A. Lensink: Yes, it does.

The Hon. G.E. GAGO: We can come back to that—the South Australian branch of the APS, a member branch of the APS, and the Psychologists Association SA, with whom the Minister for Health met during consultation on the bill, support this type of amendment, but do so without fully appreciating its cost implications. I have been advised that the APS advised this verbally just last week. I will come back to the date. Regulating prescribed tests can easily be evaded by

minor alterations and by renaming the tests. Therefore, it makes the regulation redundant. It may be necessary to regulate all tests and update these as new versions appear. We will attempt to get the date, but I understand it was last week some time.

The Hon. M. PARNELL: The Greens support this amendment. I struggle to understand the government's opposition to it, because it seems to me that this effectively retains the status quo. As the minister has described, we have had, in theory rather than in practice, an ability to regulate psychometric tests; it is just that they have not been prescribed in regulation. It seems to me that the Hon. Michelle Lensink's amendment does the same thing, where it refers to a person not administering or interpreting a prescribed psychological test.

The ball is still well and truly in the government's court as to, first of all, whether tests are prescribed and, secondly, which tests are prescribed. It may well be that the deregulated environment the government seeks is brought about by this government not prescribing any tests. However, if some dangerous test were to appear on the horizon—a test where you need to have proper qualifications and proper training in order to administer or interpret it—the vehicle is already in place via this amendment to quickly prescribe such a test, thereby potentially avoiding harm to patients or consumers of these tests. The Greens are inclined to leave the door open to regulation if needs require in the future.

The Hon. S.G. WADE: I thank the minister for her comments about the response from the Psychology Board on the issues of cost. However, I do not know whether I missed part of the minister's response or whether there has been some oversight by the government, but minister Hill's commitment in the lower house was not simply to seek advice from the Psychology Board in relation to the cost implications of the member for Bragg's proposal. He also mentioned, 'First, whether or not there is another way the Psychology Board may be able to keep an eye on psychometric testing by allowing particular classes or types of persons to do certain things'. I seek the government's response to that question.

The Hon. G.E. GAGO: I have been advised that the board provided detailed information in response to the request and initially recommended that there may be two options, namely, regulating the test supplier (option A), or prescribing the term 'psychometric' under clause 35 of the bill (option B). With respect to the legislative provision in relation to difficulties associated with regulating test suppliers, a legislative provision of this type would require a list of recognised test suppliers to be identified in regulations.

It would be difficult to effectively regulate test suppliers for the following reasons. The definition of 'test supplier' is required; test suppliers can be distributors and suppliers of tests; and they can be businesses providing testing services for employers, educators or even other psychologists, among others, and they can do both. Test suppliers can be Australian or overseas-based companies, whilst most psychologists and student psychologists will purchase the majority of mainstream used tests from local test suppliers such as ACER and Harcourt Australia. Some psychologists will purchase from overseas distributors or suppliers, in particular, those psychologists who work in highly specialised areas.

Regulating test suppliers will therefore be legislatively impossible. National competition policy principles require that there should be no unnecessary restriction on competition. Such provisions will not deal with the issues the APS is most concerned about, namely, the use of psychometric tests by employers to screen potential or current employees for employment or promotional purposes. There are many companies supplying test services both directly and online in Australia and overseas. Employers can purchase packages of services from companies of their choice, including online testing services. Many of these companies are run by psychologists or employ psychologists to meet international standards of practice.

In light of this, it appears that regulating test suppliers is unwarranted, impractical, unnecessary and inconsistent with national competition policy. In relation to the difficulties associated with regulating psychometric testing as a prescribed word, the board proposes that the term 'psychometric' could be prescribed under clause 35 of the bill. Obviously, that recommendation is not supported. The term 'psychometric' is used in common, everyday language and is used by many health and other professionals besides psychologists, who may also administer psychometric tests.

The New Shorter Oxford Dictionary defines 'psychometric' as 'pertaining to the, or of the nature of psychometry, or psychometrics'. The term 'psychometrics' is, in turn, defined as 'the scientific measurement of mental capacities and processes, of personality.' It is acknowledged that psychologists provide psychometric testing more than any other profession. Nevertheless, the term should not be prescribed in regulation since it is not an exclusive term used only by the psychological profession.

The board subsequently advised that there would be difficulties in regulating psychometric testing, since it would be an extremely difficult and expensive exercise to create a list of all psychological tests which would be restricted to psychologists, as there are multiple sources of tests both in Australia and overseas. The board advised that, since national registration of psychologists is to be implemented in July 2008, it may be better to leave the matter for the proposed national Psychologists Board to research and implement.

The Hon. S.G. WADE: My contribution is perhaps more by way of a comment than a question. I appreciate that national consistency amongst professions is one thing, but I do not think it is appropriate to talk about national competition policy in this area. National competition policy has implicit in it an exception for cases of public interest. Clearly, the potential harm to subjects of psychometric testing is an issue that this chamber is considering. We are charged with the responsibility of determining whether or not it is in the public interest.

The Hon. J.M.A. LENSINK: I will respond to some of the comments previously made by the minister in advising that the government will not support this particular amendment. There has been much toing and froing, as I have alluded to in the past several working days. I would not be surprised if some of my colleagues (either on my side or on the cross-benches) have been a bit confused, because they would have received numerous emails and open letters from both the local APS and the national APS.

I did receive word, late last week, that the APS had decided that it was no longer going to die in a ditch on this issue. I thought it might have been the same case as the issues the pharmacists had in a previous bill. I was then advised that was not the case and that its position had been misrepresented. So we have this second open letter to members of South Australia's Legislative Council re the Psychological Practice Bill dated 4 June, signed by Professor Lyn Littlefield, the executive director of the national APS organisation, who states:

Regrettably, I am compelled to write to you again, now to correct misrepresentations of the Australian Psychological Society's position, apparently emanating from the office of Minister Hill.

The APS has considered this bill from the perspective of both (a) South Australia's need to update its current registration act for psychologists, and (b) the national regulatory framework being developed under the auspices of COAG.

The letter goes on to state:

Our approach to COAG has been one of cooperative effort, consultation and mutual respect for the various parties' interests and needs.

On the second page it states:

My comment in my first letter—about not seeking an amendment to the bill regarding regulation of psychological testing at this time—was conditional on Minister Hill's agreeing to enter into 'good faith' discussions and negotiations with us about different and more effective approaches to psychometric test regulation than had been used in the past. These would be along the lines the minister had suggested in the House of Assembly debate as well as the fresh approach to test regulation—

and so on. It goes on:

We are now forced to favour an amendment to the bill rather than relying on the assurances about consultation and collaboration that I have been seeking from the minister.

The letter states further:

In my first letter to you, I outlined a number of serious concerns beyond the regulation of psychological tests and hypnotherapy—

and so forth. On my reading of this, on that basis, the APS most definitely supports this.

I would just like to reiterate that psychological testing is being used more and more extensively by recruitment agencies and so forth. I suspect that, were we to allow the shackles to fall from ensuring that professionals administer this particular process, it may well be abused by agencies such as WorkCover and, indeed, perhaps some employer groups and recruitment agencies.

As for it being an expensive and difficult process to deal with these particular issues, I think that supporting this amendment will ensure there is the ability of the government to prescribe tests as the need arises. It is similar to the other registers that are held within the regulations which need to be updated from time to time, such as notification of communicable diseases. With those remarks, I urge honourable members to support this amendment.

The Hon. G.E. GAGO: I would like to respond to a comment made by the Hon. Stephen Wade in relation to competition policy. What he says is correct in principle; however, there has never been any demonstrable evidence of harm presented by either the board or the psychological association that such harm has occurred; rather, there is fear that something might happen, but which has not, in fact, manifested itself in over 30 years.

The committee divided on the new clause:

AYES (10)

Bressington, A.	Dawkins, J. S. L.
Lawson, R. D.	Lensink, J. M. A. (teller)
Lucas, R. I.	Parnell, M.
Ridgway, D. W.	Schaefer, C. V.
Wade, S. G.	Xenophon, N.

NOES (9)

Evans, A.L.	Finnigan, B. V.
Gago, G. E. (teller)	Gazzola, J. M.
Hood, D. G. E.	Holloway, P.
Hunter, I.	Kanck, S. M.
Wortley, R.	

PAIR

Stephens, T. J.	Zollo, C.

Majority of 1 for the ayes.

New clause thus inserted.

Clauses 36 and 37 passed.

Clause 38.

The Hon. A.M. BRESSINGTON: I move:

Page 25, after line 25—Insert:

(3a) An inspector must not exercise the power conferred by subsection (2)(d) except on the authority of a warrant issued by a magistrate.

I move this amendment to ensure a greater level of accountability with respect to the powers of the board and to compel practitioners to produce relevant substantiating material in all forms, such as electronic, hard copy and any other means required for the reporting mechanism. It is, basically, to increase the power of the board.

The Hon. G.E. GAGO: This amendment will require the board or an inspector to obtain a warrant issued by a magistrate to gain access to any documents required for an investigation. The government does not support this amendment. Under this provision in the bill, an inspector can obtain only those documents relevant to an investigation. An inspector acts on the advice of the board and, if an inspector acts inappropriately, they are subject to discipline under the PSM act. A warrant creates an unnecessary procedural delay without adding procedural fairness, as would be expected by such a process.

The clause in this bill is the same as those in all other health practitioner registration acts already passed. This same provision has been accepted by all other health practitioners and by parliament. Why should a lesser provision apply to psychologists than other registered health practitioners? There are no clear grounds for why psychologists and psychological service providers should be treated any differently from other health practitioners with respect to this provision. This amendment would therefore create an inconsistency with all other health practitioner registration acts and the provisions that apply to all other registered health practitioners.

The Hon. A.M. BRESSINGTON: Just because these sorts of conditions do not apply to other health care professionals does not justify why the minister would not support the need for a warrant to accumulate or to have case notes or any other materials relating to a person's psychological well-being handed over to an inspector for any sort of inquiry. We have actually had cases where we have been subpoenaed by the Coroner's Court to have files produced in an investigation where harm to a client has actually occurred. Without this sort of measure, individual's files could be accessed readily. I believe that, as far as confidentiality and privacy in other areas is concerned, it should apply and perhaps extend to this bill.

The Hon. J.M.A. LENSINK: This is another of the amendments moved by our health spokesperson in another place. The Liberal Party supports the amendment.

The committee divided on the amendment:

AYES (9)

Bressington, A.(teller)	Dawkins, J. S. L.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Ridgway, D. W.
Schaefer, C. V.	Wade, S. G.
Xenophon, N.	

NOES (10)

Evans, A. L.	Finnigan, B. V.

NOES (cont.)

Gago, G. E. (teller)	Gazzola, J. M.
Holloway, P.	Hood, D.
Hunter, I.	Kanck, S. M.
Parnell, M.	Wortley, R.

PAIR

Stephens, T. J.	Zollo, C.

Majority of 1 for the noes.

Amendment thus negatived; clause passed.

Clause 39 passed.

Clause 40.

The Hon. A.M. BRESSINGTON: I move:

Page 26—

Line 14—After 'opinion' insert:
, formed on reasonable grounds,

Line 14—Delete 'or may be'

Line 15—Delete 'must' and substitute:
may

Line 18—Delete the penalty provision

I believe that it is not quite prescriptive enough in this legislation to have a requirement for a report to include only an opinion. All other organisations and practices are required to provide evidence to support decisions that have been made. As a consequence, my amendment inserts the word 'opinion' after the words 'formed on reasonable grounds' so that practitioners and people making reports are well aware that they are required to provide evidence to support that opinion.

The Hon. G.E. GAGO: These amendments are not supported for the following reasons. Clause 40 specifically links with clause 4, 'Medical fitness to provide psychological services'. Under clause 4, a person making a determination as to a person's medical fitness to provide psychological services must have regard to whether such services can be provided without endangering the health and safety of the patient or client. Amendment No. 8 will create a basis for legal challenge to an opinion provided by a health professional, a psychological service provider or a person in charge of an educational institution raising the standard for reporting medical unfitness to the board.

The aim of the provision is to facilitate the reporting of a psychologist or student psychologist who may be medically unfit as defined under clause 4 of the bill, and therefore to allow the board to investigate the matter properly and expeditiously to protect public health and safety and to facilitate early assessment and treatment of persons who may be medically unfit. Amendment No. 8, if passed, may establish a basis for legal contest on the reasonableness of an opinion and whether the person was qualified to form such an opinion. This amendment will mean that those persons required to report will be reluctant to do so.

It runs counter to the bill's fundamental objective to protect public health and safety. Amendment No. 9 requires the person who is obligated to report to be absolutely certain of their judgment that a person is medically unfit. The effect of deleting 'may be' will require a person reporting to provide a definitive and legally defensible judgment that a psychologist or student psychologist is medically unfit. The person making this report may not be in a position to make such a definitive judgment.

Clause 41 makes it clear that it is up to the board to determine whether a person is medically unfit. A person has a right to appeal to the District Court should he or she feel the decision of the board not to be justified. Amendment No. 10 will mean that a report will not need to be provided in writing. It should remain an obligation to provide a written report. It supports the opinion of the person making the report under clause 40(1) and clause 40(2), and the board's consideration of the matter under clause 41. By removing the requirement to provide a written report it places the person making the report in a vulnerable position legally in having to defend a verbal report.

It will also place the board in the difficult position of having to investigate on the basis of a verbal report and may increase the risk of such reports being made for vexatious reasons. Amendment No. 11 removes the penalty provision should the class of person required to report under this clause fail to do so. This is a legal requirement and penalties need to apply to support compliance. The purpose of clause 40 is to provide a measure that ensures the protection of public health and safety. It does this by ensuring that there is an obligation to report by a health professional treating a psychologist or student psychologist, a psychological service provider or a person in charge of an educational institution.

Removal of the penalty undermines the purpose and feasibility of clause 40 in its entirety and will create unfeasible and unworkable legislation. The provisions in clause 40 in this bill are the same as that in all other health practitioner registration acts already passed. There are no clear grounds for why psychologists should be treated any differently from other health practitioners in respect of this provision, and these amendments would therefore create inconsistency with all other health practitioner registration acts and the provisions that currently apply to all other registered health practitioners.

The Hon. J.M.A. LENSINK: These amendments are identical to those that were filed by the Liberal Party health spokesperson in another place. The Liberal Party supports the amendments.

The Hon. NICK XENOPHON: I indicate my support for these amendments. I hear what the minister says about this perhaps opening up things for litigation, but I would have thought that a requirement formed on reasonable grounds is still an opinion but it just requires a greater degree of rigour. It raises the benchmark in terms of the basis upon which an opinion is made just to the extent that it must be reasonable grounds. I do not expect that that is a necessarily onerous requirement. I think that, in fact, it would require a degree of rigour in the process so that an opinion cannot be plucked out of thin air. There must be some substance to it: it must be anchored to the concept of reasonableness. The concept of reasonableness is sufficiently broad to make this amendment not particularly onerous, but I think that it does require a somewhat higher standard, and that would be a good thing in the circumstances.

The Hon. A.M. BRESSINGTON: I respond to the comments of the minister in relation to an opinion formed on reasonable grounds. I would like to reflect on a situation that occurred with a person who came to see me about psychological profiling, reports and all the stuff that goes on in this profession. This person was assessed by a psychologist as being unfit for a certain position within an organisation because of what they claimed to be personality traits. The psychologist went on to make the prediction that this person's marriage would break down within about a 12-month period and that that would place extra stress on him, and that is why he was not accepted into his chosen profession.

This is an example of that lack of evidence based situation that occurs sometimes with some psychologists—not all psychologists—where somehow they get a bit carried away with their own 'specialness' and their own expertise and just

do not refer back to what is evidence based, what precedents have been set by other sorts of testing and how human those psychological evaluations, reviews and opinions can be. If we are not requiring them to provide an opinion on reasonable grounds, I believe that we are defeating the purpose of this bill in regulating practices within the area of psychology. This has been going on for quite some time with a number of different practices—and I have seen it in my work here and also within Drug Beat.

On a number of occasions, we have consulted with psychologists about a number of different issues, and I as a mere counsellor and therapist have seen that the opinions of some psychologists—and I will go so far as to say even psychiatrists—have been questionable. They have had no evidence to support the opinions that they have put on paper and it has caused a great deal of difficulty for clients. I do not think that this level of accountability to provide evidence based on reasonable grounds to support an opinion is anything out of the ordinary for any sort of practitioner dealing with either the mental or physical health of an individual.

The Hon. M. PARNELL: The Greens do not support these amendments. I largely agree with the views that the minister has expressed, but I would point out as well that, if we do not include the words 'formed on reasonable grounds', that does not mean that reasonable grounds are still not an inherent part of this provision, because the obligation is to submit a written report to the board setting out his or her reasons. So, it is already in there. I think it is there by implication. In terms of amendment No. 8, I do not think it is necessary to include those words. In terms of amendment No. 9, I agree with the minister: I think it does require a view of unreasonable firmness to have to be formed before a report can be lodged. Removing the penalty provisions and the obligatory nature of this section undermines the whole purpose of this section. I am not inclined to support the amendments.

The Hon. D.G.E. HOOD: Family First opposes the amendments. We are sympathetic with the sentiment that has been outlined by the Hon. Ann Bressington, but I think that the Hon. Mark Parnell said it very well and stole my words to a certain extent; that is, by not having those words in the bill, it is very difficult to argue that there is not an expectation of reasonableness on the profession. For that reason, we oppose the amendments.

The Hon. G.E. GAGO: It has been put but, given that it was a question put to me, I will respond to the Hon. Nick Xenophon and the Hon. Ann Bressington. The provision (as it stands) requires that the opinion must be justified in writing and therefore will outline the reasons for the opinion. It will be a professional opinion.

Amendments negatived; clause passed.

Progress reported; committee to sit again.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (CHILDREN ON APY LANDS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill seeks to establish an inquiry, which will provide a better understanding of the nature and extent of child sexual abuse in remote aboriginal communities.

In recent years there have been many inquiries and reports, which point to unacceptable levels of sexual abuse of children in remote Aboriginal communities, but the rates of reporting continue to be consistently low.

The disparity between the levels of abuse suggested by the inquiries and reports, and the rates of reporting, was addressed at the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities held in Canberra on 26 June 2006. Arising from that summit, the Commonwealth and the State governments have agreed to address the apparent under-reporting by extending the Children in State Care Commission to enable it to inquire into the incidence of sexual abuse of children on the APY lands.

It is hoped that this inquiry will provide a process that will help break the cycle of abuse and under-reporting, which has prevailed in Aboriginal communities.

The Inquiry will not only report on the nature and extent of child abuse in APY communities. It will also report on any measures to prevent sexual abuse of children on the APY Lands and address the consequences of the abuse for these communities.

It may also lead to criminal prosecutions.

Rather than establish a separate inquiry the Children in State Care Commission of Inquiry will be expanded to include terms of reference that enable inquiry into the sexual abuse of children in nominated communities on the APY Lands.

The proposed inquiry will be a separate process to the Children in State Care Inquiry. However, the proposed inquiry will function in tandem with it and benefit from using its existing structures and expertise. The Children In State Care Inquiry is already obliged to inquire into allegations of sexual abuse of children in state care in the APY lands and will take evidence on the lands in this regard later this year.

It is intended that the proposed inquiry will be concluded by 31 December 2007 to coincide with the anticipated conclusion of the Children in State Care Inquiry.

The proposed inquiry is an important part of the government's strategy to address child sexual abuse in Aboriginal communities. It will give victims a chance to speak out and provide a clear message to everyone that the sexual abuse of children is unacceptable and will not be tolerated by this government. Most importantly, it will report on appropriate measures to prevent such sexual abuse and remedy its effects.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Commission of Inquiry (Children in State Care) Act 2004*

3—Amendment of long title

The long title is amended to include reference to a second commission to inquire into the incidence of sexual offences against children resident on the Anangu Pitjantjatjara Yankunytjatjara lands.

4—Substitution of section 1—Short title

The short title of the Act is altered to include reference to the subject of the second commission of inquiry.

5—Amendment of section 3—Interpretation

The definition of authorised person is altered so that it is clear that an Assistant Commissioner appointed under inserted section 4A is an authorised person for the purposes of the Act.

The definition of Commissioner is altered so that readers are pointed to section 4A which provides that, in certain circumstances, a reference to the Commissioner may include a reference to an Assistant Commissioner.

6—Insertion of section 4A

4A—Constitution of commission—children on APY lands

New section 4A establishes a second commission of inquiry with the terms of reference set out in Schedule 2. The Commissioner for the Commission of Inquiry into children in State care is to constitute the commission. In addition there

are to be 2 Assistant Commissioners. 1 is to be male and the other female and 1 or both are to be of Aboriginal descent.

7—Amendment of section 11—Completion of inquiry and presentation of report

This amendment requires both inquiries to be completed by 31 December 2007. The date for completion may be postponed by the Governor by notice in the Gazette.

8—Amendment of heading to Schedule 1

This is a consequential amendment to the heading of the Schedule.

9—Amendment of Schedule 1

This amendment simply makes it clear that an allegation of sexual abuse may be the subject of both inquiries under the Act.

10—Insertion of Schedule 2

Schedule 2—Terms of reference—children on APY lands

The terms of reference are to inquire into the incidence of sexual abuse of persons who, at the time of the abuse, were children on the APY lands.

The purposes of the inquiry are—

(a) to select APY communities to form the focus of the inquiry; and

(b) to examine allegations of sexual abuse of children on the APY lands; and

(c) to assess and report on the nature and extent of sexual abuse of children on the APY lands; and

(d) to identify and report on the consequences of the abuse for the APY communities; and

(e) to report on any measures that should be implemented—

(i) to prevent sexual abuse of children on the APY lands; and

(ii) to address the identified consequences of the abuse for the APY communities,

(to the extent that these matters are not being addressed through existing programs or initiatives).

Subclauses (3) to (6) are machinery.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

JULIA FARR SERVICES (TRUSTS) BILL

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

The Hon. P. HOLLOWAY (Minister for Police): 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.

In June 2006 disability reforms were announced involving the dissolution of the Intellectual Disability Council, the Independent Living Centre and Julia Farr Services and the establishment of Disability SA.

The board of Julia Farr Services ("**JFS**") passed a resolution on 26 June 2006 to dissolve on 30 June 2007 or such later date as the Minister may consider administratively convenient. In accordance with Section 48(6) of the *South Australian Health Commission Act 1976*, JFS will voluntarily dissolve, with a transfer of staff and Government owned assets to the Department for Families and Communities.

The JFS board was invited to establish a new incorporated body under the *Associations Incorporation Act 1985* to manage the non-Government owned assets. The Julia Farr Association ("**JFA**") was incorporated on 15 September 2006 and operates on a not-for-profit basis as a non-government organisation. The JFA is governed by a board of management.

In working through the due diligence process it came to light that charitable income has been forthcoming since the inception of JFS (formerly the Home for Incurables Inc. and the Julia Farr Centre Incorporated) and is expected into the future. The issue of the charitable income needs to be addressed and there are intricacies associated with the trusts and estates of which JFS is a beneficiary.

JFS as trustee of the JFC Benefactors Endowment Fund intends to appoint the JFA as the new trustee of the Fund prior to dissolution of JFS. The Fund has a current balance of $470 000.

JFS manages a Residents Trust Fund which is a holding account for residents who choose to nominate the account for Disability Support Pension payments and to deposit personal funds. Each resident has their own trust account within the fund and can make withdrawals and deposits at the Centre as they desire. Less than 50% of current residents utilise the fund.

The Residents Trust Fund existed in some form prior to the incorporation of the Julia Farr Centre in 1982 but was not reported separately in financial statements until 1983. Each resident had their own account. The interest accruing on small individual accounts was minimal and it was decided in September 1983 to consolidate them into one bank account to maximise the interest. It was also decided to deposit the interest that had accrued into a single account called the Residents Benefit Fund which could be accessed by needy residents.

A protocol was then developed to distribute subsequent interest that accrued on the Residents Trust Fund each quarter to the individual residents who use the Residents Trust Fund as their holding account.

Apart from the initial interest transferred to establish the Residents Benefit Fund the fund has grown through annual interest, specific donations and income from sale of craft items which have been deposited over time. The Residents Benefit Fund currently has a balance of $845 000 and is intended for the ongoing benefit of adults with acquired brain injury, physical or neurological conditions who are former clients of JFS and/or current tenants of the Julia Farr Housing Association. A formal application process is in place for residents to access funds for specific purposes. The approval and allocation of funds is overseen by a Residents Benefit Fund Committee.

JFS also manages an account established with past donations to the value of $52 000.

It is intended that the Residents Benefit Fund and the donation account will transfer to the JFA.

Disability SA is a Government agency and cannot receive gifts, bequests and donations in the future nor is it likely or appropriate for Disability SA to be nominated as a beneficiary of trusts or estates.

This Bill establishes the JFA as the legal successor to JFS following the proposed dissolution of JFS on 30 June 2007 specifically for the purpose of future gifts, bequests and donations. The Bill will ensure the ongoing benefit of gifts, bequests and donations for people with disabilities in South Australia and will alleviate any uncertainty as to who should benefit from testamentary bequests nominating JFS as the benefactor. The JFA will be required to meet the objects of any trusts or bequests and will not be able to use the funds for any other purpose.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

4—Application of Act

This clause provides that this measure applies to a testamentary disposition, trust or gift made or created before or after the commencement of this Act. Furthermore, the provisions of the measure are additional to the provisions of the *Trustee Act 1936*, other than section 69B (which will not apply to a charitable trust to which this measure is to apply).

5—Dispositions, gifts and related powers to vest in JFA

This clause provides that certain specified dispositions of property in favour of a designated entity (as defined in clause 3), or in favour of the residents etc of a designated entity, will be taken to have been a disposition in favour of the Julia Farr Association Incorporated or the residents etc of a nominee of the Association (as the case requires), in effect placing the Association in the shoes of the designated entity. This clause will also allow other references to a designated entity as a trustee to be taken to be references to JFA. However, the relevant provision will not allow JFA to disturb the appointment of a new or substitute trustee made before the commencement of the measure.

In addition, if it was the intention of a testator etc that, should the beneficiary cease to exist, the testamentary disposition, trust or gift was to lapse or was to be in favour of some other

person or body, then the measure will not override that intention.

The clause also makes consequential procedural provisions.

6—Variation of terms of trust

This clause enables the Julia Farr Association Incorporated to vary the terms of a trust in the circumstances specified in proposed subsection (1). Application for such variation is made to the Attorney-General, who may refer an application to the Supreme Court in certain circumstances.

The clause makes provision for costs and related procedural matters.

7—Alteration of rules of JFA

This clause provides that Julia Farr Association must not alter certain critical rules unless such an alteration is approved by the Attorney-General. This is to provide security in terms of the disposal of trust property etc deemed to have been in favour of the Association by force of this measure.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

ADJOURNMENT

At 5.55 p.m. the council adjourned until Wednesday 6 June at 2.15 p.m.