LEGISLATIVE COUNCIL

Wednesday 25 July 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.15 p.m. and read prayers.

AUDITOR-GENERAL'S INTERIM REPORT

The PRESIDENT: I lay upon the table the interim report of the Auditor-General on the Hindmarsh Soccer Stadium redevelopment project pursuant to section 32 of the Public Finance and Audit Act 1987, and a resolution of this Council on 17 November 1999.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the 26th report of the committee.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

The Hon. J.F. STEFANI: I bring up the interim report of the select committee and move:

That the interim report be printed.

Motion carried.

FESTIVAL OF ARTS

The Hon. DIANA LAIDLAW (Minister for the Arts): I seek leave to make a ministerial statement on the subject of the Telstra Adelaide Festival 2000.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday, in the other place, the Leader of the Opposition referred to 'a conspiracy of silence' and, later, 'deceit' in terms of the financial result for the Telstra Adelaide Festival 2000. Both references are wrong and way over the top and, I suspect, deliberately so for base political purposes rather than an interest in the well-being of the festival, now or long term. I was informed about the financial result at 7.15 a.m. on 21 February this year, the morning after the board of the festival corporation received the same information. It was considered that the most appropriate course of action was to fix the problem as a matter of priority, and it has been fixed.

The fact the opposition raised questions on the financial result, based on rumour some four weeks before the funding package was resolved with the board, is no basis for accusations of 'cover up'. There is nothing to hide and never has been. With the problem fixed, the details of the Adelaide Festival Corporation's financial statements have now been released. Faced with the financial result—and in this matter it is important to distinguish between the festival and the broader operations of the corporation—what would have been reprehensible on my part and the board's part would have been our collective failure to resolve the issues. Also there is no basis for implicating the Premier and cabinet in the alleged 'cover up'. I recall mentioning informally to Premier and cabinet in the context of other issues that the festival faced some financial issues that I was dealing with through Arts SA. I knew they would be fixed, and they were.

Earlier today at the request of the Economic and Finance Committee I attended a hearing ostensibly to address the recent financial results of the Adelaide Festival 2000 and the Adelaide Festival Centre Trust. I did so because the matters under consideration by the committee are important to me, the organisations in question and our arts industry as a whole. I also have always recognised my responsibility as minister to be accountable for the agencies and the statutory authorities that report to me. I now report that the manner of questions plus the sweeping statements and accusations by the member for Hart, Mr Foley, revealed he was more interested in theatrics than the facts—or, indeed, the management and wellbeing of the Adelaide Festival and the Adelaide Festival Centre Trust.

QUESTION TIME

FESTIVAL OF ARTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Adelaide Festival.

Leave granted.

The Hon. CAROLYN PICKLES: I refer to the minister's evidence today to the Economic and Finance Committee, the ministerial statement that she has just made and her statement in the Economic and Finance Committee that she would not change the course of action in relation to the problems concerning the festival's financial losses. My questions to the minister are:

1. By whose authority did Mr Nicholas Heyward and the board of the festival agree not to release details of the true state of financial affairs; was it the board's decision or was it the minister's decision?

2. When did the minister advise the Premier and the cabinet of the financial losses? She has just stated in her ministerial statement that she had a conversation with them; on what date was that?

3. Given the minister's determination not to publicly declare the financial losses, what other information is she withholding from the public about other program areas in her portfolio; and what programs, if any, have been cut to cover the loss of the 2000 Adelaide Festival?

The Hon. DIANA LAIDLAW (Minister for the Arts): Certainly, nothing has been cut in the arts portfolio to deal with the issues addressed in the financing package with the Adelaide Festival Corporation. As I mentioned in my ministerial statement, when the board was presented with the information on the financial result (and I was given the same information next day), it was generally considered that the best course of action was to fix up the problem as a matter of priority. As I indicated, that was done promptly. It was collectively determined that that was the best course of action.

In terms of my informal advice to the Premier and cabinet, I do not recall the exact day. It was certainly some time after 21 February, and I suspect that it was just in the context of the information and things with which I was dealing in the portfolio, and that it would be—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: No, I said it was an informal matter. It was not a matter that I formally took to cabinet in written or verbal presentation. I suspect that shadow cabinet is similar in that there are discussions of a general nature, and you say this or that is a problem and that you are dealing with it. I dealt with it in that manner. I said

that I would fix it; and, with the board and Arts SA, I did. The honourable member is well aware of that and I would hope, if she was fair, and particularly if her party was fair, in dealing with this, that she would act no differently, in terms of dealing with a difficult situation, fixing it and then properly accounting for it as I have.

POLICE, COMMUNITY

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the minister representing the Attorney-General in his absence a question on community policing.

Leave granted.

The Hon. T.G. ROBERTS: I have had an unprecedented number of Aboriginal families contact me in relation to the difficulties they are facing in dealing with the aftermath of individual family members being involved in activities that have been brought to the attention of the police. The extended families and family members believe that they are suffering as a result of a change in community policing methods, in that all family members who have contact with an individual who comes to the attention of the police as a result of their activities are being harassed.

A meeting held in Murray Bridge and attended by a wide range of services and a wide range of people raised questions about changed attitudes. The opposition and the government's position has always been bipartisan in relation to dealing with the difficult questions of community policing, but it appears that a changed policy is being implemented by the government in relation to watching what we regard as the criminals—not my words but the words in the policing handbook—and not watching the crime as much.

In this way the intentions of police would be to try to prevent crimes before they are committed, but, in doing so, a lot of innocent people are being harassed to a point of frustration resulting in their now asking for some assistance from the opposition to highlight their plight. My questions are:

1. Has there been a policy change in dealing with community policing in South Australia, in particular within Aboriginal communities?

2. Has the government addressed the impact of that change that might have occurred on Aboriginal families in regional and metropolitan areas?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's questions to the minister and bring back a reply.

RURAL STUDENTS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Employment and Training, a question about adult training for country people.

Leave granted.

The Hon. R.R. ROBERTS: My question results from a letter I received from a candidate in the upcoming election, Mr John Rohde, who had received a letter from Mr Roger Pyrke of Clare. Mr Pyrke is a full-time adult student trying to undertake a course to improve his prospects for full-time employment. The courses that Mr Pyrke has enrolled in are not available to country students and he has to travel to Regency Park on a daily basis. There are a number of reasons for this, such as the cost involved in transferring housing. Suffice to say, this is costing some $200 per fortnight and as a full-time student he currently receives an Austudy allowance of $318 per fortnight. It is easy to see that, when my constituent pays the course fees, his fortnightly petrol bills, registration, etc., he is in somewhat of a financial dilemma.

I understand that he wrote to Mr Barry Wakelin, the member for Grey, who passed the matter on to Dr Kemp, the federal minister, who said that it is a state government responsibility. This is becoming a more frequent occurrence with people having to travel to access training to improve their financial and employment opportunities. I am advised that currently there are no rebates for fuel for travel for students and there is no concession for students for registration costs, although such a concession is provided to retired persons and a range of other people. My questions are:

1. Can the minister advise whether there are any plans to provide relief for students required to travel from country areas to undertake training?

2. Is there any chance of full-time students having access to a rebate on their motor vehicle registration if they are required to undertake such training?

The Hon. R.I. LUCAS (Treasurer): I am happy to refer the honourable member's question to the minister and bring back a reply.

GOVERNMENT RADIO NETWORK

The Hon. IAN GILFILLAN: I seek leave to ask the Minister for Administrative and Information Services a question relating to the government radio network.

Leave granted.

The Hon. IAN GILFILLAN: I was contacted by a constituent a couple of days ago drawing my attention to apparent security problems with the new communications network. In an email communication he advised that one of his acquaintances indicated that the new government radio network is a hacker's delight. I quote from his communication to me, as follows:

> For some reason part of the requirement was for technology to be in use for 10 years. I am told that Motorola has long since stopped production of this type of equipment and moved on to more modern models. They had to retool to produce the old technology. My informant easily obtained software specifically written to hack this system and unloaded it free from the internet. He uses a laptop computer and a scanner. The laptop has software that allows him to select which channels he will listen in on. For example, he can cut out normal station to mobile chat and just pick up the calls concerning the police CID or he can just get the hand-held traffic or he can have the computer pick up calls that contain the code for a drug raid or that for attending a suspected armed robbery, etc.

My constituent tried the situation himself from a web site address which was given to me through the Parliamentary Library and he communicated to me that the site has all the information for anyone to listen in on any material over the supposedly secure radio system. He poses these questions, which the minister might be interested to address in any case:

> Do the police know that the government has a site encouraging anyone, assumedly including persons they may be likely to visit, to listen in and be well informed on the communications traffic, right down to hand-held radios? How about car thieves? They can carry a scanner and a laptop and know exactly where all the patrols are and, if they get reported, they can follow the police action to intercept them. How about someone waiting to do an armed hold-up? They can pick a time when all the available units are occupied at a distance.

The very helpful Parliamentary Library, by giving me the web site address, enabled us to download the instructions on how to do it. Let me quote a couple of paragraphs so the

minister and members will realise what is on offer through the library and the web site. The instructions state:

> This trunker software, when set up correctly, will allow you to watch talk groups and radios as they become active and move around the SAGRN. When used in conjunction with a computer controlled scanner they can actually follow users as they change from frequency to frequency, similar to what a trunk tracker tracking scanner does.
>
> The advantage of this software, though, is that it allows you to see all of the talk groups that are active at once and will allow you to prioritise the users so you can listen to one user, but if someone more important transmits then the computer will tell the scanner to listen to that one instead. To get a trunker to work correctly you need a small hardware interface which goes from a scanner monitoring the controlled channel data to the COM port of the computer.

Very conveniently, this software gives you the address in Adelaide where you can purchase such a unit for $25. It is extremely simple. I am not renowned for my particular expertise in computers or web sites, but I can read these instructions pretty clearly.

I found clear instructions on how to monitor the GRN. The site informed me that, while I could purchase the new whiz-bang UBC 780XLT based mobile scanner for $600, I would do best with an older model that I could pick up for $US100. My constituent confirmed that he had seen this equipment in operation just a few days ago.

As I remember, the network was intended to be not only reliable and robust but also secure—for example, when the police are communicating about an investigation or attending at a crime scene, those communications were not intended to be intercepted or overheard by someone who was not supposed to hear them, and certainly not a member of the public who happens to be playing with a radio channel scanner. I ask the minister:

1. Was it intended that the GRN system be secure?

2. Is he confident that the new communication system is secure?

3. Is he aware that the software written specifically to hack the system is available on the internet where it can be downloaded free of charge, allowing anyone with a laptop computer and a scanner to listen into any emergency service channel they choose, even to the extent of selecting CID codes for drug raids or armed robberies?

4. If the system is not secure, what steps does he intend to take to ensure that criminals or those with mischief intent cannot plan their activities around listening in and finding out when police are busy doing something else in their area?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I will address the second of the honourable member's questions first, namely, whether I am confident that the government radio network does provide a secure basis for communications, by saying that I am assured that this network is secure. I am reassured by the fact that one of the first uses of the government radio network was during the Olympic soccer tournament in Adelaide, when it was necessary that we install a secure system that met international requirements for security.

On the advice given to me not only did the network perform according to specification but it met the most stringent security tests on that occasion. This network is designed to have elements of security, where appropriate, in it. Not all communication across the government radio network, which is a trunked statewide network, will have some of the high degree of security that is required by certain operational units of the police.

The government radio network, which is, as members will know, an ultra high frequency network, replaced the previous very high frequency networks—some 17 them—which existed across the state. A number of ham radio operators are opposed to the government radio network because, for the first time, it precluded them from scanning into various emergency service and police channels for the purpose of listening to broadcasts.

The Hon. L.H. Davis interjecting:

The Hon. R.D. LAWSON: Indeed, as the Hon. Mr Davis says, there are many hams amongst the Democrats. The network is designed to be secure. I have every confidence that it is secure. As to the particular matters to which the honourable member refers, I would be obliged if he could provide me with the details and I will certainly have those checked and a more detailed technical response delivered. The government radio network contract, which is a seven year contract with Telstra, has proceeded according to budget and according to schedule. There has been a slight delay in the introduction of the service to the Yorke Peninsula and Mid North areas by reason of a delay caused by meeting Aboriginal heritage requirements. That delay will be of the order of 10 weeks; however, I am assured there will be no operational difficulties arising as a result of that matter, which arises because of certain Aboriginal heritage matters at Bumbunga Hill.

I assure the Council that this network has worked well. For example, the South Australia Police during the last Tour Down Under reported very favourably on it. Senior Sergeant Harry McCallum, who headed the traffic planning for the Tour Down Under, stated that in the previous year he had no way of keeping contact with each traffic control point as the race progressed along each leg. He says:

> We were working on a wing and prayer, whereas this year, with the new network, the communication was so good anyone in traffic control was aware of what was happening anywhere at any time.

Similarly, there have been good reports from the emergency services. For example, Mr Arthur Tindall, CFS Manager of Technical Services, says:

> The Country Fire Service has identified that the trunk network of the GRN is fit for the purpose and provides significant benefits when compared with the existing VHF network as used in command and control.

So there have been many good reports about this radio network, which is rolling out, as I say, in accordance with schedule and according to budget. It is a pity that there are some people in the community and in this parliament who do seek at every opportunity to undermine confidence in this very important new infrastructure, which was originally recommended by the Coroner following the Ash Wednesday bushfire in 1983 and which the Labor Government for 13 years did absolutely nothing about.

The Hon. IAN GILFILLAN: As a supplementary question, is the minister aware of the material entitled 'Listening to the SA GRN' on the website, which I got from the Library, and that it contains precise details on how to listen to the GRN information?

The Hon. R.D. LAWSON: I am not entirely sure that I have seen the particular document to which the honourable member refers, but the existence of such a document does not undermine my confidence in the security of those parts of the network which are intended to be secure and which are operationally secure. If the honourable member provides me with any particular information that he has regarding the matter, I will certainly make further investigations and bring back more detail.

LABOR PARTY POLICY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about the Labor Party's industry policy.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The honourable member has sought to make an explanation.

The Hon. L.H. DAVIS: It is interesting to see the bemused looks on the faces of the opposition.

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: You wouldn't get a gig at the Festival of Arts, Paul.

The PRESIDENT: Order! If the Hon. Mr Davis does not want to ask a question—

Members interjecting:

The PRESIDENT: Order! If the Hon. Mr Davis does not want to ask a question, I will ask him to resume his seat.

The Hon. L.H. DAVIS: The Rann-led Labor Party has not enjoyed a close association with policy releases of substance in its years of opposition. However, I noticed a recent media release from the Leader of the Opposition, Mike Rann, which outlined the Labor Party's policy for industry, innovation and jobs. The centrepiece of this policy—which, in fact, ran to several pages—appeared to be a centre for innovation in manufacturing, industry and business. My question is: has the Treasurer had an opportunity to examine this policy and does he have any specific remarks to make about this policy, which is said to be important for the Labor Party's election?

The PRESIDENT: That is a very line ball question.

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question because, indeed, the direction of industry policy is an important issue for the people of South Australia, and this government has been challenging the opposition for a policy and, lo and behold, the photocopiers whirred away one evening and out popped a direction statement in relation to industry.

As the honourable member has highlighted, the centrepiece for the Labor opposition's industry policy was a brand spanking new centre for innovation in manufacturing, industry and business. The Leader of the Opposition is obviously hoping that the media in South Australia and the community will not wake up to the fact that there is already an existing centre for innovation, manufacturing and business in South Australia. The innovation in the Labor policy—

An honourable member interjecting:

The Hon. R.I. LUCAS: You let out your secret thoughts on electricity!

The Hon. P. Holloway: Let's debate electricity, if you want to debate electricity. Any time, sunshine!

The PRESIDENT: Order, the Hon. Paul Holloway!

The Hon. R.I. LUCAS: The secret thoughts of the Hon. Mr Holloway have been revealed. He is a supporter of the privatisation of the electricity industry.

An honourable member: Always have been.

The Hon. R.I. LUCAS: Always has been, that is true. But his secret thoughts have now been revealed if he is saying that the government copied his policy on electricity in South Australia.

The Hon. P. Holloway: You copied it. The Premier decided he wanted a ministerial council. He adopted everything the Leader said about two hours afterwards.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The only innovation in the Labor Party policy that I can see is that it has added the word 'industry' to the existing centre for innovation, manufacturing and business in South Australia. It is a bold new vision! It has spent three years developing this policy. The centrepiece for its policy is a new centre which adds the word 'industry' to the existing centre for innovation, manufacturing and business in South Australia. That is Labor's industry policy—it took three years and thousands of hours of research by the Labor Party to put together a policy.

Not only does the centre already exist but it is a cost unit in the budget papers and there is an acting executive director for the centre for innovation, business and manufacturing in South Australia who is already operating. It is a combination of the Business Centre and the South Australian Centre for Manufacturing. We are looking for new premises for the new centre for innovation in South Australia. That was the centrepiece of the bold new visionary policy for the Labor Party on industry—it added the word 'industry' to what already exists in the state government—

An honourable member: You sound surprised.

The Hon. R.I. LUCAS: I think I headlined my response to the Labor Party policy, 'Return of the Photocopier II'. Its three endeavours so far for policy statements have been direct copies of what the government has already done or indicated. However, in this case, I must concede that it has added one word to the title and all those—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: —major initiatives, yes—businesses in South Australia that do not think they are covered under the title of manufacturing and business will now feel comforted because industry is now in the title under the Labor Party. A bold new initiative by the Leader of the Opposition and the shadow industry minister in terms of industry policy and direction.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: He may well have written this. He may well have said to the Leader of the Opposition, 'I've got a new policy for you, Mr Rann. Here it is: we'll add the word "industry" to this centre. We will dress it up, and we will tell the people of South Australia and try to delude the media into thinking that this is a new visionary policy, leader.' He may well have gone up in the credit ranking points with his own leader for the bold and visionary policy he has released. The other aspect of this policy which has already been put in place was that the state government had already—

Members interjecting:

The Hon. R.I. LUCAS: If anyone wants to hang their head, I will leave that to someone who is capable of doing it, like the Hon. Mr Holloway. I am not that flexible. I do not have the capacity to do that.

Members interjecting:

The Hon. R.I. LUCAS: No. The member for Bart—sorry, the member for Hart—I am sure would take that ranking—

An honourable member interjecting:

The Hon. R.I. LUCAS: The member for Bart Simpson. The other aspect of this policy which had already been announced and which has been actioned is the establishment of a United States trade office. That was the second visionary part of this policy, and it has already been done by this government. With regard to the closure of a trade office in Asia, that has already been done by the government. When one goes through the policy, whilst it is a few pages in length,

as I said, 'Return of the Photocopier II' is the only way this Labor opposition will ever go if it is ever going to be able to develop anything which purports to be a policy in South Australia.

The PRESIDENT: Order! The Hon. Michael Elliott, you are advised that you should be sitting in the gallery.

YORKE PENINSULA COMMUNITY CARE SERVICE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for the Ageing questions about funding for the Yorke Peninsula Community Care Service.

Leave granted.

The Hon. T.G. CAMERON: The Yorke Peninsula is attracting a very high number of retirees but does not have the services to support them; it is transport deficient. There are increasingly large numbers of people living on the peninsula who are having to rely on an overburdened and under funded Yorke Peninsula Community Care Service to access essential services. They are the fail, aged, young, disabled, people with challenging behaviour, isolated elderly or widows who have never driven living away from town centres. They are without access to public transport, and the end result is social deterioration, dysfunction and dependence on institutions.

The Yorke Peninsula Community Care Service has a pool of 400 volunteers, one paid coordinator and eight cars to assist 1 200 people with restricted mobility, yet it is operating on the same funding as it was six years ago when it assisted nearly one-third of that number of people. It is no wonder they are getting upset in the country.

The service covers an 8 234 square kilometre area, including 28 towns and a population of 25 000. It receives partial finance through the Office for the Ageing and sponsorship from the district councils of Barunga West, Copper Coast and Yorke Peninsula—and, of course, limited donations from the public.

If volunteers use their own car, they are reimbursed just 25¢ per kilometre, a figure set five years ago, which is hardly adequate, given the rising cost of fuel. It is my understanding that members of parliament are reimbursed in excess of 40¢ per kilometre for using their vehicles. In 1999-2000, 13 297 volunteer hours were given and 442 820 kilometres covered. Valuable volunteer drivers/carers are being lost when they can no longer afford to volunteer their services to the transport program, and the service is under threat due to a financial shortfall of around $60 000. My questions are:

1. Considering the valuable role the Yorke Peninsula Community Care Service plays in providing transport for the hundreds of aged, disabled and isolated people, as a matter of urgency will the government, in consultation with the local councils, develop and implement a coordinated strategy to ensure the service receives the necessary funding to continue?

2. Will the government also review the level of reimbursement paid to volunteer drivers so that it reflects the current costs of running a motor vehicle, or that they are at least reimbursed at the same level as members of parliament?

The Hon. R.D. LAWSON (Minister for the Ageing): I am certainly aware of the good work that the Yorke Peninsula Community Transport Service provides in its region. The honourable member acknowledges that part of the funding for this service does come through the Office for the Ageing. It is my belief, but I will certainly make inquiries to confirm this, that the service also receives funds through the home and community care program, as well as the councils and other volunteer organisations in the region. I commend the service for the great work that it does and for its involvement and for the involvement of volunteers.

The Hon. T.G. Cameron: Will you put your money where your mouth is?

The Hon. R.D. LAWSON: This government has put its money where its mouth is in relation to home and community care across the state. When we came into office this state was the worst of all Australian states in the relative proportion of contribution it made to the home and community care program. We made a commitment to raise our expenditure and, on every occasion, we have met that commitment. I think that we are the only state which, in recent years, has matched the commonwealth contribution dollar for dollar, in accordance with the appropriate formula. We do match commonwealth expenditure on this and we do support community transport programs across the state, not only through home and community care but in conjunction with the Passenger Transport Board, which has made a significant financial contribution to those community transport networks.

The volunteer network from Yorke Peninsula is slightly different, in that it does support a number of people requiring transport for the purposes of medical appointments. We do have a number of different services operating through the Department of Human Services to support people visiting medical doctors and specialists. This year, according to my recollection, we have made additional financial contributions to this service in response to a considerable campaign that has been conducted by the management of the service.

I know that when cabinet met in Kadina there was a discussion with government ministers concerning this issue, and it is certainly my recollection, which, as I say, I will confirm, that additional funding has been paid to or has been recommended for the Yorke Peninsula service. I assure the honourable member and the service that we are sympathetic to its objectives. We applaud the volunteer contribution that is made and we will do everything we can to ensure that this service continues and expands.

The honourable member makes a point about the mileage paid to members of parliament. I have to say that I am not familiar with any such allowance paid to members of parliament. I have certainly never received any allowance for a vehicle in relation to any parliamentary duties that I have undertaken. If there is such a scheme, I will certainly examine it.

The fact is that volunteer transport systems across the state have differing levels of reimbursement to members. On many occasions, individuals use their own vehicles. On other occasions, the services provide vehicles themselves and meet the expenses of those vehicles. I will examine the question of reimbursement of volunteer expenses, but as I say that is ultimately a matter for the individual service to determine whether they spend their money in that way or spend it by buying fuel or new vehicles.

OLD TREASURY BUILDING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question in relation to the old Treasury building.

Leave granted.

The Hon. J.S.L. DAWKINS: An item in a recent edition of the *Advertiser* contained a suggestion that the government

was seeking to avoid referring the project involving the old Treasury building to the Public Works Committee of parliament. I was particularly interested in that item following an inspection of the old Treasury building which I undertook some months ago, along with other members of the Environment, Resources and Development Standing Committee. Will the minister indicate whether the suggestion contained within the article is correct?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The suggestion was not correct and I think—

The Hon. T.G. Roberts: What was the suggestion?

The Hon. R.D. LAWSON: The suggestion was that this government is seeking to avoid having the Public Works Committee undertake an examination of the project that is presently being undertaken in relation to the old Treasury building. The position that the government has taken in relation to this and a number of other projects is that it is a project which, in accordance with the legislation, is not automatically referred to the Public Works Committee. However, the Public Works Committee has within its legislation the power to call up a project by passing a resolution that it undertake an examination of it.

I was aware of the fact that the chair of the Public Works Committee was claiming that this project should automatically be reported to and investigated by the Public Works Committee. I communicated both verbally and by letter to the Presiding Member and invited the committee that, if it wished to undertake an examination of this project, it should pass the appropriate resolution and all necessary information would be provided to the committee and government officers made available for the purpose of presenting that evidence and assisting the committee in its deliberations.

I was appalled when the Labor candidate for Adelaide, Jane Lomax-Smith, was seen recently with a very small number of so-called demonstrators in front of the old Treasury building complaining about the project and about the fact that it had not been the subject of sufficient notice or consultation. The decision by the government to enable this building to be converted into a hotel was made in 1996. There was a public call for expressions of interest and a public process, which ultimately identified a developer who was prepared to spend some $20 million to restore the building and convert it into accommodation. Members may be aware that in Sydney the Intercontinental Hotel is based in a similarly historic building, formerly the New South Wales Premier's office and Treasurer's office.

The Hon. Carolyn Pickles: What a mess they have made of that! It is a big tower block.

The Hon. R.D. LAWSON: I will come back to the Hon. Carolyn Pickles' interjection in a moment. In Brisbane, the Treasury building, in a very prominent location in the centre of the city, has been converted into a hotel. The honourable member asks, 'Are we going to get a huge tower block at the old Treasury building?' Certainly not. The fabric of the old—

The Hon. Carolyn Pickles interjecting:

The Hon. R.D. LAWSON: I am talking about the conversion of historic buildings for appropriate uses. The plans for the old Treasury building have been well publicised. If the honourable member had read the *Advertiser* she would have seen that it is a small 80 unit hotel. There will be no tower building; there will be no canopy over the—

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order, the honourable leader!

The Hon. R.D. LAWSON: The honourable member says that it is a huge tower building. Certainly, no huge tower building is involved at the old Treasury building in Adelaide. The historic fabric of the building will be maintained. The appearance of the building from the outside will remain the same.

The point I was making was that in other jurisdictions other projects that include some elements of retention of the historic fabric of buildings have been very successfully achieved. There is a significant demand in Adelaide for tourist accommodation of the sort which can be provided in a project of this kind and which will provide not only economic development but jobs and many other benefits.

The government is not hiding the old Treasury building project from the parliament. We are perfectly prepared to accommodate the committee and to provide all necessary evidence. The committee now, after some argy-bargy, has passed a resolution, and I have ensured that officers will be available with all the necessary information. The heritage architect employed by the developer, including their consultants Ron Danvers—a very well known Adelaide heritage architect—has a very close hand in this project, which has received the approval of the Adelaide City Council and has met all heritage criteria.

It is amazing then to see the Labor Party candidate Jane Lomax Smith out there seeking publicity saying that she is opposed to the project. The interesting question is: what is the Labor Party's position on this? Is Jane Lomax Smith speaking for the Labor Party when she opposes this important and significant development? Why is she opposing it now, five years after the development was announced and at the time when construction is beginning?

MURRAY RIVER, FERRY OPERATIONS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Transport a question about government grants for ferry crossing operators and contractors complying with the State Government Services Award.

Leave granted.

The Hon. R.K. SNEATH: The minister has indicated that recently a number of new contractors were successful in winning tenders for ferry crossings and some of the existing contractors were successful in maintaining their contracts. My questions are:

1. Have any government grants been given to the successful tenderers or the existing contractors?

2. If so, at what crossings and what were the grants for?

3. Is the minister satisfied that all the current contractors are paying at least the equivalent to the State Government Services Award?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will start answering by asking a question myself. Is there some suggestion that some ferry operators have received government grants?

The Hon. R.K. Sneath: There is some suggestion, yes.

The Hon. DIANA LAIDLAW: It is news to me. My understanding was that this was an open tender process on performance and price and that there were rankings for certain issues that were identified as important for the operation of these ferries, and that all tenders received were assessed against those items.

The Hon. R.K. Sneath interjecting:

The Hon. DIANA LAIDLAW: What is the suggestion?

The Hon. R.K. Sneath: That there were grants given to them after, while they were operating the ferries.

The Hon. DIANA LAIDLAW: For what purpose?

The Hon. R.K. Sneath: I don't know, that is why I asked you.

The Hon. DIANA LAIDLAW: Oh, all right, this is a bit of a puzzle.

The Hon. T.G. Roberts: It beats question time!

The Hon. DIANA LAIDLAW: Yes, well we will try to unravel this puzzle.

The Hon. L.H. Davis: Why don't we move into committee?

The Hon. DIANA LAIDLAW: Yes, that's an idea. I know that the honourable member, with his union background, has taken an interest in ferry operations for many years, and during the initial competitive tendering process he and I met, when he was a union representative, and we worked very well through the issues.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, I am just acknowledging that, with the Hon. Mr Sneath in his former role as AWU Secretary, we worked very well through the issues. Clearly, he has some more issues; whether they are based on fact or rumour I am not sure, but we will—

The Hon. R.K. Sneath: Nor am I.

The Hon. DIANA LAIDLAW: And nor is he—we will get to the bottom of these.

The Hon. J.S.L. Dawkins: Not the bottom of the river I hope.

The Hon. DIANA LAIDLAW: No, not to the bottom of the river, just to the bottom of the issues, and I will seek to promptly bring back a reply because I would not wish rumours to circulate if there is no substance to the matters, and clearly something is being said at the moment that I should clear up.

FLAGSTAFF HILL GOLF CLUB

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Minister for Transport and Urban Planning a question about a Flagstaff Hill Golf Club subdivision.

Leave granted.

The Hon. M.J. ELLIOTT: My understanding is that the Flagstaff Hill Golf Club is having discussions at the moment with AV Jennings about developing fairways 13 and 14 for a housing development. It is my understanding that in 1978 governor Seaman proclaimed the golf course area as open space, because there is intense housing in the area and Hookers could build housing, and the necessary open space was provided by the golf course. Now I am told that because the club needs the money it wants to sell the land.

I am also informed that minister Armitage only a year ago sold part of the eastern side buffer of Happy Valley Reservoir to the golf club. Many people at the time complained about the sale of buffer land around the reservoir, which people had always seen as being open space, but, with the fact it was seen as going to the golf club and remaining open space, I suppose people largely accepted it. The concern now is that, with the government having sold some open space to the golf club, the golf club is now selling off some other land which was previously recognised as open space. I seek the minister's understanding as to whether or not, indeed, all of the golf course land is proclaimed open space and whether or not government approval will be necessary for the golf club to sell that land and, if so, will the minister give that consent?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am aware of the issue. Liberal candidate Ms Jeanes has spoken to my office about it, local member Bob Such has written to me about it, and now the honourable member has raised a question in this place about it. All that has just happened in the last two days, and I have asked my office to promptly explore the issue that has been raised now in terms of proclamations of open space. I will seek to address the local member's, the liberal candidate's and the honourable member's concerns promptly—and those of the local residents, most importantly.

The Hon. T.G. ROBERTS: As a supplementary question, could the minister also give an undertaking, if the land is sold, to give the land chemical free status?

The Hon. DIANA LAIDLAW: I do not know the basis for that question.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Of course it was SA Water land that was originally part of the sale process: I remember that. I was just overwhelmed that the Labor Party is in on the same issue as well. It is good to see that this has tripartisan attention. Clearly, it warrants my immediate attention to get all these issues fixed.

GAMING MACHINES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question in relation to IGT poker machines.

Leave granted.

The Hon. NICK XENOPHON: On 13 July 2001 Mr John Lewis, the General Manager of the Australian Hotels Association in South Australia, faxed a letter to his members. It was headed 'IGT Game King Machines being disabled', and it states:

> Due to a concern that IGT Game King machines may be open to illegal manipulation which could result in monetary losses to venues, all IGT Game King machines are being temporarily disabled by the IGC. The issue is being examined very carefully by the IGT and the Liquor and Gaming Commissioner. Further advice will be provided when a resolution has been reached.

I understand that, subsequently, 500 of these machines were shut down. On 16 July the Liquor and Gaming Commissioner, Mr Bill Pryor, was asked by Leon Byner on Radio FiveAA about the shutdown, and the exchange went as follows:

> Mr Byner: So they stole from the machine, as opposed to playing a game and getting too much from the game?
>
> Mr Pryor: That's what it appears to be.

The Commissioner continued:

> At this stage we don't know whether it was a deliberate theft. We are simply working on what we have got.

He said previously that the matter would have to be referred to the police for an investigation. On 20 July, last Friday, the Deputy Commissioner, Daryl Hassam, of the Liquor and Gaming Commissioner's office, was quoted on ABC Radio as follows:

> The issue arose because there was occasion when some money came out of the gaming machine. It wasn't as a result of any particular intervention by a player. Certainly, there was no suggestion at any stage that there was any potential for any player loss.

I state publicly that I have great regard for the Commissioner and his Deputy Commissioner for their professionalism and

their impartiality in the carrying out of their duties and I do not seek to impugn anything negative towards either of them or, indeed, the office generally, and I do not seek to criticise them for what has occurred. But, given the extent of the shutdown of the machines and the initial concern, my questions to the Treasurer are as follows:

1. What event triggered the shutdown of the machines? Did it involve one or more machines?

2. Did the event described by Mr Hassam point to a defect in the machines and, if so, what was the nature of that defect?

3. Was the event described by Mr Hassam picked up by the IGC's monitoring system and, if not, does the Treasurer consider that it ought to have been?

4. Did the notification to shut down the machines come from the AHA, the IGC or the Commissioner's office, and is there any protocol in place for such notification?

5. What was the amount involved in the event described by Mr Hassam, and has the player in question been required to repay the venue?

6. Will the Treasurer release any report prepared by the Commissioner's office or by the IGC in relation to this incident, and does he consider that a review of gaming machine betting and monitoring systems ought to be undertaken as a result of this incident?

The Hon. R.I. LUCAS (Treasurer): I will take advice on those seven or eight questions and bring back a reply.

ELECTRONIC RECORDS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question on the archiving of websites and electronic records.

Leave granted.

The Hon. CARMEL ZOLLO: The technology of the internet and the worldwide web provides many opportunities for immediate and up-to-date information that can be broadly assessed that is not available using traditional communication methods. The immediacy of available information is also reflected by the transient nature of electronic data. By its very nature, electronic data on the internet and the worldwide web is easy to update and to change and, indeed, it is equally as easy to destroy information without a trace. This leads to the frustrating message 'page not found' on our web browser that I am sure we all have experienced from time to time. Unlike paper based reports and documents, a website is often only a one-off or one of a kind: it does not exist in multiple copies that can be accessed from several physical locations.

One of the challenges of the electronic age, then, is to find mechanisms to preserve web information for future reference. I understand that in January this year National Archives released a revised policy to deal with the increasingly important issue of preserving world web-based records for archival use. The policy recognises the fact that websites and online resources are another form of government records and should be retained for as long as those records have value in a manner not dissimilar to paper based communication. The policy is also known as the 'e-permanence' project. It applies to all commonwealth organisations that are subject to the Archives Act 1983. It deals with not only documents on the worldwide web but also intranets, extranets and virtual private networks.

I am aware that State Records has been investigating the management of electronic records as outlined in an April 1998 discussion paper. However, I understand that this document does not address issues such as websites. I appreciate that data is often replicated in hard copy form such as a media release or an annual report but, clearly, in future more information will appear only in electronic form. A good example of the transient nature of state government provided information on the internet relates to the ETSA privatisation. I was recently seeking to examine the government's website ETSALE at the address www.treasury.sa.gov.au/power/ via the links which still exist on the government's own SA Central website portal. I was not too surprised to see that the site no longer exists. Now that South Australia's electricity utilities—

The PRESIDENT: This is not a debate. It is an explanation.

The Hon. CARMEL ZOLLO: We often have—

The PRESIDENT: Order! It is not a debate. The honourable member has been granted leave to make an explanation.

The Hon. CARMEL ZOLLO: I must remember that. Information such as that contained in a website is an important government record and should be archived appropriately for future access. My questions to the minister are:

1. What policies and processes exist to preserve appropriate online government records of value for archival?

2. Does State Records archive websites and online government records?

3. Will the state government be adopting the approach of National Archives in respect of e-permanence as outlined in the e-permanence project?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): As the honourable member will know, the State Records Act includes electronic information as records, the preservation of which is required under the protections imposed by that act and which gives responsibilities to the management of State Records and also the State Records Council in relation to these and other records. I know that the council itself and the management of State Records are well aware of the challenges posed by information which is available only in electronic form.

I admit that I personally have not seen the e-permanence policy to which the honourable member refers and which the National Archives has apparently recently published in relation to the preservation of web-based material. I will certainly look into that question, as well as identify the particular policies which exist within State Records in relation to these matters. I will take on notice the balance of the honourable member's question and bring back a more detailed response in due course.

MATTERS OF INTEREST

NATIONAL AUSTRALIA BANK

The Hon. L.H. DAVIS: I raise a matter of some concern regarding the banking sector. I have had discussions with an antique dealer who operates in the eastern suburbs who, over a nine year period, had a relationship with the National Australia Bank. He had a mortgage of $220 000 fixed for a five year period, expiring in two or three months—say, September 2001—at 8.95 per cent and he had an overdraft in

the vicinity of $80 000 on which the interest was 12.75 per cent.

In the nine years that he had been with the bank, he had never missed a payment and he had never had a cheque bounce. He had an exemplary record in terms of prompt repayment; there was no irregularity whatsoever. He recognised that the rates of interest he was paying were somewhat greater than were available from other institutions and, indeed, from the National Australia Bank itself. So during the year 2000 he approached the National Australia Bank three times to see whether he could consolidate his loans and have a reduced rate. He calculated that he could save $900 a month if he obtained the rates that seemed to be generally available to small businesses such as his.

However, the bank would not see him. For 12 months he tried to get the National Australia Bank manager out from the Greenhill Road business banking centre. He spoke to him twice, but he did not come out. Eventually in December 2000 the bank manager did ring him and say that he would come out with a view to examining and refinancing his business. He arrived just before Christmas. He stayed for half an hour, and the antique dealer understood that he would receive a refinancing package option from the National Australia Bank. But on 5 January—and we should remember that he had never defaulted in any way on any payment over a nine year period—he received a letter of demand from the National Australia Bank requiring him to repay all amounts outstanding (which totalled over $300 000) no later than 28 February 2001—within a six or seven week period. The letter requested him to refinance using another financial institution. In other words, he had to pay out his overdraft and his mortgage, and the bank gave him barely six weeks to do it.

The antique dealer was appalled at this, having been an exemplary client. He rang this bank manager straight away, but he turned out to be on holidays. He subsequently spoke to and met with the senior manager in the National Australia Bank, along with his accountant. The National Australia Bank senior manager agreed that what had happened was unethical and said that, when the manager came back from holidays, he would instruct him to come up with a reasonable refinancing proposal. However, he received a letter that offered a refinancing package over five years of 11 per cent which, of course, was way beyond what was available to most small businesses earlier than 2001. So the antique dealer, having had no success with the National Australia Bank, went to the business manager at Westpac, who agreed to refinance the whole of his borrowings, which was in the vicinity of $300 000, at a rate of 6.95 per cent. In other words, they rolled up both the overdraft and the mortgage and refinanced it at 6.95 per cent, saving him around $1 000 a month. That was the same deal as the antique dealer had wanted with the National Australia Bank.

I raise this matter because it is a very strong example of banks not acting in the community interest. Here is a small business person who I know has an exemplary record as an antique dealer of some reputation and who had never missed a payment with the National Australia Bank, Australia's biggest bank. He had requested the bank to come and see his operation because he was proud of it. He was looking confidently to have it refinanced. Yet the bank saw the business—and without any recourse to any information at all, notwithstanding the fact that it had a comfortable asset cover on the mortgage and the overdraft which the bank had with this person and notwithstanding the fact that they were good assets and the antique dealer had never missed a payment—and wanted to close him down by demanding that he refinance with another bank within seven weeks and repay the National Australia Bank. That was a shameful state of affairs. I hope that Tim Costello, who has been brought in to give moral advice and write to the bank, will have a look at this matter.

Time expired.

ABORIGINES, CULTURE

The Hon. T.G. ROBERTS: I would like to raise an issue that I normally would not take much notice of. I refer to an article in the *South Eastern Times* by Ren Degaris. With the short time I have, it will be difficult to explain the article. Ren Degaris was writing about a review of a book written by Tom Flanagan. The review of the book is by Gary Johns, and the author of the book is Tom Flanagan. The article that Ren writes on—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! There is too much audible conversation, and I cannot hear the Hon. Terry Roberts.

The Hon. T.G. ROBERTS: Does the umpire blow the whistle and stop the time? No? Okay. The article I will quote is about an article written by Bob Catley (who was a Labor member) in the *Quadrant* while he was working at the University of Dunedin, New Zealand. The article states:

> Bob Catley was a Labor member of the federal parliament from 1990 to 1993. His article dealt with the question of a possible amalgamation of New Zealand with the Australian Commonwealth.
>
> Today's article refers to a review in the same 'Quadrant' magazine, written by Gary Johns on a book written by Canadian Tom Flanagan, printed by McGills-Queens University Press, 2000. In his review, Gary Johns said—
>
> 'Tom Flanagan has been writing on Canadian aboriginal issues for 25 years. After observing and participating in the Royal Commission on aboriginal peoples, which produced a 3 500 page report at a cost of $54 million, and recommended a completely new level of aboriginal government, and a bucket load of new money for aboriginal affairs, Flanagan has blown the whistle on the whole damn show.'

He goes on to describe the review by Gary Johns on Tom Flanagan's book. He describes it—and, to be fair to Ren, these are my words—as a paradigm shift or a shift in the way in which Canadian people or (in the case of this author himself) people view Aboriginal politics in Canada.

The article is one of many by right wing authors, both for the daily press and for books, in trying to shift the debate on Aboriginal cultures away from the protection and the preservation of the culture to an assimilation process. Coincidentally, in Australia the debate is shifting in the same manner. Ren has picked it up as an individual—I am not saying he has been fed a line internationally—and run it into a small paper, the *South Eastern Times*, which is my local paper. It has been written as Ren's comment.

I refer to an article in the *Age* of 15 June this year. I have a lot of respect for its author, Robert Manne. The article is headed, 'Reborn assimilation poses a threat to traditional Aboriginal communities'. It states:

> Since the Howard Government's rejection of the Reconciliation Declaration late last year, the national Aboriginal debate has begun to shift direction with remarkable speed.
>
> One sign of this is in the mood of the Murdoch press. In the early 1990s *The Australian* newspaper took the lead in supporting the reconciliation movement. In recent months, by contrast, it has flatly refused to give even serious consideration to the idea of a treaty or compact and, while not repudiating its support for a national apology, has increasingly thrown its weight behind the Howard Government's alternative—so-called 'practical' reconciliation.

I refer to another article in the *Weekend Australian* of 2-3 June which confirms what he is saying. The article is headed, 'Rights alone will no longer do', and is written by Paul Kelly. It states:

> Sorry or not, reconciliation is back on the agenda, but the debate has changed.

He continues:

> It is time to cease perpetuating Aborigines as victims. Just as National Sorry Day has been wound back, it is time to look beyond the coming apology. It is time for a new approach based on practical answers and the creation of an Aboriginal middle class.

It goes on to define what a closure is and quotes Father Frank Brennan, as follows:

> The time must come for any nation-state to be able to say: 'Enough of the past, we will now draw the line and once that line is drawn, it is to be said this is finished business.'

That is the new paradigm shift, and we can expect more of it.

VERGINA GREEK WOMEN'S CULTURAL SOCIETY

The Hon. J.F. STEFANI: Today I wish to speak about the Greek Women's Cultural Society of the Pan Macedonian Society Association of South Australia known as Vergina. Incorporated in July 1991, Vergina was formed by the Pan Macedonian Association of South Australia to support and bring together women from different regions of Macedonia. During the past decade, Vergina has provided invaluable service to the South Australian Greek community and has undertaken numerous educational and cultural activities. On Saturday 14 July, I was privileged to attend a dinner dance at the Port Adelaide Greek community hall to celebrate the 10th anniversary of the Vergina Greek Women's Cultural Society.

To commemorate this event, the society published a booklet highlighting its past celebrations and contributions. The publication also recorded the achievements and work undertaken by the women of Vergina over the past 10 years. The society relies on the strong support of its volunteers and actively supports two major South Australian Greek festivals, Glendi and Dimitria. The President of the Pan Macedonian Association of South Australia, Mrs Anna Volis, noted the significance of celebrating the society's 10th anniversary in the International Year of Volunteers, as well as the Year of Greek Women in Diaspora.

It is a privilege for me to share a personal friendship with many of the members of the Vergina Greek Women's Society. I am also conscious of the enormous contribution that the Vergina women volunteers have made and continue to make for the benefit of our people through their support of many community projects. I have been grateful for the generous and spontaneous support that the Vergina Greek Women's Society has provided, particularly to the 'Vergina Project' in Greece and the 'Settlement Square' at the Migration Museum. I would also like to acknowledge the strong love and affinity with the Hellenic culture and with Macedonia that the Vergina Greek Women's Society proudly promotes to the wider South Australian community.

Their commitment to Vergina, one of the most famous historical sites in the world, is promoted on the society's letterhead and incorporates the symbols of the 16-pointed star, which is the emblem of the Macedonian Royal House, as well as the Gold Larnax discovered in the tomb of Philip II in Vergina. These powerful symbols are a constant reminder of the connection that the South Australian Greek community continues to hold with their undeniable Hellenic heritage and with their motherland, Macedonia. I take this opportunity to express my sincere thanks for the warm hospitality that was extended to me by the president and members of Vergina on the occasion of their celebrations.

I also pay tribute to the valuable contributions that members of the Greek Women's Cultural Society have made over the past 10 years, and I wish the President, Mrs Nina Giagtzis, the inaugural president, Mrs Stella Karanastasis, and all members of Vergina my heartfelt congratulations and my very best wishes for the future.

GLENSIDE MENTAL HEALTH SERVICES

The Hon. R.R. ROBERTS: I rise today to speak on the subject of mental health care and the Brentwood facility. Some 12 months ago I raised a matter that had been brought to my attention of hardened criminals with mental disabilities—in some cases, accused of violent crimes or serving sentences for violent crimes—being housed with adolescents and children in the Brentwood facility at Glenside. I asked a series of questions and, in my frustration, as I reported yesterday, I wrote to the Human Rights and Equal Opportunity Commissioner and received a reply from Mr Chris Sidoti, who outlined the Human Rights and Equal Opportunity Commission's position. In part, he said:

> The situation you described in your 12 April question in the Legislative Council raises serious concerns about the rights of children affected by mental illness. Placing these children in the same environment as adults with serious mental health problems, some of whom are also in police custody for serious criminal offences, is highly inappropriate and potentially very damaging for the children concerned.

He went on at length—and I am prepared to make this document available to anyone who wants to read it—and laid out the concerns.

He also pointed out that the Human Rights and Equal Opportunity Commission received similar information during a national inquiry into mental illness in 1990-92. The inquiry was repeatedly told that, because there was so few children services, they were frequently placed in extremely unsuitable facilities, sometimes at great personal risk. He goes on to detail the conventions which Australia has signed regarding the rights of children. He also points out that, indeed, the commission with all its powers, only has power over federal facilities and not state jurisdictions.

That put the ball right back in our court. I raised these matters with the minister, and it was released to the media, whereby we received a rejection of the claims that I had put; that is, these people were being housed in the same facilities. I did receive some answers to questions on notice from the minister. One of the things he said was that all young people admitted to Brentwood ward are 'specialled' or closely monitored. I refuted that at the time. I know that I was right, because these matters were raised by people who were very concerned about the health and well-being of these children. However, the minister now says that they were closely monitored.

If members look at the staffing levels of Brentwood North and Brentwood South, with some 20 beds, they will find that only three registered nurses are ever on night duty, but, in addition, special nurses are provided, and the Brentwood assessment nurse is additional to the staff complement for Brentwood North and Brentwood South respectively. It is a shame that 12 months later we read in the press that the same

things are going on. It is also disconcerting to find how many people are being transferred from our prison system. It says that detainees are being sent to Brentwood when the state's other 40 secure mental health beds at Yatala Prison and Glenside are full, which raises another disconcerting prospect of just how many people in custody are suffering mental problems.

The overwhelming concern for all of us must be that, 12 months later, after the advice of the Human Rights and Equal Opportunity Commissioner, the public concern that has been expressed and the numerous reports that have been presented in respect of mental health, we still find adolescents, sometimes presenting for the first time—it must be very traumatic—being placed at risk in antiquated facilities to their detriment and to the shame of all South Australians who claim to care about the health and well-being of the mentally ill.

The greatest level of condemnation must go to this government which has known since 1991-92 that there was a problem. It has mishandled this matter for an extended period, and especially over the past 12 months. When I made claims about this it was denied. I suggested then that I or the minister was wrong, and I asked him, if he was wrong, whether he would resign. He declined to do it on that occasion; I wish he would do it now.

Time expired.

REGULATION REFORM, MANAGEMENT AND SCRUTINY OF LEGISLATION CONFERENCE

The Hon. A.J. REDFORD: Last week I was privileged to attend the International Conference on Regulation Reform, Management and Scrutiny of Legislation held in Sydney. At the conference, members and participants were privileged to hear two addresses from two of Australia's most senior jurists: the Chief Justice of the High Court, the Hon. Murray Gleeson, and the Chief Justice of the New South Wales Court of Appeal, the Hon. James Spigelman. It is always an honour to have a conference accorded the status of the attendance of the Chief Justice of Australia and, indeed, it was heartening to have his endorsement of the work done by scrutiny of legislation committees of parliaments throughout this country.

During the course of his contribution, the Chief Justice of the High Court referred to the enormous growth of legislation and regulation in this country, and he gave the example of the increasing volume of legislation such as the Income Tax Act, which now occupies four volumes, compared to 1936 when it occupied one third of one volume. He went on to talk about the increasing complexity of the inter-relationship between the common law and statute law, and how it was vitally important that both sets of law take into account the learning and the benefits that each of them has developed. He then went on to talk about unintended consequences and, indeed, some of the issues that might arise during the course of the election, particularly in the area of law and order; and we should keep in mind some of the comments that he made.

He talked about what is known as the legislative crackdown. The legislative crackdown is something which is in the eye of the beholder, very popular with the community, very favourable with the proponents but invariably in nearly every case where the crackdown is based on a populist demand the unintended consequences are more severe. The Chief Justice says:

> The consequence of that is that crackdown legislation is rarely opposed and rarely scrutinised, and this is the area that produces above all, in my experience, the unintended consequence. Indeed, there is a kind of rule of parliamentary democracy or of the nature of parliamentary democracy and I think would be formulated: the more popular the legislation the more likely the unintended consequence.

He went on to encourage the adversary system in parliamentary procedures to ensure that we develop the best possible legislative outcomes. He talked about the importance of equal enforcement of the law and he went on to make a number of comments about the growth in law which I want to quote. He said:

> A final consequence of growth of law and regulation I want to mention from the point of view of the courts and its effect on the work of the courts is what is sometimes called the democratic deficit. The theory that in a representative democracy all legislation is an expression of the will of the majority is only true in a remote and formal sense. . . Issues at elections are more complex and outcomes are determined by influences that usually make it impossible to identify most Acts of Parliament with the specific will of an electoral majority.

The Chief Justice goes on to say that the only check is to ensure that the committees of parliament properly scrutinise that sort of legislation promulgated by the executive. He spoke about the issue of judicial restraint, as follows:

> Those who counsel judicial restraint on the basis that in a representative democracy it is for Parliament to make a change to the law are sometimes met with the response that modern parliaments have largely abandoned their law-making role to the Executive Government.
>
> That is not an argument I find attractive, but the fact that it is made at all shows the importance of the task in which you are engaged in your conference. Where the democratic deficit exists, it is not only a threat to the legitimacy to the institutions of democratic government; it is something that feeds upon itself. Political legitimacy in a representative democracy is the proper basis for a legislative activity.

I commend members to look at the address from James Spigelman, who looked at how we balance from an economic point of view some important judicial and fundamental legal principles that we all enjoy. He said that the law is one of the areas where outcomes sometimes cannot be measured in simply financial or economic outcomes. I commend both these very important speeches to all members

TELEPHONE TOWERS

The Hon. M.J. ELLIOTT: I rise to address the issue of telephone towers. In the last couple of days in the news there have been reports about proposals for a telephone tower near St Francis de Sales College in Mount Barker. The proposal is to erect a telephone tower about 260 metres from the school, not on school property but on privately owned land. The parents and school community generally were concerned about this proposal for the tower and in this case it appears that both Alexander Downer and John Olsen thought it was a very important issue and intervened—

The Hon. Sandra Kanck: That's funny, in marginal Liberal-Democrat electorates.

The Hon. M.J. ELLIOTT: It is funny what happens in marginal seats, but they intervened and in my view they did the right thing, regardless of their reasons for doing so. This brought to mind questions that I asked in parliament some years ago. I asked a question of the then Minister for Education, now Treasurer (Hon. Robert Lucas), on 31 July 1996 about the approach of the Minister for Education and Children's Services to mobile telephone towers on school property. He went into a very lengthy answer, in the first

instance talking about telephone towers, saying that all evidence suggested they were safe. It is worth noting that at that stage the Chief Executive, Denis Ralph, said:

> I fully support the position of local decision making in this matter, based on community consultations at site level with access to expert advice from the South Australian Health Commission.

The government was saying that, in relation to government schools, if the particular school council decided to put a tower on the school property itself, that would be acceptable. The government might say that the difference in this case is that one school council wants it and another school council does not, but there seems to be some inconsistency because there is a fundamental issue about whether or not telephone towers are safe and whether or not we are going to adopt the precautionary principle.

It seems that, quite responsibly in relation to the school in Mount Barker, the precautionary principle was adopted and it was declared that 260 metres from a school is too close for a telephone tower. It begs the question whether the government has changed its mind in relation to public schools and whether or not it would allow public schools individually to decide to put towers onto school properties, potentially at distances significantly less than the 260 metres that was the case in Mount Barker. When I re-read the answers given by the minister at the time about who had legal liability in these matters, I noted that in his further reply of 16 October 1996 he said that at that stage any legal action would be against the state of South Australia. What is not clear is whether or not with the introduction of P21 a school council should have legal liability if it decided to allow phone towers on the property.

It seems to me that the process in relation to phone towers is becoming increasingly ad hoc and whether or not a phone tower is erected depends on whether the community jumps up and down enough. I suppose, more importantly, it is whether or not a significant number of people in a community in a marginal seat jump up and down enough—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: The minister well knows that the commonwealth delegated its powers but the state government has not taken up some of that delegation in terms of further legislation. The federal government has given the states the power to legislate in this area and South Australia—

The Hon. Diana Laidlaw: It can override whatever we do.

The Hon. M.J. ELLIOTT: It can override it, but the minister well knows that the current federal Liberal government delegated the authority in the first instance to the states, and it has been on the public record as saying that. In South Australia nothing has been done. That is the point that I was heading to and I thank the minister for that. We need consistency and I ask the minister to consider setting a distance from schools that must always be adhered to in relation to telephone towers—indeed, not only schools but other areas where there are large concentrations of people who are potentially sensitive—and whether we should adopt the cautionary principle.

YOUTH PARLIAMENT

The Hon. T.G. CAMERON: I speak today about the youth parliament held here last week. Youth parliament is an opportunity for young people to take responsibility for government for a week and to make a change for the better. I understand that some 80 young people participated. The South Australian youth parliament program is run by the Office of Employment and Youth and its primary role is to give young South Australians a forum in which to express their views whilst providing them with experience in the political process.

South Australia First is fully supportive of the youth parliament concept and two SA First youth members took part. James England, President of SA First Youth, was elected by his peers following a speech he gave supporting his nomination as Leader of the Government in the upper house. The Hon. Rob Lucas had better look out as James quite liked the feel of his seat and has the talent and the courage of his convictions to match.

The youth parliament was a fantastic showcase of young leadership talent in this state. Young people want to have influence over the decision-making process and they want to be involved in the political process, and we should welcome and encourage that. The recent rejection by the Liberal and Labor parties of the SA First amendments to the Electoral (Voting Age) Amendment Bill to lower the voting age for state elections from 18 to 17 years was extremely disappointing. Once again, I think it demonstrates that the Liberal and Labor parties are not prepared to listen to or respect young people's views or opinions. It was only the Australian Democrats who were prepared to support giving young people a vote at an earlier age. Given that South Australia has led the way in electoral reform for over 150 years, including full voting rights for all adult males in 1856 and for women in 1894, it is disappointing that there was not support for those amendments.

I believe it sends young South Australians the wrong message. Young people are growing up faster today and we need to extend to them the rights and responsibilities that come with adulthood. They can drive a car at 16, join the army at 17 and have stable jobs, careers, apprenticeships and so on. The Electoral (Voting Age) Amendment Bill would have given young South Australians the right to enrol voluntarily at 16 and have the right to vote (if they wanted to) in state elections at 17—a progressive step forward.

However, the youth parliament was a great success and was enjoyed thoroughly by those who participated in it—the only fly in the ointment being that some young people thought it perpetrated the two party system. The young people who raised this issue with me told me that if they wanted to lose their voice to a party line they would have joined one of the major parties. Surely the last thing we need to continue is the adversarial nature of our political system when it is clear that most young people are looking for a new style of politics that is inclusive and consensual.

The government should ensure that in future third or minor parties and independents are reflected in the make-up of the youth parliament. Individual participants should be encouraged to speak their mind on the bills before them, and a more conciliatory debating style should be promoted. We should continue to encourage the qualities of team work, negotiation and commonsense. We must not allow the scheme to become a reflection of our own generation's shortcomings, narrow-mindedness and squabbling.

I congratulate all those young people who took part. It was very satisfying to see the high quality of debate and their concerns on issues that directly affect them and society in general. It certainly puts to rest the myth that the youth of today do not care or do not want to be involved. I can only suggest to members of parliament that before they again consider their position on voting at the age of 17 they come

along and see our young people in action at the South Australian youth parliament.

The PRESIDENT: The time set aside for matters of public interest has now concluded. I call on the orders of the day.

MOTOROLA

The Hon. P. HOLLOWAY: I move:

That, upon presentation to the Attorney-General of a copy of the report of Mr D. Clayton QC into issues surrounding Mr J.M.A. Cramond's inquiry regarding Motorola, the Attorney-General shall, that same day, pass the report to the President of the Legislative Council who shall, within one day of receipt, table the report or, if the council is not sitting or the parliament has been prorogued, publish and distribute such a report.

It is rather sad that we have come to the point where such motions are necessary under this government. If ever the case for such motions was evident, it was the report of the Auditor-General today.

Let me give the very simple reason why I move this motion: it is that the public of South Australia has the right to know the contents of the report as soon as it is completed. This is a serious report into the behaviour of the government and it is vital that the public be assured that the report will be released when it is completed, even if parliament is not sitting or has been prorogued, or if an election has been called. Sadly, we have vast experience of this government hiding material that clearly could be made public.

If we go back to just before the last election after parliament had risen, the opposition sought the release of the Auditor-General's Report for 1996-97. The Premier refused to release it. The report was eventually released after the election, with the Premier making the excuse that he had received advice from the Crown Solicitor that unless the report was tabled there would be no absolute defence if any allegations in the report were to be deemed defamatory.

However, the Premier did not table this advice, and it was and remains the opinion of the opposition that the qualified privilege that was automatic on the report was sufficient. It was obvious to the opposition and to the public of South Australia that the real reason the report was not released before the election was that it contained information that was or could be damaging to the government. Any other reason given for the refusal to release the report was no more than a feeble excuse.

It is also interesting that the report of the Auditor-General was subsequently used as the excuse by the Olsen government to sell ETSA. Before the election the Olsen government had vehemently assured the voters of South Australia that it did not wish to sell our electricity assets. That was the promise we got from the Olsen government before the election, and when the report came out it was the principal reason the Premier gave for his change of mind in selling the electricity assets.

I think that raises an interesting point. If the government had access to the contents of the report, as it may well have done, it begs the question, 'If the government had this information in the Auditor-General's report prior to the election, why did it promise that it would not sell ETSA?' On the other hand, if we take the Premier's word at face value—and you have to take a deep breath and have a lot of courage to do that—that the government was not aware of the contents of the report before the election, and it turned out to be that it was of such huge importance to this state that the government had to change its mind on a major election policy—that is, the sale of our electricity assets—surely it follows that the report should have been made public before the election.

The public, the government and the opposition for that matter could have made their own judgment prior to the election in relation to what policies they should have in that area, and the history of this state may well have been different. I would have thought that whichever way you go or whichever view you take—whether the government knew or did not know the contents of the Auditor-General's report prior to the last election—it would have been very much in this state's interest if that information had been made available.

The Clayton report that is the subject of this motion revolves around the $250 million government radio network contract, which is tied into the emergency services levy. The report is very important to the people of South Australia and should be available at the earliest possible moment. Any refusal by the government to release the report will be seen by the people of South Australia for what it is—the desperate move of a deceitful government. If there is any argument that the report must be tabled in parliament in order to invoke parliamentary privilege, I suggest that parliament be recalled to facilitate its release.

On 28 November last year, the Deputy Premier moved a motion to authorise the Speaker to publish and distribute the Auditor-General's supplementary report on Hindmarsh Stadium upon the Speaker's receipt of that report—and obviously no concerns of parliamentary privilege were raised by the government at that time. Of course, we still have not seen that report, and that is a matter I will refer to shortly.

Whenever the opposition has called on the Premier to commit to releasing the Clayton inquiry report, once it has been received by the government, the Premier has ducked the issue, making no commitment and simply stating that there will be no election before March next year. Setting aside the fact that an election in March will be six months after the government's four-year term expires, there is no reason to believe that the Premier will wait until March before calling an election.

Why should we believe a Premier who stated categorically that ETSA would not be sold? It is absolutely necessary to gain a commitment that the Clayton inquiry report will be released as soon as it is received by the government, in order that it does not repeat previous actions and hide behind the proroguing of parliament or an election campaign. This very important document must be released as soon as it is available so that the public of South Australia can learn the truth of this matter once and for all.

If ever some evidence for this motion was required, then it was provided in a very comprehensive form today, with the release of a report from the Auditor-General, an interim report, just a two page report: Interim Report of the Auditor-General on the Hindmarsh Soccer Stadium Redevelopment Project. What does the Auditor-General tell us? Basically he tells us that key members of the Olsen government have been using every legal device open to them to try to cover up that report, to try to delay that report. We all know that justice delayed is justice denied. The behaviour of the Olsen government ministers in this matter is really no different to that of people like Alan Bond, who during the 1980s and early 1990s used the legal system to evade justice, not to achieve it. But I cannot think of any other democracy in the world where you would have ministers of the crown using legal devices to try to prevent the Auditor-General from publishing a report.

Just the other day we had in Indonesia a peaceful transition of government, even in a country that has had a much shorter history of democracy than us, but here in South Australia we have this extraordinary situation where we are told by the Auditor-General that the Auditor first of all prepared his interim report on 19 February 2001. He distributed 'for the purposes of procedural fairness' portions of his draft report. He says:

> Since March 2001, I have received the written comments of some recipients of the draft. I have considered those comments. Some of the comments have led me to revise some of my tentative factual findings.

He goes on to say:

> One person has provided submissions on a rolling basis since 5 July 2001. So far I have received 10 separate submissions from that person specifically addressing less than half of the draft report. I have made repeated requests for a final submission. I have received no commitment as to when that will be provided.

He also tells us:

> Another person has not made any written submission or adduced any further evidence on the substance of my draft Chapters 5 to 10. Instead, that person has challenged the scope of my examination and my draft report.
>
> I consider both persons have now had sufficient opportunity to comment and I will proceed to finalise my draft report on that basis.

But, of course, what the Auditor then tells us is:

> The finalisation of my draft report depends on when I am able to complete the natural justice process. When I addressed the Estimates Committee in June 2001, I expected to finalise my report by August in readiness for the Spring sitting of parliament.
>
> If litigation is commenced against me it is very unlikely that I will be able to finalise my final report in order to table it in the Spring sitting of parliament.

What a new low in parliamentary standards! Just when we thought the Olsen government could not get any lower, that it had reached the pits of Australian politics, it suddenly finds a way for some of its hangers on to go even lower again.

The Hon. R.R. Roberts: You sound surprised.

The Hon. P. HOLLOWAY: Well, yes, I should not be, but I am surprised that it can keep getting lower. You think it is actually at rock bottom but it seems to be able to dig even further down below and find a new low every time. Of course, what the Auditor-General then seeks from this parliament is to obviate the possibility of further expense. So it is not just a question of getting this report tabled. He states:

> . . . to obviate the possibility of further expense—

in other words, taxpayers having to throw money away—

> delay and argument regarding my authority to report, including the right to make findings regarding the conduct of certain persons, it would be necessary to legislate.

Quite clearly, the opposition expects that this government, in the next couple of days that we have left before the Spring session, to produce that legislation. Similarly, we would seek from this parliament support for the motion that I put before it because, of course, this relates to another report that, given the history of this government, it may very well seek to delay, as we saw happen before the last election.

So I call upon the parliament to support my motion, so that we can try to restore some standards to this parliament, after the shock and wreckage that this Olsen government has left it in. As I say, you could not get much lower than the sort of behaviour that has been described by the Auditor-General today, and it is a rather sad reflection on this place that we have to put motions like this up, because you have to force this government to behave in a reasonable way, because it has no morality at all. I cannot think of any government in the past that has been as morally bankrupt as this particular collection and, sadly, in the past motions like this were not necessary. But, sadly, that is the stage we have got to. I ask the Council to support the motion. I also indicate that I seek to have a vote on this matter before the Council adjourns for the end of this session.

The Hon. L.H. DAVIS secured the adjournment of the debate.

The Hon. DIANA LAIDLAW: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: URBAN TREES

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the report of the Environment, Resources and Development Committee concerning urban tree protection be noted.

(Continued from 4 July. Page 1827.)

The Hon. T.G. ROBERTS: I rise to indicate support for the motion of the Hon. John Dawkins that the report of the Environment, Resources and Development Committee concerning urban tree protection be noted and, in doing so, I acknowledge the report, its writers, researchers and its presiding member, Mr Ivan Venning, who has done a great job chairing the committee in a bipartisan way. We have had no dissenting reports and the committee has been able to work with consensus and with the chair to produce a report that I think has a fair degree of respect, broadly, amongst all members of parliament, including the Independents. We have not had any ruckus in relation to our recommendations, and many of our recommendations have been taken up by very progressive ministers in some cases, and in other cases they have been noted, to be taken up, we would hope, in the future.

The urban tree protection report is the second report that we have presented on urban tree protection. We found it necessary to follow up the brief because councils were having implementation difficulties and there was certainly no slowdown in the knocking over of significant trees in the metropolitan area after we had made our first recommendations for protecting trees of 2.5 metres in the metropolitan area. In a lot of cases, particularly in the metropolitan area, it was felt that it was not just trees of above 2.5 metres that needed protection but there were trees of significance in many council areas that added to the urban environment and certainly softened the environment by their presence and added to the quality of life of a lot of people but were threatened because they did not meet the physical requirements of the first recommendation.

The recommendations in this report include the following:

1. Extend the time line for protection of trees less than 2.5 metres in diameter for a minimum of an additional 12 months.
2. Expedite the implementation of local government urban tree PARs by—
   (1) processing urban tree PAR statements of intents as a priority.
   (2) encourage the use of interim controls under section 28 of the Development Act.
   (3) supporting local government in the preparation of urban tree PARs through technical assistance.

One of the other key recommendations is:

> Review urban tree policy subsequent to the initial implementation period of 12 months, due to expire this financial year, considering effectiveness of policies and implementation, alternative legal

mechanisms and support for local government in data collection, policy preparation and enforcement.

That recommendation was, in part, due to the fact that some councils had a whole raft of significant trees in their council areas and had trouble noting them and registering them as significant trees and were unable, in some cases, to prevent damage being done to the trees by people who had little or no understanding of their responsibilities in protecting the environment in an urban situation.

There were implementation difficulties. The City of Unley described the current arrangements as unworkable, and advice from councils to the committee indicated a wide range of concerns which included time delays in Planning SA processing statements of intents (that is, the intention of local government in regard to plans); costs associated with surveying council areas in sufficient detail; and impracticalities in enforcement, especially time, cost and the provision of significant legal advice. That was an area in which councils found it particularly difficult to get legal advice. Usually, when planning matters are tested legally, planning and environment comes off second best to development.

Another criticism that the councils had was that the information was becoming outdated due to the life cycle of trees. Some trees were significant for a period of their life and they became less significant when they started dropping limbs on to people's roofs and into backyards and when they became dangerous to either traffic or life. It is then that the argument about protecting those trees becomes less relevant. In fact, orders then have to be placed on those trees for them to be either trimmed, lopped or removed.

The use of development regulations as a more effective and appropriate mechanism for listing and controlling trees was a suggestion from some of the councils. Another concern that they had was the appropriateness of section 23(4) of the Development Act (local heritage places) for the protection of significant trees, and the relevance of tree preservation orders under the Local Government Act, the Native Vegetation Act and other legal mechanisms for the protection and management of urban trees. Some councils did not have any trouble with the previous policy, but there were certainly others that found it difficult. Some picked up the recommendations with gusto and put them in place immediately to protect their environment, whereas other councils had not even progressed past the stage of reading their recommended drafts.

We found that, when we undertook our 42nd report and took evidence, there was a whole range of different positions that had developed and, certainly at the time that we picked up the brief, a whole range of significant trees were being knocked over without any consultation with councils or with any other bodies that indicated not only to local government but to environmentalists and to all of us here in parliament that the general public really do not understand the way in which to work to register significant trees and to preserve them in the local environment.

In response to ongoing community and government concerns about tree removal in metropolitan Adelaide and the lack of protection afforded as compared to non-urban areas, the government formed an Urban Trees Reference Group in January 2000. The result of the reference group considerations was the introduction of the Development (Significant Trees) Amendment Bill 2000 and the preparation of a planning bulletin on significant trees. The bill enabled amendments to the Development Act to give local government the ability to both protect and manage significant trees within the urban environment. The complementary planning bulletin assists planning authorities and practitioners in the preparation of relevant planning policies. The ERD Committee has received correspondence from many councils within the metropolitan area expressing concerns over the ability to implement urban tree protection policies facilitated by the recent amendment to the Development Act. The committee concluded that a report into the status of urban tree protection, especially as it relates to implementation, should be tabled.

When the bill passed in this Council, I as a legislator thought that there would be an understanding, particularly in the urban metropolitan councils, about their responsibilities and that ratepayers would take some note of the act. However, that did not happen. When the amendments were moved, the difficulties were still being experienced, hence the second stage of the report. The Development Act now provides that any activity that damages a significant tree is development, and the development regulations have been amended to provide that a significant tree is as follows:

- Any tree in Metropolitan Adelaide which has a trunk circumference of 2.5 metres or more—or, in the case of trees with multiple trunks, that has trunks with a total circumference of 2.5 metres or more and an average circumstance of 750 mm or more—measured at a point 1.0 metre above ground level; or
- any tree identified as a significant tree in a Development Plan.

So, they are the definitions under the development regulations. Councils have the opportunity to identify and list all other trees not within this description as significant trees within the development plan. To facilitate protection, the development plan is amended through the plan amendment report process to achieve this outcome.

The Hon. R.K. Sneath: What about country areas?

The Hon. T.G. ROBERTS: With regard to the interjection from the Hon. Robert Sneath, country areas are not covered by the development regulations. It is assumed that in country areas—wrongly, probably—that the consideration the metropolitan area has to give to protection of significant trees and protection of the environment does not apply. However, I can assure the Council that large regional centres and country areas do have significant trees within their environs, although I know, from personal experience, there is less likelihood of any acts of developmental vandalism because there is a certain amount of community pressure to protect trees of significance. The application of these recommendations tends not to be called for in regional areas. If there is pressure from country and regional areas for it to apply, then the committee might have to take another look at it.

We have a watching brief on the position just to see whether we can arrest the problems associated with the clearing of significant trees. At least a process should be set up so that people are aware that wide-ranging implications are associated with their removal. In the Hills areas and on the plains where significant fauna/flora protection is required, and where there are bird nests, and so on, it is important that we collectively have an avenue of trees. I may be biased, but I think that Adelaide is probably one of the better planned cities in Australia. A whole raft of people over a long period have improved the environment by planting trees privately in their own environments. Councils have parks throughout the metropolitan area and the suburbs which have large significant trees, and they are a credit to them. We tend to take a lot of them for granted.

Some of the river red gums are up to 250 years old. When a development application for removal is approved or is not blocked, people tend to get upset by that. However, until recently there had not been any legislative protection for it. We now have legislative protection for significant trees over 2.5 metres, and trees of less than 1.5 metres can be registered as significant. I recommend that Council members read the report and give it the thumbs up as I have given the committee for its report on this important subject of urban tree protection.

The Hon. J.S.L. DAWKINS: I rise to close the debate and thank members for their contributions. I again draw the attention of the Council to the Minister for Transport and Urban Planning's ministerial statement, which was made last month, in relation to the matters laid down in the report. I commend the report to the Council.

Motion carried.

BENLATE

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council urges the South Australian government to provide assistance to those horticulturalists whose crops were damaged by Benlate but who have been unable to reach a settlement with DuPont.

To which the Hon. T.G. Roberts has moved to leave out all words after 'the South Australian government' and to insert 'to investigate the circumstances surrounding horticulturalists whose crops were affected by Benlate with the intention of offering appropriate assistance.'

(Continued from 4 July. Page 1831.)

The Hon. CAROLINE SCHAEFER: This issue goes back to 1990 when allegations were made about the effect of Benlate DF 50 on commercial plantings on at least eight horticulturalists' properties. The manufacturer, DuPont, unilaterally withdrew the product from the market in early 1991 for what the company described as commercial reasons. PIRSA (the Department of Primary Industries, as it was at that time), and, to a lesser extent, other investigators spent quite a lot of time and money attempting to clarify exactly what caused the apparent damage to growers' crops. While the circumstantial evidence appeared to implicate Benlate DF 50 as the problem, compelling proof could not be established. I recall that, soon after coming into parliament, an investigation was under way at that time, and testing was sent as far away as England to try to establish some implicated blame.

In 1999, an action was launched against DuPont by a grower and a rural chemical retailer in the New South Wales Supreme Court, alleging damage from Benlate DF 50. Though only one complainant was listed, I have been advised that three South Australian growers were involved in that case. As has happened before with litigation action against DuPont, the case was settled out of court with the company not admitting any liability. I am advised that the three South Australian litigants are known to have benefited, but the details of the settlement are subject to secrecy agreements.

It appears that at least five other allegedly affected growers were not involved in this settlement. There is also speculation that one grower settled separately with DuPont some years ago. Because of secrecy agreements, it is not possible to determine exactly who has negotiated with DuPont, let alone what the specific details of the outcomes were. A number of issues surround this case. First, it is clear that the government, the Ombudsman, legal representatives and the media have already undertaken extensive—some might say exhaustive—investigation on this issue. It is clearly a case for private litigation, and there has been considerable encouragement for affected parties to pursue this course of action. Those who did were able to receive an out of court settlement.

The statute of limitations for such civil torts is six years, and this period expired about three years ago. So, there is now little chance of further legal proceedings. However, there was a long window of opportunity for other growers to exercise the option of an action. The question must be asked whether it is the responsibility of the government to use the money of taxpayers of South Australia to compensate growers on a private matter, when they chose not to pursue a civil action when both the advice to do so and the opportunity was clearly there. The precedent which would be set would be interesting to say the least and possibly dangerous.

There is no way that either the government or the community is to blame for the damage to the crops of the growers. Therefore, it is clearly a civil matter. In this case, it is not a fault of either the government or the community. The Ombudsman has already held an inquiry and, after an exhaustive examination, there was no criticism of the role of government. That is not to say that I do not see this as a most unfortunate incident, and personally I feel very strongly for those people, who, quite clearly, have been adversely affected. It must have been very frustrating and, indeed, a traumatic period for them and their families, but I think we must be honest enough to say that it is not the role of government to compensate people for unfortunate incidents that beset them.

I think that almost every person in the community could quite easily come forward with a story (or stories) of how they lost money or possessions through some incident which was not their own fault and where some compensation from the government would have helped, but we cannot compensate all those cases. No matter how compelling the case, it would be irresponsible for the government to hand out money in that way. However, the government does play an important role in matters such as this, and for the record I will describe the process adopted by the agency. PIRSA chooses whether to investigate free of charge alleged incidences of damage by agricultural or veterinary chemicals in an attempt to determine what occurred and, in most incidences, an investigation is carried out; and, as I have stated, in this case a very thorough investigation was carried out.

If damage appears to have occurred, even though the product was used according to instructions on the label, a report is then made to the national registration authority so that it can change the label requirements or institute a review into the use of the product. The report is owned by PIRSA and is distributed as PIRSA sees fit, but generally it is given to anyone who is interested. In relation to Benlate DF (which, I believe, stands for dry flowable), a huge investigation was mounted. The resultant PIRSA documentation has been perused by many of the complainants and by the state Ombudsman, and copies of virtually all of it were sent to the Supreme Court of New South Wales. Thus, in terms of access to information, there has been very full transparency.

Other forms of assistance have been proffered in the past, mainly trials, specialist investigation and access to relevant information. Government's role is to provide the necessary technical and regulatory support rather than to provide compensation. In regard to this motion, it is interesting to

note that the Hon. Mike Elliott has been involved with this issue before. In 1995, he instituted a freedom of information search. He attempted to get parliament to remove all Benlate products from the South Australian market. Since Benlate WP 50 has never been a problem and Benlate DF 50 had already been removed from the market, this move did not succeed. One would wonder therefore at his motive.

I am also not sure what his motive is at this time. If it is unrealistically to raise and play on the expectations and emotional hopes of people who have already been through quite enough already, I hope that he is not successful. I must say that I do not necessarily think that is the case. The Hon. Mike Elliott has followed this sorry story from the start, and I am sure that his motives are honourable, but I do not believe that people need to be put through yet another harrowing ordeal when there has to be a closure of this unfortunate incident which occurred over 10 years ago.

As I said before, I am personally very sorry for the loss suffered by the growers from what appears to be damage from a chemical they used according to accepted guidelines at the time. If that is the case, the chemical company should have provided some sort of compensation. Growers who chose to pursue the company for settlement received something for their efforts. Those who did not pursue the company did not receive any sort of settlement. It is a sad story and I am sure that, if the circumstances were played over again, many of these growers would have taken a different course. However, it is now 10 years down the track. It is a civil matter not a government matter, and therefore the government cannot support this motion.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

CITY OF SALISBURY, ROADS

Order of the Day, Private Business, No. 12: Hon. A.J. Redford to move:

That the Corporation of the City of Salisbury by-law No. 3 concerning roads, made on 18 December 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

CITY OF SALISBURY, LAND

Order of the Day, Private Business, No. 13: Hon. A.J. Redford to move:

That the Corporation of the City of Salisbury by-law No. 4 concerning local government land, made on 18 December 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

CITY OF MITCHAM, LAND

Order of the Day, Private Business, No. 14: Hon. A.J. Redford to move:

That the Corporation of the City of Mitcham by-law No. 3 concerning local government land, made on 30 January 2001 and laid on the table of this Council on 13 March 2001, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

CITY OF MITCHAM, STREETS AND ROADS

Order of the Day, Private Business, No. 15: Hon. A.J. Redford to move:

That the Corporation of the City of Mitcham by-law No. 4 concerning streets and roads, made on 30 January 2001 and laid on the table of this Council on 13 March 2001, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

MOVEABLE SIGNS

Order of the Day, Private Business, No. 21: Hon. A.J. Redford to move:

That by-law No. 2 of the Corporation of Charles Sturt concerning moveable signs, made on 4 October 2000 and laid on the table of this Council on 24 October 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

CORPORATION OF CHARLES STURT, LAND

Order of the Day, Private Business, No. 22: Hon. A.J. Redford to move:

That by-law No. 3 of the Corporation of Charles Sturt concerning local government land, made on 4 October 2000 and laid on the table of this Council on 24 October 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

CORPORATION OF CHARLES STURT, STREETS AND ROADS

Order of the Day, Private Business, No. 23: Hon. A.J. Redford to move:

That by-law No. 4 of the Corporation of Charles Sturt concerning streets and roads, made on 4 October 2000 and laid on the table of this Council on 24 October 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

Motion carried.

NATIVE FISH

Order of the Day, Private Business, No. 24: Hon. A.J. Redford to move:

That the regulations under the Fisheries Act concerning River Murray—Taking Native Fish, made on 22 June 2000 and laid on the table of this Council on 27 June 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this order of the day be discharged.

In rising to speak on this motion, I advise that it is the Legislative Review Committee's view that the motion to disallow ought not be proceeded with, but, given that we took extensive evidence, I believe that I should explain on behalf of the committee the basis upon which we came to our conclusions.

On 22 June 2000 regulations amended the fisheries general regulations and effectively provided for a ban on the

taking of native fish species with the exception of bony bream from the backwaters of the River Murray by the commercial fishery licence holders. A report to the Legislative Review Committee noted that the Environment, Resources and Development Committee recommended a ban on taking native fish by commercial fish licence holders in the 31st report of the committee on Fish Stocks of Inland Waters (page 201). The report also noted that subsequent consideration of that decision resulted in commercial fishers being allowed access to bony bream only.

A legal firm representing licence holders contacted the committee secretariat. In a letter to the secretariat dated July 2000, Mr Jeff Carr, representing the parties, wrote that their clients believed for a number of reasons that the regulations were improper and asked to appear before the committee. Consequently when the regulations came before the committee in October 2000, the committee placed a holding motion on them to enable it to obtain further information. Subsequently it was arranged for Mr Michael Coates, counsel for the licence holders, and Mr Rod Coombs, Director of the South Australian River Fishery Association, to give evidence.

Details of the events leading up to the introduction of the regulations as detailed by the association's solicitors dated 5 and 23 October 2000 and in their appearance before the committee were:

· The right of the River Murray licence holder to target native species in backwaters was a right that had attached to a River Murray licence for many years.

· On 17 December 1999 the Director of Fisheries sent all river fishery licence holders a notice that dealt with renewal of licences that commenced on 1 July 1999. The crucial difference between the licences in the past and the one purported to apply from 30 June 1999 was that licence holders were not permitted to take native species other than in mainstream waters, so prohibiting the taking of native species in backwaters.

· Section 37 of the Fisheries Act contained a detailed set of provisions regulating the power of the Director of Fisheries to alter the conditions of a fishing licence. The members of the River Fishery Association asserted that these conditions, including a need for consultation, were not followed. Subsequently the members of the association asserted their right under section 58 of the act to seek a review of the Director of Fisheries' action. A judge of the District Court was to conduct the review.

· The association members' challenge to the procedures resulted in the Crown conceding that there were deficiencies in the procedure required by section 37. Subsequently the following orders were made in the District Court by consent:

1. The application for review was allowed.
2. Relevant licence conditions were set aside.
3. The Crown agreed to pay costs to be agreed or taxed.

· However, as noted in the letter from the law firm to the committee, the victory was short lived as the regulation noted above was introduced. The association contended, however, that the regulation was improper because:

· The regulations sought to achieve an objective that the Director of Fisheries could have achieved using the existing mechanisms of section 37 of the act. The introduction of the regulations required no such consultation.

· The association contended that the making of the regulations fell foul of a number of the committee principles.

In particular, it was contended that the regulations unduly trespassed on rights previously established by law and all were inconsistent with the principles of natural justice and, in addition, the object of the regulations could have been achieved by alternative and more effective means, that is, by a proper following of section 37 of the act.

It was contended that the course of making and tabling regulations was a patent trespass on rights previously established by law. It was argued that it was particularly offensive to natural justice that the regulatory method was adopted when there was a clear alternative method under section 37 of the act. In addition, it was stated that there was no consultation with the professional fishers in relation to the decision to change the licence conditions and later to bring in the regulation. It was also asserted that the decision by the ERD Committee was not based on scientific evidence. Mr Coombs insisted there was no consultation on the removal of the professional fishers' rights, even though he sought access to the Director of Fisheries and the minister.

The initial report to the committee on the regulation stated that there was no consultation with the industry on this matter. However, evidence was given by both Mr Zacharin, then Acting Director of Fisheries, who appeared, and later by the minister, by letter, that there was consultation. Mr Zacharin gave evidence before the committee in October 2000. He said that the professional fishers were consulted. He said there was a long consultation process through the ERD Committee. He noted that everyone put their case and was heard. He said that the professional fishers had been aware of the evidence given to the ERD Committee. He also had a meeting with Mr Coombs and the South Australian Fishing Industry Council before 'we advised them we could go down this path'.

In addition, the minister responded to the contentions of a lack of consultation by letter in December 2000. He said that, after a long and exhaustive investigation of the river fishery by the ERD Committee, it made 21 recommendations. Recommendation 7 of the report recommended removing commercial fishers completely over a 10-year period, while recommendation 9 stated that commercial fishers should not have access to harvesting fish in backwaters. The minister said in the letter that he gave due consideration to the ERD Committee recommendations.

He advised the Inland Fisheries Management Committee that a decision would be made to restrict fishing in backwaters. The committee and the river fishers requested that access to carp, bony bream and yabbies be maintained. After considering stock assessment reports and further advice from the Inland Fisheries Management Committee, fishers were advised of the decision to allow only carp and bony bream in backwaters to be taken. The minister advised that, once the ERD Committee report was finalised, it was considered expeditious to offer a licence renewal and implement a policy change under section 37 of the act. The decision to seek a review by the professional fishers was conceded on legal grounds and the regulation was made. There was no consultation on the regulation and it was instituted as a matter of urgency.

It is apparently not disputed that the professional fishers had the right to fish backwaters and this right was, in part, subsequently denied to them. The professional river fishers contend there was no consultation with either the minister's office or the Director of Fisheries prior to the advice of a change in licence conditions. The minister asserts there was consultation. Mr Zacharin also asserted that there was consultation. He said that he had a meeting with Mr Coombs and the South Australian Fishing Industry Council before 'we advised them we could go down this path', presumably to

apply a licence condition effectively banning fishing in backwaters pursuant to section 7.

This contention was denied by Mr Coombs who said that Mr Zacharin and Mr Gary Morgan, then Director of Fisheries, attended a public meeting and advised Shane Warwick, their president, and others of the decision. He said that was not consultation. He also asserted that a number of fishers had their licence revoked, including himself, because they did not agree with the decision. Mr Coombs also asserted that the then Director of Fisheries and the minister had confirmed in separate conversations that the ERD outcome would have no bearing on the River Murray restructure process. There is therefore a dispute between Mr Coombs and his organisation, on the one hand, and the minister and fisheries officers, on the other, about consultation.

It is difficult for the committee to decide what if any consultation took place with the professional fishers and the department or the minister. Was it the minister and others informing the fishers of a decision to restrict fishing in backwaters for native fish or was there some other consultation? Certainly the fishers were or should have been made aware of community concern about their fishing in backwaters. Mrs Maywald MP, however, did put it to them when the President and Director attended before the ERD committee.

Mrs Maywald MP indicated in a question answered by Mr Coombs that one of the issues of concern in the community was the 'expansion' to cover fishing of native fish in backwaters (page 74 of the evidence from the committee given on 13 October 1998). These issues were again raised by Mrs Maywald when Mr Coombs and Mr Warwick further attended before the committee on 3 February 1999.

At the October 1998 meeting, these persons were also invited to stay on for the rest of the day's hearing. Later in the day's hearing, Mrs Cass, mayor of the District Council of Loxton Waikerie, mentioned a seven point plan put out by the CEOs and mayors of each of the councils of Renmark, Paringa, Berri Barmera, Murray Bridge, Loxton Waikerie and Mid Murray. That seven point plan included:

> No commercial fishing in backwaters with the exception of carp and that the taking of carp from backwaters should be an issue of a supplementary notice and with the permission of the landholder.

The committee spent considerable time dealing with the matter of consultation in relation to this regulation. This was in part because the initial report to the committee stated that 'there has been no consultation with industry on this matter as it does not change any current operational aspects for commercial fishers operating on the River Murray'. That report was clearly misleading: first, and as I referred to earlier, there was an assertion that there was consultation and, secondly, it was quite clear that it did change the current operational aspects for commercial fishers operating on the River Murray.

It was only after investigation into these matters that the committee found that both the minister and the Acting Director of Fisheries asserted that there had been consultation as detailed above. This is not the first time a report on a regulation to the committee from Primary Industries and Resources has been inaccurate. Frankly, I am sick and tired of that department's inaccurate reports to my committee. We are inadequately resourced and we have far better things to do than to chase down material that it provides which deliberately misleads my committee.

The Hon. Diana Laidlaw: And signed off by the CEO?

The Hon. A.J. REDFORD: Signed off by the Director or, as he was then, the Acting Director—but notwithstanding that I see he has been confirmed as a permanent Director. The committee urges the department and the minister to tighten up on the preparation of such reports. Indeed, I have sympathy with ministers: they deal with enormous volumes of material and rely to a substantial extent on their officers to provide accurate reports. The committee, as I said, has only limited resources and must often rely on the veracity of statements in those reports.

I digress and say this: it also created enormous uncertainty in the minds of those commercial fishers through no fault of their own whilst we track down the full background to these regulations. The professional fishers were and should have been aware at the time of the move to ban fishing, at least in part, in backwaters, supported by various river councils, and that the issue of taking native fish in backwaters has been one of great concern to a number of people in the community.

Similarly, the fishers did put their concerns about this proposal to the ERD in a 23 page report to the minister. The sending of this response to the minister followed the release of the ERD report. In other words, there was consultation not only at the time that the ERD Committee dealt with it but also subsequent to the release of the report making its recommendation, which the minister followed.

So the minister was aware of concerns about commercial fishing in backwaters, the professional fishers' response to those concerns and the recommendations of the ERD Committee. What seems to have happened is a communication breakdown. The minister and officers from fisheries believed that the professional fishers were consulted, and the professional fishers merely believed they were presented with a fait accompli. Consultation on regulations can and should be structured so that the views of those concerned regarding the effect of the regulation may, where practicable, be taken into consideration.

I think that the processes adopted by parliamentary committees generally should suffice as to be sufficient consultation and I see no reason why the minister should not have accepted the committee's recommendation, which in fact is what he did. The minister was aware of the view of the professional fishers on their fishing and presumably he had the opportunity to consider those views. Obviously, the fishers feel aggrieved both with the decision to ban fishing in backwaters and, I suspect, with that process.

I point out that it is not this committee's concern to debate the rights or wrongs of any decision. A decision has been made on the recommendation of the ERD Committee and presumably on the consideration of the minister in accordance with the act. The committee also considers that the implementation by regulation rather than by other means under the act is not relevant to its decision on the legal validity of the regulation (as long as the regulation was legally made). The making of a regulation also appears to be an effective means of implementing the objective and the regulation making process is laid out in the act and could have been and has been used.

As I have already said, the dissatisfaction by the professional fishers with the process of that decision does concern the committee. The committee suggests that, before a major decision about fisheries affecting the rights of persons is taken and a regulation is to be introduced to implement this, there should be, where possible, a clear and structured consultation process laid out, or at least an identification on the part of a minister of prior consultation that has occurred.

This would avoid persons feeling that they had not been consulted and their views properly taken into account in the future. In view of what I have said, the committee recommends that no action be taken with respect to this regulation.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: ROCK LOBSTER POTS

Adjourned debate on motion of Hon. A.J. Redford:

That the report of the committee concerning the allocation of recreational rock lobster pots be noted.

(Continued from 30 May. Page 1619.)

The Hon. A.J. REDFORD: I thank members for their contributions and involvement in this process of coming to a recommendation. I note that the Deputy Premier and Minister for Primary Industries announced some three weeks ago a new regime in relation to lobster pots which followed almost all the recommendations made by the committee with the exception of one, and that was that a full cost benefit study be undertaken by the Minister for Tourism on the benefits of recreational rock lobster fishing in the South-East. We continue to urge the government to follow that recommendation.

A press release dated 28 April this year was released stating that the committee report was dismissed by the South Australian Rock Lobster Advisory Council (SARLAC). A critique of the report prepared by SARLAC and dated 20 April was also published. In the press release an industry spokesman, Mr Steve Hinge, was quoted as saying, 'The review committee did not come to grips with the critical issue of the importance of the sustainability of the stock and the wider ecosystem.' The release also had other criticisms of the report.

Following the press release, various media outlets contacted me. Prior to making comments I made inquiries of the committee and I was informed that SARLAC had not in fact made a submission to the committee despite being invited to do so. On the basis of that advice, I stated that SARLAC had not presented a report to the committee inquiry. I now know that that is not the case.

As I said, prior to making those comments I had checked with the committee secretariat and was informed that SARLAC had not made a submission to the inquiry. I have since been informed that a submission was lodged under cover of letter dated 1 June 2000, which was out of time. Unfortunately, that submission appears to have been mislaid and was not drawn to the attention of committee members prior to the writing of the report.

Due to committee staff changes and a change of procedures I can assure members that such a mistake will not occur again. On this latter matter I have instructed the secretariat to keep a running record of incoming correspondence, when it was received and where it was filed. I have also instructed the secretariat to list all persons or potential witnesses wishing to give evidence to an inquiry in an accessible file immediately a request is received.

In that respect I apologise to SARLAC for making public comments to the effect that it had failed to lodge a report to the committee. I also apologise to any others who may have been inconvenienced as a consequence of that. Notwithstanding that, committee members, upon having had the report drawn to their attention, considered the submission made by SARLAC in the context of the report. The committee came to the conclusion that the conclusions of the report are still valid, and indeed the conclusions of the report were endorsed by the minister having regard to the changes to rock lobster allocations that he made.

The committee subsequently considered the submission. It believes that the consideration of the submission would have made no change to its conclusions in the report. The committee believes its views have been vindicated by the recent decisions by the Minister for Primary Industries and Resources, no doubt with the advice of materials supplied by SARLAC on this matter to implement the thrust of its recommendations. Indeed, I understand that SARLAC made extensive representations to the minister before the minister decided to adopt the recommendations made by the committee.

In closing, I thank all members for their contribution and I also thank my diligent staff for the efforts that they made. This is an example of how parliamentary committees can work to the benefit of the community of South Australia, and I suppose the other person I should thank is the Hon. Paul Holloway who brought this matter to the attention of this place and moved a motion referring the matter to the committee, to enable all parties to consider it in the face of all the evidence.

Motion carried.

DEVELOPMENT (ADULT BOOK/SEX SHOPS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 1727.)

The Hon. T.G. CAMERON: In wrapping up the debate I will be very brief. It is a very simple bill. I would just like to thank honourable members for their contributions and indications of support. I bring to the attention of the Council the fact that I have an amendment standing in my name to deal with the question of retrospectivity, which I will move when we are at the committee stage.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. T.G. CAMERON: I move:

Page 3—

Line 14—Leave out 'until 1 July 2002'.

Line 15—Leave out ',on or after 1 July 2002,'.

As I said, this deals with the question of retrospectivity. It would mean that the bill would not operate until 1 July 2002.

The Hon. DIANA LAIDLAW: The government supports the amendment. It reflects concerns that I raised when speaking to the second reading of this bill.

The Hon. CARMEL ZOLLO: I indicate on behalf of the opposition that we support the amendment as clearly it removes the concerns we had as well, as indicated in my second reading speech.

Amendments carried; clause as amended passed.

Title passed.

Bill read third time and passed.

GENETICALLY MODIFIED MATERIAL (TEMPORARY PROHIBITION) BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 1731.)

The Hon. NICK XENOPHON: I indicate my support for this bill. The issue of genetically modified foods and their impact on the health of South Australians, and the issue of crop trials, are very important, and I believe that there has not been a sufficiently robust debate on this issue in the community. This bill, introduced by the Hon. Ian Gilfillan, is welcome legislation. Indeed, I believe that in some respects it ought to go further in relation to GM crop trials. I am aware of a recent decision of a Canadian court where a Canadian farmer, Mr Shmeiser, was sued by Monsanto as a result of contamination of his soya bean crop. I understand that genetically modified soya bean seeds cultivated by Monsanto found their way on to his property. They propagated, he harvested the crop and Monsanto took action against him and succeeded in the Canadian court. I am not sure whether that decision is subject to appeal, but it indicates one of the problems with respect to crop trials and, indeed, with respect to the use of GM products.

This bill essentially provides that there be a moratorium with respect to crop trials and strict controls to prevent contamination of other crops. I have received information from GE Free Australia Incorporated, an association that has recently been incorporated in South Australia, and it expresses very serious concerns about the impact of GM crops and the issue of contamination. It is concerned about the danger to the food chain because the risk of contamination of many crops could be almost inescapable unless we have a moratorium to assess the health and other impacts of GM crops and GM foods.

GE Free has prepared a booklet which sets out a range of concerns about GM foods, including: their resistance to antibiotics; their tolerance to herbicides; the differences between methods of traditional plant breeding and GM bred plants; the alternatives to genetic modification; and some very serious concerns about potential health impacts. The concern is that GM foods have not been proven to be safe and that there ought to be a further pause in the development and release of GM products on to the market, and I think that that precautionary approach is laudable. For those reasons, I support the Hon. Ian Gilfillan's bill and I hope that it is passed in both houses.

The Hon. A.J. REDFORD: The government's position was outlined by the Hon. John Dawkins in relation to its general opposition to the bill, but I think I should make a few comments because I think that the intent of the mover of the bill and the concerns that have been delivered to me by various members of the community are matters that should be given serious consideration, whether it be in relation to this bill or in another area.

The bill seeks to permit the minister, by notice in the *Gazette*, to publish the declaration of a specified part of the state to be a prohibited area and to vary or revoke an earlier declaration. It then prohibits, on the pain of a maximum fine of $50 000, people from bringing or sending genetically modified propagating material into that area. Genetically modified propagating material is defined in the bill and, if a person is inadvertently found to have that material, it also enables an exemption to be sought from the minister within three months of their being found to be in possession of that material.

The Hon. John Dawkins has set out some objections to the bill. First, he thinks that the bill ought to be considered in the context of the national scheme of regulation for gene technology that came into operation on 21 June. Secondly, there is the question whether or not it is consistent with that legislation. I must say I am not in a position to make a judgment in that regard. The honourable member also refers to the silence in the bill about the process of consultation, the process of monitoring and enforcement, and the fact that there has not been any analysis of restrictions, costs and benefits. Some of the objections could be addressed by way of amendment but the position here as set out in relation to the national scene should be seriously considered. I am not in a position to make any personal judgment in that respect other than to rely on the auspices of the honourable member. Being a member of his party in that respect, unless I have some grave objection or some specific criticism of what he said, I will vote with him.

I should say a number of things about this issue. First, over a number of years in the South-East there have been rumours, finger pointing and concern expressed by a number of landholders about this issue of genetically modified crops. These people who are advancing the genetically modified crop argument and have, indeed, run test crops in the South-East have been quite arrogant in the way in which they have sought to deal with the concerns of people who are worried about the impact of genetically modified agriculture. Their arguments have been dismissed. They have been treated as though they are being non-progressive.

Indeed, what really concerns me is the recent debate in the community about whether ordinary people ought to be told where these crops exist. If there was nothing to fear in relation to genetically modified crops, these people should not be backward in being open on the issue of where these crops are situated. I say this as a politician: if you hide something or push it under the carpet, at the end of the day you will lose the debate simply because those who want to know and have every right to know will become suspicious to the point where they will become so intransigent that they will not change their views and perhaps listen to some of the more extreme and illogical arguments that have been put in relation to genetic modification.

I do not know a lot about genetic modification other than what I have seen in various documentaries such as *Landline* and other television programs. However, I would suggest it is not uncommon to have genetic modification. The development of the merino sheep for its wool is a form of genetic modification, albeit over a long period of time with an already existing product. However, as we are seeing today, genetic modification is happening at a far greater rate. It is compressing time, and that is the world in which we live.

The Hon. Ian Gilfillan interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that we are all the product of genetic modification. I don't want to go into that.

The Hon. Ian Gilfillan: Some are more successful than others.

The Hon. A.J. REDFORD: You are probably very right on that. Unless there is an open and frank debate, and unless those who seek to plant these crops in their communities convince their own communities of the benefits of genetic modification, they run a real risk of having parliaments intervene to prevent them from continuing those undertakings. That is as it should be. There is no room in this debate—and I emphasise this—for any intellectual superiority or any argument along the lines of, 'I know better than you' or, 'You're just a poor dumb farmer,' because at the end of the day that will be counterproductive to those who seek to advance what may be something of great benefit not only to

this state but also to mankind. It would be a tragedy if those people in their arrogance unravelled what potentially might be a great opportunity for this country to benefit from scientific advances.

With that, I congratulate the honourable member for bringing this bill before this place. I accept what the Hon. John Dawkins said in his contribution on the matter. However, with those issues addressed, if the matter comes back, I would look seriously at the sentiments expressed in this bill. At the end of the day, politics in Australia and, indeed, the world today is heading back towards the local. People want to be able to control their local environments and their local lives, and they will not wear some person on high telling them what is good for them. Those politicians and those people who go down that path run a very grave risk of finding themselves looking for alternative employment.

The Hon. T. CROTHERS: I was not going to speak but I shall speak fairly briefly in respect of this matter. I am opposed to the growing of any genetically modified crops at all. There are a number of reasons for that. Very briefly, I do not know of any scientists who can develop a bench test that can test genetically modified crops in respect to what they may or may not do to the make up of the ordinary human being or, indeed, any other life on earth. It has taken nature (most of you would know I am an agnostic) tens of thousands if not hundreds of thousands of years to make us the way we are today and to make the other mammals that inhabit the earth and the seas, and the birds in the air, the way they are. How is it possible to bench test something to see whether it will be damaging? It has taken nature, the highest steward of all, hundreds of thousands of years to develop. People will say, 'Hang on! A lot of genetic modification goes on by way of nature.'

The Hon. T.G. Roberts: Hang on! A lot of genetic modification goes on by way of nature.

The Hon. T. CROTHERS: I wish we could genetically modify you to get about 12 inches cut off your tongue, you interjecting fool. The point is this: a lot of the people who are pro genetic modification say to me, 'Nature has been doing this for hundreds of thousands of years—'

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: Would you be so lucky as to get mine. But not in the way in which it is being done now, because we are taking different genera of life—we are taking the genetics of a fish and marrying them with the genetics of tomatoes and other food crops—and that is what I find most objectionable. We are not talking about an apple that got crossed by nature in some Tasmanian orchard to produce the Granny Smith apple. That involved the same genus. What we are talking about is something such as a cat breeding with a dog. That is what we are talking about—

The Hon. T.G. Roberts: If we cross a fish with a potato, we could have fish and chips!

The Hon. T. CROTHERS: If you crossed a fish with a potato, we might get enough fish and chips to make you shut your face as you are eating them. Anyhow, for those reasons and many more, I certainly oppose any step away into genetic modification. We are already finding out some very strange things in areas where it has been introduced. When I think about it somewhat casually, one of the things that bothers me relative to genetic modification is that you get people such as the previous speaker saying, 'People in the South-East do not want to be bothered by people in the city telling them that they cannot have genetic modification.' I say only one thing in response to that: bull to that for an idea.

That is enough, for a start, to get me off side with the previous speaker, because what they do in respect of genetically modified crops has a potentially bad impact on us all. I find that an appalling act of verbal selfishness on the part of the previous speaker. I resolutely oppose the bill.

The Hon. T.G. ROBERTS: I indicate that we will be supporting the honourable member's bill. Amendments are being prepared as we speak, so we will not be able to follow the bill through to its final stages. I would like to have the amendments circulated for members to peruse. Basically the amendments indicate—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: They are about to be filed. The first amendment to clause 3(1) will require that the minister consult with local government and primary producers in the area proposed for prohibition. That is to allow for some of the issues that have been covered by other speakers in relation to a wider, more transparent method of research and growing out, if that is the final outcome of the negotiations and discussions taking place. The second amendment proposes to delete clause 3(2), which allows a council to declare part or whole of its area a prohibited area. That falls into line with the commonwealth legislation, and it is a practical way of dealing with practical problems.

As previous speakers have said, we cannot deal with it piecemeal. It is not an issue that can be dealt with in isolation from any other council area or any other state. The Hon. Angus Redford made a contribution which was entirely contrary to the previous speaker's criticisms. I thought that the honourable member made a valuable contribution in recognising some of the difficulties which we face as legislators in this state bringing in state legislation to complement the federal legislation without a complete template. What we have had is a whole range of investigations, inquiries and research done on a whole range of organic material, in the main, across Australia and across the world.

We are Johnny-come-latelies: we are latecomers to the world of gene technology and grow out. This has been occurring in the United States of America and Europe for some considerable time; time enough for consumers to recognise the need for identification of the finished product—mostly cereal product and, in many cases, cooking oils and other domestic uses for these genetically grown out plants. Consumers in other countries, including the United States, Britain and Europe, have demanded that the progress of genetically modified grow outs be stopped until safeguards have been put in place that recognise the difficulties that competitive farmers have in relation to existing alongside genetically modified crops, for example, canola, which is one that is causing difficulties in the South-East.

In the United States and Europe, canola was grown experimentally in large scale grow outs in broad acres. In some cases, farmers were given the seed, paid to plant out and with contracts for crops to be harvested at the end of that particular year, without knowing the ramifications. The seed was registered as plant varietal rights, which is another issue that agriculturalists and horticulturalists in Australia have to face. We already have legislation in place in terms of plant varietal rights. I am not sure that I agree with the final outcome of those decisions, but, in the main, farmers in America and Europe were given the seed and they were

contracted to harvest X number of tonnes of a particular variety of canola.

The canola was harvested and put into margarines and cooking oils, and placed in the marketplace for sale. There was widespread consumer resistance, particularly in Europe—more so in Europe than in the United States. The United States probably had more problems associated with the grow outs because of the problems which arose from some farmers growing canola from their seed base which was a natural seed (for want of a better word) living alongside farmers who had been given the contracts for the mutated, gene spiced or changed and altered canola. The farmers in those regions had to wrestle with the difficulties that were experienced in terms of pollination and the prevention of contamination of each other's crops.

The offshoot of the developments, particularly in the European markets, was that there were demands for identification by way of labelling which showed people exactly what it was that they were buying. The Canadians were in the same position. The offshoot of it was that there was consumer resistance to the genetically modified varieties, if only out of ignorance. Like previous speakers, I am not technically placed to make a decision on whether the products in the marketplace will be better for me, and I—

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: I will take it from a teacher better qualified than me by way of that interjection to say yes to that. It is one of the issues with which lay people have had to struggle to make their decisions in relation to their place in a consumer society and whether or not they will buy the products. In general, many of the companies involved in those programs, in particular in Europe and Britain, have had to remove the product from their shelves because the buyer resistance was so high. People wanted organically grown, or clean, green and non-genetically modified material, because they had concerns about the impact of the genetically modified food on their bodies.

A lot of people are now wrestling with problems associated with asthma and the impact on children and on other generations because, in the main, many of the companies that are selling the seed rights and the harvest rights have not released to the public the full story from their research, experiments and the registered release of their products. They hide behind commercial confidentiality. We as legislators face commercial confidentiality clauses in a whole range of areas that prevent us from making any decisions based on best scientific evidence or advice and/or best financial advice and we vote in the dark—

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: —and we continually make decisions, as the member behind me interjected, in ignorance.

The Hon. A.J. Redford: It has never stopped him.

The Hon. T.G. ROBERTS: It has never stopped him from voting with both hands, on some occasions. After the waves of ignorance have passed, even when enlightenment reaches him, there is no apology for changing his position. They are some of the issues that communities are wrestling with and, as the Hon. Angus Redford said, there are 54 sites in the South-East where genetically modified crops are grown. The reports that I have had from people who have been engaged in some of the contracts suggest that they are dissatisfied not only with the fact that they were not given full information in relation to the crops they were growing but that they did not get very good contractual prices and arrangements for what they had done. They are very apologetic to some of their neighbours for involving themselves in some of the grow-outs and arrangements with the large, multinational suppliers of the seeds.

Varietal rights will be a big question for agriculturalists and horticulturalists in the future. The application of herbicides and weedicides versus organic growing will also be a big issue, and the people of the West Coast have made a good decision in that, if they register, they will be able to declare their produce organically grown. They can also declare themselves genetically modified free areas, and they will be able to pick up contractual arrangements and prices far above the prices that will be paid to farmers who contract in non-organic, chemically grown varietal rights that are genetically modified. In the future, the people who have rushed into cooperating with the programs may live to regret that day. Unfortunately, they are not the only ones who are harmed in the way they go about their business because their neighbours are unwittingly drawn into the arguments as well.

The other aspect that we will need to consider at some time is irradiated food. That issue has been around for 10 to 15 years at a commonwealth level and I understand that there will be more pressure for the states to pick up the irradiated food issue. I understand that Queensland is gearing up for food irradiation programs and it is probably occurring in other parts of Australia. Again, the technology perhaps should not be feared because there will be some benefits from irradiated food. However, if irradiated food is to be distributed into the marketplace, it must be labelled adequately. Again, some people will prefer not to buy irradiated, genetically modified food. They will prefer to buy organically grown, chemically free, non-irradiated food, which will be harder and harder to get.

The opposition supports the initiative taken by the honourable member. I hope that the commonwealth takes a stronger lead in having a unified set of legislative procedures for research and grow-out, and that safeguards are put in place to prevent gene and other contamination of the crops of other agriculturalists and horticulturalists, and I suspect that damages clauses and claims will be addressed in the future. We are so far behind in legislation in Australia on a lot of these issues that we are seen almost as a Third World country in relation to how chemical companies and the large food-based companies are encouraging the gene modification program in this country.

We need to unify our positions and we need to make sure that the consumers are educated, as well as the farmers and graziers who may become involved in these activities, because very soon, if not in the next decade, the next half decade, farmers will become tenant farmers for contractual growers who have made arrangements for universally grown food products which most people, if they had the information placed in front of them on labels, would prefer not to buy.

The Hon. A.J. REDFORD: Mr President, I draw your attention to standing order 175, which indicates that a member who has spoken may again be heard in explanation in regard to some material part of a speech in which the member has been misquoted or misunderstood.

The PRESIDENT: Order! I agree that members are able to use standing order 175 to make an explanation, even though they have spoken in a debate. Having looked it up himself, the honourable member knows that he must be relevant and not introduce any new material.

The Hon. A.J. REDFORD: Yes, sir. The Hon. Trevor Crothers, in one of his more remotely relevant speeches,

misrepresented my contribution significantly, and I invite him to read it. In his contribution, he indicated that I had urged or promoted genetically modified crops and that I was in favour of genetically modified crops and that I was endeavouring to enhance or encourage their promulgation. I said nothing of the sort and nothing that I said could be interpreted remotely to that effect. Lest he be called senile, I suggest that he listen carefully to what members say before he starts throwing around criticism.

The Hon. IAN GILFILLAN: I thank members for their contribution to the debate, and that includes those who showed concern for and criticism of the measure, namely, the Hon. John Dawkins and, in a different category, the Hon. Angus Redford. I am sorry that we do not have more time to have a more detailed debate about it. In my concluding remarks, I would like to make the observation that the bill was never intended to be a detailed debate on the pros and cons of genetic modification. It really reflects marketing, particularly international marketing, and that has been reflected in the federal legislation, which empowers the states to declare certain areas as genetically modified free.

The bill seeks to have a moratorium for five years because, at the expiration of the five years, the situation may have changed. However, no part of South Australia can be declared a designated GM free zone unless this parliament passes enabling legislation. I am not putting this forward as the perfect legislation with all the i's and t's crossed, but it is an enabling piece of legislation.

The federal legislation is comprehensive and deals with a lot of the concerns that the Hon. John Dawkins raised on behalf of the opposition. The Hon. Angus Redford expressed valid concerns about the introduction of genetically modified crops that are held by a lot of farmers who would be conservative or Liberal Party voters and members of the Farmers Federation. First, they have concerns that the technology, the science, has not been proven and that we need to be cautious and, secondly, they are already feeling the impact of marketing damage and restriction and the offers of market premium for product that is guaranteed GM free. I commend the passage of the bill to the Council.

Bill read a second time.

[Sitting suspended from 5.57 to 7.48 p.m.]

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.J. ELLIOTT: I seek leave to amend the title of my proposed bill.

Leave granted.

The Hon. M.J. ELLIOTT obtained leave and introduced a bill for an act to amend the Environment Protection Act 1993; and to make consequential amendments to the Development Act 1993, the Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987 and the Public and Environmental Health Act 1987. Read a first time.

The Hon. M.J. ELLIOTT: I move:

That this bill be now read a second time.

The Environment, Resources and Development Committee undertook quite an exhaustive study of the Environment Protection Agency and the Environment Protection Authority of the EPA Act as a consequence of what was very significant concern in the public about the performance of both the Environment Protection Authority and the Environment Protection Agency. After that exhaustive study we introduced a report into this place on 30 May last year. So that is well over a year ago. In fact, it is getting very close to a year and two months.

The committee made a significant number of recommendations, in fact a total of 40 recommendations of changes it would like to see in relation to the workings of the Environment Protection Authority and of the agency. It should be noted that that was a unanimous report, a report of a committee made up of two government members, two Labor members, a National Party member and a Democrat, namely myself. That, however, in itself is not unusual because I think every report that we have done, that I can recall in the history of the committee, has been unanimous and the committee prides itself in trying to work its way through issues. I do not think there are too many committees that have achieved that as often as this committee has.

What has been heartening for this committee on so many occasions when it does make recommendations is that for the most part ministers take great notice of it. I have congratulated the Minister for Transport and Urban Planning in this place on a number of occasions for the fact that she does treat the work of this committee seriously and has responded—I am not sure I can say in all cases, but all cases that come to mind—positively to the sorts of recommendations that our committee has made.

It is with great disappointment that, in relation to the 40 recommendations made by our committee, there really has not been any substantial move. A number of the recommendations needed legislative change and there has been no legislative change at all; in fact, no hint of it. It is worth noting that at the same time as the ERD Committee was undertaking its inquiry the government said that it also was undertaking an internal inquiry of the EPA. I am not sure whatever came of that, but most people assumed that it would have led to some change. However, unfortunately, there has been none obvious, and there was a need for it.

I think it is also worth noting that not only was the report itself endorsed by all members of the committee but I personally, as well as a number of other members of the committee I have spoken to, have had discussion with a wide range of people in the community from a wide range of interests, all of whom I think were very positive about the recommendations made in the report. I had an opportunity to discuss this because within about two days of the report coming out I was at a function where, I think, all but one member of the Environment Protection Authority were present. I think there were only two of the recommendations that they had concerns with and, as I recollect, both of those were really just matters of misunderstanding as to what the recommendation said, and as much as anything I think that was really a drafting problem in terms of the language used, as distinct from the intent of the committee.

What I have done, in the absence of any action from the government, is I approached Parliamentary Counsel and I gave Parliamentary Counsel a copy of the report of the committee, including the recommendations, and I indicated to Parliamentary Counsel those recommendations which I believed would be expected to be implemented by way of legislative change, that required legislative change, and my instruction to Parliamentary Counsel was to draft up a bill which picked up those recommendations, so that they may be implemented through legislation.

Having received the draft bill I have in fact not gone back to Parliamentary Counsel and asked for further change. Realising that this session is going to finish within two days, what I was seeking to do was to put this bill on the table so that during the break members of other parties, and members of the public, will have a chance to examine the bill and respond and if I need amend that bill I will do so during the break, and when parliament resumes I will come back with an amended bill, if amendments are indeed necessary, and obviously other members will have an opportunity to produce amendments in anticipation of me reintroducing the bill.

I do not think it is necessary for me to go through all that is contained within this bill on this occasion because in fact the ERD Committee's report is a report of this parliament, and copies are available to all members. In fact, the three members of the ERD Committee in this place all spoke to the report when the report was tabled at the end of May this year, so I would be guilty of just repeating what has already been said in this place, and with the pressure that we have in these last days of getting through a large amount of business I do not think that can be justified.

I just repeat that it is due to a lack of action on this unanimous report of the ERD Committee that I have now brought this bill forward. The essence of the amendments and of the recommendations was to produce an EPA which was truly independent. There was a great deal of confusion. People hear the term EPA and I think most members of the public do not know that there is both an Environment Protection Authority and an Environment Protection Agency. I think they do not also understand that the agency staff are not staff of the authority. They are in fact staff of the minister. I am not sure whether the authority might perhaps have a secretary, a personal assistant, but that is about it. In fact, the chief executive officer of the agency is answerable to both the minister and the authority, which must create enormous difficulties for anybody in that sort of position. Having two bosses is just not an ideal situation.

So, if we are to have and independent authority I think it is important that they do have their own staff and that the CEO of the agency is directly answerable to the authority itself. So questions of independence of the authority are fundamental to this bill and to the recommendations of the committee. If it is felt that the EPA is not performing correctly then the job for this parliament is to amend the legislation and the regulations to give clearer direction. However, I think that when you are playing a role like that of the EPA, where you have to balance the interests of protecting the environment and making sure that you are not doing harm to business, etc., I think it is important that you do have a body that is not subject to political interference, that it has a very clear set of guidelines, which are provided through both the legislation and the regulations, and not trying to serve two masters and being pulled all over the place.

I think it is also important that this authority, being independent, is fairly transparent in its operations. Members might recall that some time ago I asked questions in this place about the availability of information from the Environment Protection Authority. I went to examine the public register to look at a particular issue that interested me at the time—as I recall, it was in relation to an oil spill. When I asked to see the register, they could not show it to me. Although the act had been in place at that stage for three years, they had not created the register. Eventually, they offered to find what documents I wanted if I told them what they were, but they then treated it as an FOI request and gave me an enormous bill. I told them that, because they did not have a register, I would not pay that bill. They were clearly in breach of their own act.

The lack of information from the EPA damages its own credibility, and people do not trust those who withhold information. In this case, I think it is withholding information because it has not got around to getting organised, but that is another story. I think its relationship with the public generally and the way that it works with the public needed significant revamping, and members will see that quite a few of the recommendations of the committee surrounded this question as to how the Environment Protection Authority interacts with the public.

With those words, I urge all members to give this bill serious consideration. I am not looking for a second reading vote on the bill in this session: I simply put this bill on the table so that when we resume after the break I can reintroduce the bill, possibly in an amended form, depending upon submissions that I receive from the public.

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

GOVERNMENT FUNDED NATIONAL BROADCASTING

Adjourned debate on motion of Hon. Nick Xenophon:

I. That a select committee be established to inquire into and make recommendations on the role and adequacy of government funded national broadcasting and to examine the impact of these broadcasters on the South Australian economy and community, and in particular to examine—
   (a) The current and long-term distribution of government funded national broadcasting resources and the effect of this distribution on South Australia;
   (b) The effects on industry, including broadcasting, film and video production and multimedia;
   (c) The effects on the arts and cultural life in South Australia, including whether government-funded national broadcasters adequately service South Australia;
   (d) Whether government-funded national broadcasters adequately service South Australia in respect of South Australian current affairs coverage;
   (e) The programming mix available from government-funded national broadcasters and how programming decisions are made and whether the programming which is delivered is geographically balanced.

II. That standing order 389 be suspended as to enable the Chairperson of the committee to have a deliberative vote only.

III. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

IV. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating;

to which the Minister for Transport and Urban Planning has moved to leave out all words after the word 'That' in line 1 and insert—

this Council registers its concern with the Commonwealth Government and national broadcasters regarding the role and adequacy of Government-funded national broadcasting and the related allocation of resources on the South Australian economy and community and, in particular, the effect of the distribution of resources on—
   (a) the broadcasting, film and video production and multi media industries;
   (b) the arts and cultural life in South Australia;

(c) our rural communities in terms of service delivery and jobs; and
(d) current affairs coverage generally.

II. That this Council seeks confirmation from the Commonwealth Government regarding the programming mix from Government-funded national broadcasters, including how programming decisions are made and whether the programming which is delivered is geographically balanced.

III. That this motion be forwarded to the Commonwealth Minister for Communications, Information Technology and the Arts' attention, and the Prime Minister and all South Australian Members of the Commonwealth Parliament, for information;

to which the Hon. S. M. Kanck has moved to leave out all words after the word 'That' in line 1 and insert—

this Council voices its utmost concern at the totally inadequate allocation of resources by the ABC to the production in South Australia of:

(a) current affairs programs, especially in regard to its associated impact on rural communities; and
(b) broadcasting, film, video production and new media and the effect this lack of production has upon the arts and cultural life in South Australia.

II. That this Council seeks from the Minister—
(a) a detailed breakdown of ABC budget expenditure in each State and Territory, both in gross terms and as a per capita figure;
(b) information as to how programming decisions are made and whether the programming delivered is geographically balanced; and
(c) an explanation as to how the Minister reconciles the current situation in the light of the national identity requirement in the ABC's Charter, and in light of section 2.3.3 of the ABC's editorial policies.

III. That this motion be forwarded for the attention of the Commonwealth Minister for Communications, Information Technology and the Arts and for information of the Prime Minister and all South Australian Members of the Commonwealth Parliament.

(Continued from 6 June. Page 1733.)

The Hon. NICK XENOPHON: I thank honourable members for their contribution. This motion seeks to establish a select committee on the workings of the ABC and the context of its role in South Australia with respect to news and current affairs. I will not reiterate what I have said previously in my principal contribution. I note that the government supports the sentiments of the motion but will not agree to a select committee being set up. I further note that the Hon. Sandra Kanck in her contribution also supported the sentiments of the motion but would not agree to a select committee.

I am still firmly of the view that a select committee—a short, sharp select committee, not like the select committee on online gambling, shared by my colleague the Treasurer—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: I am quite happy to waive sitting fees. The ABC is in a state of flux. We have seen what has happened in recent years with local programming being affected, and the impact of the *7.30 Report* going from a state based to a nationally based program. The state based *7.30 Report* had a very powerful and useful role in investigating the extent of the State Bank disaster.

I think it is important that we have a select committee to inquire into the resources of the ABC, both for regional news and current affairs and metropolitan news and current affairs. The sentiments expressed by the government and the Hon. Sandra Kanck are welcome but will not achieve what a select committee would achieve, and that is to set out the true extent of the resources of the ABC for local news and current affairs. A short, sharp select committee would be the best way to do that. I am grateful for the support of the opposition in this regard and I urge honourable members to support the creation of a select committee into the ABC on the basis that it will be a short, sharp inquiry that I believe can deliver benefits.

The Hon. Diana Laidlaw interjecting:

The Hon. NICK XENOPHON: I am willing to go down that path.

An honourable member: Will you be taking bets?

The Hon. NICK XENOPHON: I won't be taking bets on a sure thing, I can tell you that. So, I urge honourable members to support this motion.

The PRESIDENT: The question is: that the words proposed to be struck out by the Minister for Transport and Urban Planning and the Hon. Sandra Kanck stand part of the motion.

The Council divided on the question:

AYES (7)

Cameron, T. G.	Holloway, P.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Xenophon, N. (teller)
Zollo, C.	

NOES (12)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Elliott, M. J.
Gilfillan, I.	Kanck, S. M.
Laidlaw, D. V. (teller)	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

PAIR(S)

Sneath, R. K.	Griffin, K. T.

Majority of 5 for the noes.

Question thus negatived.

The Hon. Diana Laidlaw's amendment carried; motion as amended carried.

LOTTERY AND GAMING ACT

Adjourned debate on motion of Hon. Nick Xenophon:

That the regulations under the Lottery and Gaming Act 1936 concerning interpretation variation, made on 17 August 2000 and laid on the table of this Council on 4 October 2000, be disallowed.

(Continued from 16 November. Page 546.)

The Hon. R.I. LUCAS (Treasurer): The government rises to oppose the disallowance motion. This matter has been on the *Notice Paper* for some time—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We have talked about it. It is still there though; he never discharges them. The government opposes the motion for disallowance from the Hon. Mr Xenophon in relation to the regulations under the Lottery and Gaming Act. Put as simply as is possible, this is really a mechanism by the government, as we did with a number of pieces of legislation (and administratively in other cases), to make provision for the national tax reform, in particular the introduction of the GST. There has been a 50¢ entry call cost for these various trade promotions conducted over the

telephone. With the introduction of the GST, the regulation was making provision for these particular companies, in essence, to be able to charge and then recoup for the GST, so that the call entry cost would go from 50¢ to 55¢.

As with all the other forms of legislation and decisions that have been taken with the introduction of national tax reform, in essence, the intention was to introduce a revenue neutral provision. The honourable member had a particular point of view in relation to this, and obviously it is his prerogative to have his particular view on the issue. We think that, if the honourable member has a substantive issue, he ought not to be taking it out in and about the time of national tax reform changes. He may well want to change substantively the law in relation to this, and I guess there are various mechanisms that might be available to him should he have that view and should there be the support for it in the parliament.

The advice I have received is that our approach in South Australia has been consistent with the approach in New South Wales, the Australian Capital Territory, Western Australia and the Northern Territory, which had a trade promotion licence fee of 50¢ per call cost, plus the GST. I am told that Queensland and Tasmania do not have regulation of the trade promotion industry in this form, and the only state that headed somewhere in the same direction as the Hon. Mr Xenophon potentially wants to head is Victoria. I am told that, at the time of the promulgation of the South Australian regulation, Victoria introduced a temporary premier's order allowing the fee increase. So that, for a period using a device called a temporary premier's order, they allowed for the fee increase, but I am told that, since then, the order has expired and no permanent increase was allowed in Victoria.

The majority of jurisdictions have adopted a position, which, in principle, is the same as the position the South Australian government has adopted. As I said, whilst the honourable member might like to enter into a debate about what the level of fee or charge for trade promotions might be—he might have some concerns about trade promotions—we think that the mechanism that he is using is not really the appropriate way to go about it. This is just a consequential effect of the introduction of national tax reform and the introduction of the GST in this particular area and, as we have provided for virtually all other businesses, we are providing a mechanism through which the GST changes can be both provided for and accounted for. With that, I indicate the government's opposition to the motion.

The Hon. P. HOLLOWAY: I think that an amendment which had a similar effect to this was debated during a bill before us earlier this year which made changes to the gaming act. On behalf of the opposition, I then put on the record that we were opposed to the provision. I will not go through the debate again, but for the record I indicate that the opposition is opposed to it.

The Hon. NICK XENOPHON: I thank members for their contribution. I do not resile from the position I took in moving this motion, in that I am concerned about the proliferation of the various trade promotion lotteries. *Who Wants To Be A Millionaire* is perhaps the best known example in relation to the charge for phoning in. We do not know how much promoters of that program make, but certainly the promoters seem to be the ones who get to be the millionaires as a result of the fees that they charge. I understand the Treasurer's opinion in terms of the regulations being there to reflect GST increases, and I do take on board what the Treasurer said; that is, if I wish to take this matter further, there are perhaps other mechanisms in terms of an overall review of trade promotion lotteries, and that is something I propose to do in the next session.

I think that consumers ought to be further advised about the true costs of these lotteries, particularly when some parents are concerned that children can access these lotteries and, as a result, knock up quite huge telephone bills. I do not resile from my position. I am aware that the opposition opposes the disallowance motion, as does the government. I do not intend to divide on it, but I do not resile from my position.

Motion negatived.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 July. Page 1857.)

The Hon. T. CROTHERS: I will be fairly brief. It never ceases to amaze me that the parliamentary terms in this nation are not fixed. It never ceases to amaze me that they are so short. The Westminster parliament, which is supposed to be the mother of all parliaments, has a five year parliamentary term, when governments (whatever their persuasion) can knuckle down and really do something. But with a three year parliamentary term here, you cannot get much movement: you are no sooner elected and you are preparing for the next election campaign. It was the same here until we changed it from three to four years.

In addition, we hear John Howard and some of the national leaders of the party that is in government in this state talking about union thuggery—and I agree that there are some thugs in several unions—but what they endeavour to do is to tar all the unions with the same brush. Since union power has been taken away from unions, we have seen just what many employers are capable of. We have seen people being paid rates of pay that would not be enough to feed a cat and a dog. We have seen people who are under employed because the employers have them working maybe one hour a day, three days a week. All of these things we have seen. I have personal files on all of these things because many people have come to see me over the issue. However, every union without exception—for all the democracy that we are told by the hard forces of reaction—has a fixed term of office. As I understand, with the bulk if not all the unions, that fixed term of office is for four years, and the months are set out in respect of when elections are held and for how long a period of office is. The elections are conducted under the auspices of the various electoral registers of this state.

That is an organisation that John Howard, Peter Reith and others are calling undemocratic—the trade union movement. Unlike the federal parliament which has a three-year term which is not fixed, so the Prime Minister of the day can call an election whenever he or she likes, at least in South Australia we have a four-year term, three years of which are fixed unless something extracurricular or special occurs. I understand that something is being talked about in the nefarious corridors of power at the moment and that could, if carried, bring about an early election. I know nothing and I have no problem with that if it happens because it is parliament's right to do so. However, at least in this state, short of an extracurricular event occurring beyond the

parameters of what one can reasonably expect, such as motions of no confidence, we must serve at least three years of a four-year term.

To that end, as is the case in so many other things that have been done by the parliamentary parties of South Australia, even prior to Federation since the days we got self-government, South Australia has led the way across the nation. I have nothing but admiration for the mover of the proposition and, on this occasion, it will give me some pleasure to support the Hon. Mr Holloway's proposition. I have no problem supporting that and returning this parliament to the same level of democracy as that which exists in respect of the elected officers of the Australian trade union movement. I support the proposition.

The Hon. P. HOLLOWAY: I thank the Hons Trevor Griffin, Ian Gilfillan, Mike Elliott and Trevor Crothers for their indication of support for the bill. The support from the Hon. Trevor Griffin was in principle and he raised a number of issues that he thought should be addressed in the bill. I have taken those issues on board and my colleague in another place, Kris Hanna, who is the original author of this bill, has had some amendments drafted that address most of the issues that the Hon. Trevor Griffin raised. However, because the Attorney has been away, I have not had a chance to discuss them with him, so I indicate that, if this bill passes the second reading stage, I will move that the committee stage be adjourned until tomorrow to give the Attorney a chance to look at the amendments to see whether they meet the concerns that he raised.

I will read the letter that my colleague Kris Hanna sent to members in relation to this measure, because it explains where we are going from here. His letter was in response to the Attorney-General's second reading speech, and states:

> The amendment does not however alter the substance of the bill. The purpose is to give limited flexibility to the Governor (effectively the Government of the day) allowing postponement of the election date in extraordinary circumstances. In particular, if there is:
> · the prospect of the election falling on Easter Saturday;
> · a Federal election called for the month of an impending State election;
> · an anticipated or current State Disaster (as defined in the State Disaster Act);
>
> the Governor may postpone the election by up to 3 weeks.
>
> This matches the Electoral Act provisions which allow postponement of the election for up to three weeks if there has been a problem so serious that the conduct of the election would be affected (eg, wrongly printed ballot papers, electoral roll databases all being wiped out).
>
> The draft amendment does not cover all of the possibilities raised as matters of concern by the Honourable Attorney-General. For example, the limitation on issuing writs 27 days before the election is left in the bill. This, after all, reflects the usual practice of past State Premiers in having elections called. Further, there is no advantage to flexibility in the issue of the writs if we are all to know the election date anyway.
>
> The draft amendment also leaves to one side the objection that Easter may fall on the weekend after polling day. This issue was not of sufficient concern to warrant further amendment to the bill—the worst that can happen is that, on this rare occasion, some seats may take a day or two longer to be counted and declared.
>
> The Attorney-General also expressed his concern about an extraordinary situation which he imagined could arise in the House of Assembly. He posits that a party in the House of Assembly could pass a Bill which it wished to declare a Bill of Special Importance, yet lose a vote on the motion to have the Bill declared a Bill of Special Importance. (Upper house rejection of such a bill would trigger an early election under current law, and this feature is unaltered by the Fixed Term Bill before the Legislative Council). The Attorney seems to find this situation unacceptable. Yet it is the current law. The Fixed Term Bill is not the appropriate vehicle to alter this situation, if indeed reform is desirable.
>
> Essentially, then, the draft amendment more comprehensively takes account State Disasters, and the Electoral Act, and the possibility of election day falling on Easter Saturday. The Honourable Attorney-General should be commended for having 'gone through the bill with a fine-toothed comb' for contingencies. The draft amendment arising from his expressed concerns would thus improve the Bill. To go further and create a raft of exceptions would begin to subvert the very purpose of the Bill.

My colleague in another place then took the opportunity to address a matter that had been raised by the Hon. Ian Gilfillan, who questioned why we are moving to strike out section 6(1), and I will read from his letter to answer that query at this stage. Mr Hanna states:

> The bill proposes to strike out from s6(1) 'Provided that this section shall not authorise the Governor to dissolve the Legislative Council'. This section authorises the Governor to do various things including proroguing and dissolving the House of Assembly. To ensure that the Governor could not dissolve the Legislative Council separately, it was expressly stated. If the Bill is passed, the Governor's power to dissolve the House of Assembly is highly confined. After amending s6, nothing would remain in the Constitution which could possibly allow the Governor to lawfully dissolve the Legislative Council separately from the House of Assembly. There is therefore no need for these words to appear in s6; the amendment is consequential.
>
> I sincerely thank all Members who have expressed support for the Bill.

I believe that that letter addresses most of the concerns. I thank Kris Hanna for drafting this bill and I make the comment that I think it is a very important constitutional measure. Other states in this commonwealth have adopted it and I believe it is a long overdue reform. It has been part of ALP policy for some years and I trust that, in the next day or two, we will be able to have this important constitutional milestone bill passed.

The Hon. CAROLYN PICKLES: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The PRESIDENT: Order! As this is a bill to amend the Constitution Act and provides for an alteration to the constitution of the Legislative Council, the second and third readings are required to be carried by an absolute majority. There being an absolute majority, I will put the question.

Bill read a second time.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Freedom of Information Act 1991; and to make consequential amendments to the Local Government Act 1934 and the Roxby Downs (Indenture Ratification) Act 1982. Read a first time.

The Hon. R.D. LAWSON: I move:

That this bill be now read a second time.

This bill is being introduced for the purpose of discussion and consultation over the forthcoming adjournment. I seek leave to have the second reading explanation incorporated in *Hansard* without my reading it.

Leave granted.

> The Freedom of Information (Miscellaneous) Amendment Bill 2001 represents the Government's commitment to open and accountable government and its support for an effective freedom of information regime. The Bill includes provisions to reduce complexity and provide quicker finalisation of applications, greater transparency in the process, and a greater emphasis on the public interest in making information available. It complements the implementation by the Government of new principles for the public disclosure of the

major contracts for goods, services and works. These principles are incorporated in the policy document issued in March 2001, *'A New Dimension in Contracting with the South Australian Government'*.

Given the considerable interest in this matter, the Government is introducing this Bill with the view to encouraging further consultation. The Government would welcome comments on the Bill and intends to allow a reasonable period for such comments to be received.

The Bill is one aspect of the implementation of the Government's response to the report on the Act issued in October 2000 by the Legislative Review Committee. A second aspect is the provision of a centrally coordinated program of education, training and accreditation to be implemented throughout all sectors affected by the Act.

In order to meet some of the criticisms of the Legislative Review Committee concerning the current operations of the Act, the Government wishes to promote a stronger application of judgement in reaching determinations. Expanding the objects of the Act is an obvious way of highlighting this. However, the objects already provide that discretion under the Act should be exercised to favour disclosure of information. So, the Government has looked to mechanisms within the Act which support using that discretion. The Bill provides for a wider application of the 'contrary to the public interest' tests in the various classes of exempt documents. In addition, the Bill requires agencies to be specific about how this test has been used when documents are refused on such grounds.

The Bill provides for a reduction of time for agencies to deal with applications, from 45 days to 30 days. This is a substantial change. During 1999-2000, within the State Government, just 51 per cent of applications were dealt within 30 days. (The comparable figure for Local Government is 70 per cent.) Most agencies will need to review their work management processes to achieve a faster turnaround time and to clearly demonstrate the need for extended time.

It is accepted that there should be provision for extending the time for response to allow, for example, protecting privacy or other legitimate interests of third parties. The Bill allows for an agency to extend the 30-day period, having regard for the volume of documents, the length of the search, or the need to consult with third parties. That extension requires a determination, by the agency's chief executive, in the form of a written notice to the applicant within 20 days after the application was received. Thus, such extensions are to be high-level decisions for agencies. An applicant who is dissatisfied with the delay in getting the information due to the grant of an extension may appeal to the Ombudsman. This requirement will provide stronger assurance that applications are being dealt with in a timely way. At the same time, this mechanism accepts that there are circumstances where agencies need more time to provide a full response and to protect the interests of other people.

The definitions now include 'accredited FOI officer', defined as an agency officer who has completed training approved by the Minister, who has been designated in this role by the principal officer of the agency, and who holds a senior position in the agency. (The term 'accredited FOI officer' rather than 'principal FOI officer' avoids confusion with the 'principal officer', or chief executive of the agency.) This level of decision-making is already in place in some agencies. In others, however, it will represent a substantial shift. The accredited FOI officer can be the principal officer—recognising that for smaller agencies delegation below the principal officer may be unnecessary or impracticable.

Under the Bill, all applications—both for information and amendment of records—will need to be dealt with by an accredited FOI officer.

The Bill specifies the greater detail required from agencies in their reasons for refusal. In addition, the notice from agencies is required to show 'the findings of any material questions of fact underlying the reasons for the refusal, together with a reference to the sources of information on which those findings are based'. Agencies which determine to withhold any document on the basis that its disclosure would be contrary to the public interest are required to specify the reasons for this view.

The Bill specifically empowers both the Ombudsman and the Police Complaints Authority to seek a settlement of an application during external review and requires co-operation from the parties during the review process.

To provide greater clarity over the scope of the *Freedom of Information Act*, the Bill amends its definition of 'agency' to align closely with that in the *State Records Act*. This is appropriate given the linkage between sound record management practices and ready accessibility to official records.

A significant addition to the scope of the proposed Bill is the inclusion of Local Government—as a consequence, part VA of the *Local Government Act* will be repealed. This change has required many amendments of a technical nature. Examples of this are:

- clause 4 distinguishes between a 'State Government agency' and 'agency' because of the different relationships with the Minister;
- clauses 28, 30 and 32 distinguish between 'Ministerial certificates' and 'agency certificates';
- clause 34(h) extends the provision whereby information about an elector not recorded on an electoral roll applies to the *Local Government (Elections Act)*.

During the recess, the Government envisages some refinement to both the definition of 'agency' and the list of exempt agencies (Schedule 2) of the Act. For example, the Bill includes the three universities in Schedule 2, pending advice on this from the three university chancellors.

There is an explicit requirement for the Minister administering the Act 'in consultation with the Ombudsman and the Police Complaints Authority, [to] develop and maintain appropriate training programs to assist agencies in complying with this Act'.

In addition, making the changes outlined in the Government's response to the Legislative Review Committee's report, the proposed Bill also includes a number of machinery changes. The main provisions are:

- the publication requirements for agencies are consolidated in a single annual information statement;
- agencies have clear discretion to waive, reduce or remit any fee or charge in addition to those circumstances where it is mandatory to do so;
- the Police Complaints Authority is able to deal with appeals against fees and charges (just as the Ombudsman can);
- agencies are specifically empowered to make a legal determination to give access to a document after the prescribed period for dealing with an application;
- agencies may appeal, at their cost, and on a point of law only, to the District Court against a direction from the Ombudsman or Police Complaints Authority;
- a standard 30-day period applies for lodging applications for internal reviews and external reviews;
- greater protection is provided for information about (or from) juveniles and people with mental illness, impairment or infirmity.

Such changes eliminate ambiguity in the Act and improve its effective operation.

I commend this bill to honourable members.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Objects

The proposed amendments to the objects provision are consequential to the inclusion of local government as an agency under the principal Act.

Clause 4: Amendment of s. 4—Interpretation

This clause makes various consequential amendments to the definitions in section 4 of the principal Act and—

- defines the new concept of 'accredited FOI officer';
- updates and broadens the definition of 'agency' to include—
  - councils;
  - any incorporated or unincorporated body established for a public purpose by or under an Act or established or subject to control or direction by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown or a council;
  - a person or body declared by the regulations to be an agency.

Clause 5: Insertion of s. 5A

The clause proposed to be inserted makes it clear that the Act does not apply to the Parliament or to Parliamentary Committees.

Clause 6: Amendment of s. 8—Defunct agencies

The principal Act gives some functions to 'the Minister' (ie. the Minister administering the Act) and some to the 'responsible Minister' for an agency. This clause amends the existing reference in section 8 of the principal Act to 'the Minister' to a reference to 'the Minister administering the Act', to avoid any possible confusion.

Clause 7: Amendment of s. 9—Publication of information concerning agencies

This clause amends section 9 of the principal Act to—

- remove the requirement to publish information summaries;
- to make provision for the publishing of information statements by councils and other non-State Government agencies.

Clause 8: Amendment of s. 10—Availability of information statement and policy documents

This clause amends section 10 of the principal Act to remove the reference to an information summary and to remove an obsolete subsection.

Clause 9: Amendment of s. 11—Application of this Part

This clause amends section 11 to ensure that where an agency is exempted from Part 2 by regulation, the exemption only operates if the conditions of the exemption are complied with.

Clause 10: Amendment of s. 14—Applications to be dealt with by certain persons and within certain time

This clause amends section 14 of the principal Act so that applications for access to an agency's documents will be dealt with by an accredited FOI officer of the agency and must be dealt with within 30 days of the receipt of the application rather than the present 45 days.

Clause 11: Insertion of s. 14A

This clause inserts a new provision allowing the principal officer of an agency to extend for a reasonable period the time within which an application must be dealt with where—

- the application is for access to a large number of documents or necessitates a search through a large quantity of information and dealing with the application within that period would unreasonably divert the agency's resources from their use by the agency in the exercise of its functions; or
- the application is for access to a document in relation to which consultation is required and it will not be reasonably practicable to comply with Division 2 within that period.

The clause also provides for notification of such an extension and makes an extension a determination for the purposes of the Act (so that review and appeal rights will apply).

Clause 12: Amendment of s. 17—Agencies may require advance deposits

This amendment is consequential to clause 10.

Clause 13: Amendment of s. 18—Agencies may refuse to deal with certain applications

The first proposed amendment to section 18 is consequential to clause 11. The second proposed amendment would allow agencies to refuse to deal with vexatious applications.

Clause 14: Amendment of s. 19—Determination of applications

The proposed changes to section 19(2) are consequential to clauses 10 and 11. Proposed subsection (2a) makes it clear that agencies can continue to deal with applications beyond the time limits prescribed and that a decision to grant access that is made out of time is still a determination under the Act.

Clause 15: Amendment of s. 20—Refusal of access

This is consequential to clause 30.

Clause 16: Amendment of s. 21—Deferral of access

This clause is consequential to the inclusion of non-State Government agencies (such as councils) under the principal Act.

Clause 17: Amendment of s. 23—Notices of determination

This clause amends section 23 to require agencies to provide an applicant with further details on the grounds for a refusal of access.

Clause 18: Amendment of s. 25—Documents affecting intergovernmental or local governmental relations

This clause is consequential to the inclusion of councils under the Act.

Clause 19: Amendment of s. 29—Internal review

This clause amends section 29 to match up the time limit for instituting an internal review with the time limit for instituting an appeal (which is to be 30 days under later clauses), and to clarify that there is no internal review if the determination was made by the principal officer or at the direction of the principal officer or a person to whom the principal officer is responsible.

Clause 20: Amendment of s. 32—Persons by whom applications to be dealt with, etc.

This clause provides that applications for amendment of records will be dealt with by an accredited FOI officer of the agency and must be dealt with within 30 days of the receipt of the application rather than the present 45 days.

Clause 21: Amendment of s. 34—Determination of applications

This amendment is consequential to clause 20.

Clause 22: Amendment of s. 38—Internal review

This clause amends section 38 to match up the time limit for instituting an internal review with the time limit for instituting an appeal (which is to be 30 days under later clauses), and to clarify that there is no internal review if the determination was made by the principal officer or at the direction of the principal officer or a person to whom the principal officer is responsible.

Clause 23: Amendment of s. 39—Review by Ombudsman or Police Complaints Authority

This clause—

- provides a time limit of 30 days to institute a review;
- provides for resolution through conciliation;
- requires the parties to a review to cooperate in the process and to do all things reasonably required to expedite the process;
- allows the Ombudsman or Police Complaints Authority to dismiss an application if the applicant is not cooperating.

Clause 24: Insertion of Division

This clause inserts a new Division 1A into Part 5 of the principal Act allowing an agency to appeal to the District Court against a direction of the Ombudsman or the Police Complaints Authority on a question of law. The parties to such an appeal are the agency and the person who applied for the review by the Ombudsman or the Police Complaints Authority. The agency is, however, required to pay the costs of the other party.

Clause 25: Amendment of heading

This clause is consequential to the insertion of Division 1A.

Clause 26: Amendment of s. 41—Time within which appeals to be commenced

This clause reduces the time within which an appeal to the District Court must be commenced from 60 days to 30 days.

Clause 27: Amendment of s. 42—Procedure for hearing appeals

This clause is consequential to the inclusion of councils under the Act.

Clause 28: Amendment of s. 43—Consideration of restricted documents

This clause is consequential to the inclusion of non-State Government agencies (such as councils) under the Act.

Clause 29: Amendment of s. 44—Disciplinary actions

This clause is consequential to the inclusion of non-State Government agencies (such as councils) under the Act.

Clause 30: Substitution of s. 46

This clause substitutes a new section 46 in the principal Act—

- to provide for the issue of certificates by non-State Government agencies (called 'agency certificates') in relation to restricted documents and to ensure that the Minister receives notice of the issue of such a certificate (consequentially to the inclusion of such agencies under the Act); and
- to make it clear that the status of a document as a restricted document cannot be questioned in proceedings otherwise than as provided in section 43.

Clause 31: Amendment of s. 53—Fees and charges

This clause amends section 53—

- to ensure that regulations may provide for a reduction of fees (rather than just waiver or remission);
- to make it clear that agencies may waive, reduce or remit a fee or charge in circumstances other than those prescribed by regulation;
- to empower the Police Complaints Authority to review a determination of a police officer or the Minister responsible for South Australia Police relating to a fee or charge.

Clause 32: Amendment of s. 54—Reports to Parliament

This clause provides that the Minister administering the principal Act must include details of agency certificates in the annual report to Parliament.

Clause 33: Insertion of s. 54A

This clause inserts a new provision in the principal Act ensuring the development of appropriate training programs for agencies.

Clause 34: Amendment of schedule 1

This clause makes various amendments to Schedule 1 of the principal Act as follows:

- A new clause 3 is substituted. This is consequential to the inclusion of councils under the Act.
- Clause 4 is amended so that some of the categories of documents currently listed as exempt in subclause (1) would only be exempt if disclosure was, on balance, contrary to the public interest and to update a reference in subclause (3).
- The proposed amendment to clause 5 is consequential to the inclusion of councils under the Act.
- Clause 6 is amended to provide that a document is exempt if it consists of information concerning a minor or a person suffering from mental illness, impairment or infirmity or concerning the family or circumstances of such a person, or information furnished by such a person, and if the disclosure of the document would be unreasonable having regard to the need to protect the person's welfare.

- The proposed amendment to clause 6A is consequential to the inclusion of councils under the Act.
- Clause 7 is amended so that the exemptions relating to documents consisting of information with a commercial value and documents consisting of information concerning the business, professional, commercial or financial affairs would only apply if disclosure was, on balance, contrary to the public interest.
- Clause 8 is amended so that the exemption relating to documents containing matter that relates to the purpose or results of research would only apply if disclosure was, on balance, contrary to the public interest.
- Clause 18 is amended to update references.

Clause 35: Amendment of schedule 2

This clause updates the list of exempt agencies in Schedule 2.

Clause 36: Consequential amendments to other Acts

This clause provides for the amendments to other Acts specified in the Schedule.

Clause 37: Transitional provisions

This clause makes various transitional provisions.

SCHEDULE

Consequential Amendments to Other Acts

The Schedule repeals Part VA of the *Local Government Act 1934* and amends section 12 of the *Roxby Downs (Indenture Ratification) Act 1982* to ensure the *Freedom of Information Act 1991* applies to the municipality.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2016.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): I rise to speak on this bill, the last Appropriation Bill before the election and probably the last that I will ever deal with.

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: Yes, I might just have one or two reminiscences. This budget has been handed down at a time when I think most South Australians will consider themselves to be doing it tough in all sorts of areas—from inadequate health care and education to the GST and the electricity crisis. This government has claimed that it is a financially competent manager, but if this budget is anything to go by it has failed the test.

John Olsen and his Treasurer have brought this all on themselves with their ideological determination to sell ETSA despite the fact that they had no mandate, and the business community and the people of South Australia are paying dearly for it. Not only have we lost an income generating asset but we now have to cop exorbitant price hikes with the prospect of blackouts. Although there are many nails in the coffin of this government, I believe the sale of ETSA will prove to be its undoing. That is becoming clearer with each passing day.

It is not every day that two of the state's prominent business leaders—Hugh Morgan and Ian Webber—are driven to the point of publicly denouncing the current state of affairs in this state regarding electricity. Interestingly, these two men originally had very different positions on the subject but they have both drawn the same conclusion—that electricity prices are killing business and economic growth.

It is ironic that Hugh Morgan's comments were made while speaking at an SA Great lunch on Wednesday 18 July. Let us briefly examine what he said. It appears that the issue for Mr Morgan, whose company Western Mining Corporation is the biggest power user in this state, is that power prices were traded for securing a 'handsome price' for ETSA. In an *Advertiser* article of 20 July Mr Morgan says:

> In doing this it has made a trade-off—less debt to service the higher costs of doing business in South Australia.

These comments are made despite Mr Morgan's earlier public praise for the privatisation of ETSA and Optima. It just goes to show how devastating the blow has been. Once it hit their hip pocket nerve they were very quick to change their minds. According to the media reports (*Advertiser* of 19 July), Mr Morgan said:

> The government, encouraged by its minders to fix today's issues, left us with a legacy of high-cost power threatening tomorrow's employment prospects. It is not a picture any of us should be proud of. We have paid too much, we pay too much, the community pays too much. . . As you can see I'm a bit irritated.
>
> It was imperative that an interconnection with New South Wales was established and the interconnection with Victoria upgraded. If South Australia cannot compete with Victoria and New South Wales in electricity prices then it will fall further behind.

Peter Vaughan, Chief Executive of Business SA, agrees. According to the *Advertiser* of 20 July he said:

> The government's priority in privatising the electricity assets was clearly to achieve the best price possible. . . however it came at the expense of access to cheaper electricity interstate through upgrade connections.

Unlike Hugh Morgan and others, Ian Webber is one business person who had reservations about the possible outcomes of privatisation and expressed them at the time. Let us examine what Mr Webber said in his 1998 letter to the government. It is as follows:

> I have become seriously concerned at the lack of persuasive argument to justify the withdrawal of support by the South Australian government for Riverlink (SANI) project as I believe this offers South Australia an unrivalled opportunity to source its power on nationally competitive terms.
>
> I understand that there is substantial under-utilised capacity available in New South Wales that could provide our state with a long-term source of electricity at highly competitive rates. This would be to the obvious advantage of our manufacturing industry and thus to future employment prospects.
>
> I was surprised that the government chose to propose the construction of a new generator at Pelican Point in lieu of persisting with support for Riverlink. This seems to me to have two important consequences for the South Australian economy:
>
> 1. The construction of a new power station will result in power costs above the national average because of the need to recover the significant investment in such a project.
> 2. The absence of Riverlink will prevent South Australia from benefiting from access to highly competitive electricity prices brought about by the substantial excess capacity existing in the eastern states. South Australian consumers will face higher power costs as a result.
>
> If South Australia is to continue to grow as a manufacturing state our companies must have access to power at nationally competitive prices. . .
>
> As you are aware, I have publicly supported the privatisation of South Australian power assets but I am concerned that in taking steps to maximise the sale value of these assets the long-term manufacturing competitiveness of this state will be compromised.

Prophetic words. It is not only the manufacturing industries that are suffering but in relation to my own shadow portfolio area of the arts it is easy to sometimes forget that our flagship organisations such as the Museum and the Art Gallery are among the top 10 users of electricity in the CBD.

While on the subject of the arts and the budget, the public is rapidly learning of the million dollar losses faced by the Adelaide Festival and the Adelaide Festival Centre. Apart from the obvious concerns this raises in terms of the financial viability of these organisations, it is equally disturbing to learn that there was no public disclosure or accountability on the government's part until very recently.

I first raised this issue back in early April and put the matter on the record by asking the minister a question about the Festival. I then asked a similar question about the Festival Centre a week later. The minister has claimed she made reference some years ago to some losses in relation to the Festival Centre, and, yes, we are aware of the failure of certain productions, some of which did not even make it to Adelaide. I would stress that it is always a risky business in the arts to try to predict what things might be popular and what things might not be. I guess I would not like to be in the position of having to decide which of these things we should go ahead with, but certainly some of them did not even hit the decks in Adelaide.

On the subject of the Festival, it appears that a decision was made by the Festival and the government not to fully publicly disclose the losses in order to minimise bad publicity which might impact on the 2002 Festival. We have also learned, according to Nicholas Heyward, the Festival General Manager, that the minister was advised in December 1999 of projected losses of $550 000. I guess it is old news that today the minister appeared before the Economic and Finance Committee, and I guess the rest of the issue is probably history.

One of the things that I would like to stress is that the minister has accused the Labor Party of trying to undermine the Festival and its corporate sponsorship. I would like to say that I have never ever opposed the Festival of Arts. In fact, I am a great advocate of everything to do with arts in this state, as I think over a long period of time we have had a bipartisan view about the arts. But it is a sensitive issue, and I think that it is something that we have to be very open about. I think it is true to say that there is a bit of an uncertainty about the forthcoming Festival.

I guess it is a very brave new kind of a Festival that is being undertaken by Peter Sellars, and all I can do is to wish it well. I wish it well, and obviously it may well be a festival that is in the term of a Labor government. The rumours are that we will be going to an election some time this year, and it will perhaps be a Festival that a Labor government will have to deal with. So, Mr Sellars has bold new ideas about how we run festivals, and we have had bold new ideas before. Some of them have been good and some have been not so good, but I think one of the things that we have to deal with is to understand that there has to be a measure of public accountability, whether it is in the arts or any other area, and these are some of the issues that have been vexing my colleague in another place, the member for Hart, on the Economic and Finance Committee, and I do not criticise him for wishing to pursue this with due diligence.

The Hon. Diana Laidlaw: You're not critical of his behaviour or his questions or his intent?

The Hon. CAROLYN PICKLES: I think that the Economic and Finance Committee is set up to investigate certain things, and there was a motion before that committee and it has investigated it.

The Hon. Diana Laidlaw: And you're not critical of his intent, his behaviour?

The Hon. CAROLYN PICKLES: I would like to—

The Hon. Diana Laidlaw: You're ignoring the question.

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: I would like to move on now to something in a more pleasant area. Last Friday I visited the film set of *McLeod's Daughters*, which is a production being produced by Channel 9. It was very interesting and this could be a very great feather in the cap for South Australia. I understand that there are some 22 episodes that will be going ahead, and I also understand that Hallmark, which is an American company, has purchased the rights to productions, and it was interesting to learn from some of the artists how they actually have to change the language when they are dealing with the American market. It seems that some of the Australian type of swear words, if you like, that we use very freely in our society are just not acceptable to Americans.

I sincerely hope that all honourable members will view this South Australian production. I understand that the actors have been under contract for three years, which means that we are looking forward to some further episodes of this production, and I hope it will be very successful. I have not seen one, obviously, as it is being screened in August, I think, but I believe this is something that will go down very well overseas and, who knows, it might even be a competitor for *Big Brother*.

I would like to deal now with something in passing about the failure of this parliament to deal with prostitution law reform. I introduced a bill back in 1985, 1986, and I would just like to remind honourable members of my motivation for doing such. It was a follows: the protection of young people from involvement in the sex industry; the protection of adult sex workers from violence and intimidation; the regulation of advertisements for sexual services; to control the location of brothels; and, importantly, the removal of criminal penalties for off-street prostitution. I believe that this parliament's failure has let down those in our society who need leadership most. There is the bigger picture about the role of the state in regulating individual life choices that does concern me.

When I look back on my years in parliament, from 1985 until the present day, I am staggered that we have not come to terms with this not terribly complex issue—it is a big social issue but it is not terribly complex. Later this evening, or perhaps tomorrow, we will deal with another issue that has been in this parliament on a number of occasions, and that is the issue of euthanasia, and I can only wish the Hon. Sandra Kanck well in her present effort to get this bill through. If it does not go through, I can assure the honourable member that I will be outside parliament wishing her well—and any other member who wants to try to move something forward on this issue.

I also congratulate the organisers involved in the Festival of Ideas. I think it is a terrific event and something that people in the community are crying out for because our media allow politicians—or anybody else, really—to have only a five second grab on issues. We have very few current affairs programs and I think the Festival of Ideas demonstrates very clearly that people want to talk about difficult concepts and ideas and want to listen to terrific speakers, and also want to interact with those speakers. I guess the interactions that go on behind the scenes at the Festival of Ideas are more important in many ways because they express how Australians and South Australians think about issues perhaps better than what goes on on the stage.

One of the issues dealt with was the subject of addiction and intoxication. There were a number of excellent speakers, one of whom was the New South Wales Director of Public Prosecutions, Mr Nicholas Cowdrey QC, who was advocating a far more tolerant view in relation to the state's view on drugs. Effectively, he and others were saying that the war on drugs has been lost and the answer is not a tougher stance in relation to law and order. I suppose, belatedly, I urge this

parliament, and successive parliaments, to treat this issue of drug addiction with the care that it deserves. It is a health issue and not a political pawn.

So what do we have today? Today—on a day when I think that we should be ashamed of what has occurred in relation to the report of the Auditor-General—we have this amazing statement by the Premier that he will reduce the number of marijuana plants that one can grow to only one which, in effect, means that we now say that all growing of marijuana is illegal. Anyone who knows anything about botany would know that growing just one plant is a fallacy. You cannot do it. He should be honest and just say, 'I want to outlaw the growing of marijuana.'

In relation to hydroponics, they will all have to procure a licence. I know that the Premier has done it only as a diversionary tactic but, quite frankly, it offends me. We have had the law relating to 10 plants since 1986, so we have had a long time to judge it. The government, for whatever reason, decided that it would go to three plants. The regulation was then the subject of a disallowance motion in this place. I stress that it was supported by all political parties in this place—the Hon. Terry Cameron, the Hon. Mr Crothers, the Hon. Mr Xenophon, the Labor Party, the Australian Democrats, and a member of the Liberal Party.

Today, the Premier in his contribution talked about a Labor Party policy on this issue. We do not have one: we simply do not have one, because it is a conscience issue in my party, as I thought it was in the government's party. It is interesting how the Liberal Party will crack the whip when it suits its purposes, and I am sure that some members of the Liberal Party will be horrified about what the Premier has advocated today in respect of this issue. It goes against international views on this issue; it goes against what is happening in most Australian states; and it is simply a diversionary tactic to try to take the public's mind away from what is really happening in this state today.

I think it is disgraceful, because young people are dying because of drug addiction, and it is no good to say, 'Let's chuck them all into prison.' We have to deal with the issues that cause addiction and we have to deal with them in a sensible manner. We have to be very open about it and perhaps try to work through some kind of bipartisan-tripartisan viewpoint on this and not use it as a political pawn. I think the public is now very confused, indeed, about what the law is in relation to marijuana. I fear that a lot of young people, in particular, will end up in the courts and subsequently possibly in gaol because they simply do not understand the law because this government cannot make up its mind what it wants to do.

I know the Police Commissioner has been advocating the licensing of hydroponics, and one wonders sometimes who is leading whom in this state. I would have thought that it was the government that should be setting policy, not the Police Commissioner, who has been very vocal indeed about his views on this issue. It is interesting that he had some rather different views on drugs when he was at a conference in the past couple of years.

Another area in which the government chose to bring up a controversial issue to try to hide what was actually happening in this state occurred recently during the health minister's estimates committee when he chose to raise the issue of what happens in the area of autopsies. Quite frankly, this became a media feeding frenzy and I sought, very carefully, to see whether there was a journalist in South Australia who could give a balanced view. I do not always agree with the views of Miles Kemp but on this occasion he gave a very balanced viewpoint in an article of 4 July entitled 'Body of Evidence'.

I have subsequently talked to people who have had to deal with the outcome of this incredible issue that hospitals have had to deal with in regard to patients from 20 years and 30 years ago who lost children through a miscarriage and who are wondering what happened to their children and whether an autopsy was performed upon them. I can understand the sensitivities of those people. I think it is really quite tragic that we have politicians who will use people in this particularly difficult way.

I remind honourable members of some of the breakthroughs that we have had because we have used pathology and autopsies. Historically, it has been the case that every new breakthrough that has occurred in modern science, going back a couple of hundred years, has occurred because people have performed an autopsy on the whole body or certain parts of the body to find out why death has occurred and they have then tried to recommend ways in which it could be changed. The article, in reference to the President of the Australian Medical Association, Dr Michael Rice, states:

> When he began work with childhood leukaemia in 1964, the disease had a 100 per cent death rate.
>
> He still works in the field—and now there's a 75 per cent survival rate.
>
> 'We found the cause of death was brain involvement and as a result of the study of the children's brains we learnt how leukaemia behaves and we learnt that we had to do things to prevent the disease spreading to the brain,'. . .
>
> Dr Rice says the retention of 284 baby hearts at the Women's and Children's Hospital also led to medical advancements.
>
> 'Cardiac surgery is a relatively recent discipline and surgeons learnt details of very complex heart defects by careful examination of hearts, and have learnt how to remedy them.'

We changed the law to require parents' or relatives' consent to an autopsy but what I feared might have happened is going to happen. I understand that there is a great fear in the medical profession that the recent media hype—and unfortunately people do not usually read articles that are as long as the one by Miles Kemp: they usually just read the headlines and work from there, and watch the television—may prevent some people from giving approval for an autopsy. It is always a very difficult and sensitive area to deal with when parents and family members are facing the death of a loved one to give permission for an autopsy but it is vital for medical research that we allow this to continue to be performed.

I think it is a very retrograde step when we use the parliament as an area in which we raise these issues as some kind of public display to prevent an examination of what is actually happening in our health system. I understand that the pathologists deal with these issues very sensitively. Let us face it, it cannot be a very easy thing for a pathologist—many of whom, I understand, are women these days—to deal with the dissection of a small child's body. I, for one, would say that, if you give your permission for this to occur, it is hopefully a great step forward in looking at some of the issues that are vexed in relation to moving forward on diseases.

So, while I do not advocate doing these autopsies without permission, I think that we should have a wider understanding of the benefits of performing an autopsy—the benefits of, perhaps, donating one's body to universities or to medical research and not being squeamish about it, because I understand that they are dealt with, in the main, very sensitively and it is the one or two cases that we have huge media hype about. I think that the minister for health did no favours to the

state of South Australia when he decided that it was much more important to have a bit of a headline than to look at the budget problems in relation to health, which I understand are quite enormous.

There are many other issues that one could touch on today. However, I think it is important to note that one of the issues about the budget is that it is really difficult to compare this year's budget with last year's budget, or the budget before that, because this government has undertaken a role of deception in relation to the budget. It presents it very differently year after year; it is not consistent in the way it presents the budget and I think that this is one of the things that we should look at as some kind of reform in terms of openness in the way we present the budget so that it is simple to compare this year with last year, and the year before. It is not a complex issue.

The other thing that I think is important is that in my recollection—and the Hon. Paul Holloway would remember this more than I do from when he was in government in another place—the Auditor-General used to appear in the budget estimates committees—

The Hon. P. Holloway interjecting:

The Hon. CAROLYN PICKLES: Yes, and I understand that in the federal parliament he appears before the estimates committees. It would seem to me that that is not a bad thing given what we have had today with the demonstration of some very shocking dealings with the Auditor-General by, obviously, two members of parliament, as yet unnamed—I think we can probably guess who they are. So I am hopeful, as the government has given an undertaking, that it will try to remedy this, but I will wait with bated breath to see whether that will happen. But I think it is a pretty shocking state of affairs to have the Auditor-General in this state dealt with in this shabby manner. I can recall one other state that did this: in Victoria, the Kennett government treated the Auditor-General with absolute contempt. One can only hope that what happened to Jeff Kennett in Victoria will happen to this government very soon.

The Hon. P. HOLLOWAY: The first comment that I wish to make in speaking to the Appropriation Bill is that I think that it is a great pity that under the new timetable for the budget—and the budget is brought down in May rather than in August, as happened previously—there is very little time for members of this Council to use the Appropriation Bill as a forum to discuss a broad range of issues. Under the old timetable of four or five years ago, with the budget being introduced at the start of a session, there was plenty of time for members of parliament, particularly backbench members of parliament, to use the Appropriation Bill to raise matters of interest in their electorate. In earlier parliaments we also had the Supply Bill. We passed the Supply Bill yesterday, but supply bills seem to be introduced into parliament later and later. If we are to have a budget brought down in May, and if we are to have a supply bill introduced as well, it would be desirable that that bill be introduced right at the start of the calendar year so that it provides an opportunity for members to debate more general issues. The dilemma now is that, given the time that it takes for the budget, the Appropriation Bill, to go through the estimates committees in the House of Assembly, it leaves very little time for members here to debate it.

We know what happens in weeks like this: it is the last week of the parliament and there are a dozen or more bills (I think we had 18 bills on the *Notice Paper* yesterday) and dozens of private member's motions that need to be dealt with. For most members in this place, it really does reduce the opportunity that they have to use the Appropriation Bill in the way that it was traditionally used, and that is to raise matters of importance for their electorate.

I know that in the other place some of the Independent members—I think the member for Gordon, for example—suggested that we should do away with making speeches on the Appropriation Bill, or at least have them incorporated in *Hansard*, but I think that would be a great pity. I am a bit of a traditionalist on this. I think—

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

The Hon. P. HOLLOWAY: Well, it might have been the Address in Reply, but I think the argument is the same, because the Address in Reply and the Appropriation Bill are just two of the measures—they are the two opportunities during the year—under which members of parliament, particularly backbench members who do not get many opportunities (and even more so in the House of Assembly, I might say), can raise issues to that effect—

The Hon. R.I. Lucas: We have introduced grievances every Wednesday.

The Hon. P. HOLLOWAY: Yes, that is an innovation, and five minutes is a very useful time for raising small matters, but often—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The honourable member might be right but, if members look back to past parliaments, often some of the best speeches have been made during the Address in Reply or Appropriation Bill debates when members have given a detailed exposé on something which is of interest to them and which they may not have the opportunity to address when speaking specifically to a bill before parliament. Anyway, I will not go any further with that matter, other than to say that I think it is unfortunate that, on occasions such as this, for practical reasons, we cannot use the Appropriation Bill to debate as wide a range of subjects as we might normally because so many other things are on the agenda.

The other comment I wish to make about the budget for 2001-02 echoes what I have said in past budgets. Four or five years ago before the new form of budget presentation came in, through the budget papers members of parliament were provided with detailed costings in relation to all the administrative units of government. Indeed, I can remember in the times of the previous government in the early 1990s in the health area, for example, that every budget was accompanied by what was called a blue book and a gold book. The gold book and blue book gave a breakdown of the cost and expenditure at every hospital and health unit in the state. It was a detailed breakdown. It also included information such as the number of patients who were catered for by the hospitals. It gave breakdowns and statistics on the type of admissions, how many stays and so on. It gave information on waiting times, elective surgery and so on.

There were also detailed financial breakdowns for every one of those units. Of course, they were historical costs maybe, but that was the information that was available in the health sector several years ago, or at least during the time of the previous Labor government. Unfortunately, when the Liberal government came to office, it gradually curtailed that information. Then, four or five years ago, not only had that information evaporated completely but we then reached the stage where the government started aggregating its information, so it was no longer possible to split out the detailed

information for individual units. For example, in the health budget, instead of having the detailed information that used to be in the blue book and the gold book for every single health unit in the state, you would simply get an aggregated amount of $1.7 billion (or whatever the figure is nowadays), which covered all the hospitals.

Can anyone tell me that that is an improvement in budget presentation? Can anyone tell me that we as members of parliament or the public of this state are better off as a result of that aggregation of information? Certainly not. It is a matter which I raised in past budget speeches and which I will keep doing—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Sadly, it will be very difficult to change it. It easy to get rid of that information—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, I am not and I will tell you why, because—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I will tell you what I will do: to the extent that it is within my power, I will certainly—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, I will certainly endeavour to give a better presentation of information than we have now. One of the worst features of the new budget presentation is how the information cuts across administrative units. I have given some classic examples in the past that were in portfolios for which I have had the shadow responsibility. One of those is Primary Industries, or, in my case now, Mines and Energy. If I wish to find out information from the budget about how much is spent on compliance in the Mines and Energy portfolio, what do I do? If members look up PIRSA data, what they get is aggregated data. You are told the number of inspections that will be done in compliance throughout the department, and you might be told what the total expenditure is or how many inspections are made.

The only problem with that, as I have pointed out in the past, is that all those inspections that happen in PIRSA might include things as diverse as a major safety inspection at Roxby Downs. It might be how many boots you open at a fruit-fly block to check how many people are bringing fruit through. It may include examinations at abattoirs, fishing inspections and, indeed, a whole range of other things that could occur in the portfolio. They are all aggregated together under this budget presentation in a compliance area. Rather than having, as you would have had in the past, the budget for the fisheries sector, the agricultural sector and the mining sector, now you have this information crossing over each portfolio and it is really useless. The point I am making is that the information is totally useless.

However, worse than that, what this government has been doing, apart from shifting to this new form of budget, is changing the data every year, so that you cannot compare one year with the next and you cannot tell what is going on. There is a continual re-adjustment of the elements of each budget line, so that it becomes virtually impossible to compare them with the year before. We were told that, when this new system was introduced, it would provide a new high level of accountability for the government. We should have known better, and I guess we did know better—

The Hon. R.R. Roberts: They said that they weren't going to sell ETSA, too.

The Hon. P. HOLLOWAY: Yes, they weren't going to sell ETSA. Today we have also seen from the Auditor-General just how unaccountable this government is. We have reached the stage where ministers of this government are using taxpayers' money to go to court to prevent the Auditor-General investigating the expenditure of taxpayers' money. Now if that is not the most absurd situation, I do not know what it is. Hopefully, we will at least be able to deal with that issue tomorrow. When you look through some of the data that you now get in the budget, you have problems such as this. Again, referring to compliance services in the Department of Primary Industries, which covers Mines and Energy, Fish Watch, agricultural inspections and so on, certain targets are given for the next year.

For instance, last year there were the targets for 2000-01, and then you have estimated results, but what do you find? Whereas we were given targets last year, when you look at it this year there is a little note for the end of year 2000-01 estimated result. The little note (a) says:

> Where new performance measures have been introduced data cannot be provided for 2000-01.

The only problem is that last year targets were provided. Clearly this process (as limited and as problematic as it is) is not even living up to the very poor standards that it set for itself. I make the point again—and I will keep making it—that the new budget presentation we have is the very antithesis of accountability for the government and it has been an alarming decline over the past four or five years.

It is regrettable that, apart from parliamentarians, there are probably few others in the community who depend on reliable, detailed budget information, and for that reason, unfortunately, we receive very little support for these things. Perhaps in other states, which have a more active media and more active newspapers, there would be much more outspoken opposition to what is happening in this state and it would be much more difficult for the government to get away with what it has done.

If we turn to the budget, what we can say is that this is very much an election budget. This is the last budget that the Olsen government will present before it goes to an election. It is the eighth budget that the Liberal government has produced since it won office in 1993. The first point one can make is: how little progress has been made in that time. This is an election budget that essentially is aimed at regional and older South Australians. Just like the federal budget that preceded it by a few weeks, it is targeted purely in political terms. This budget makes some tenuous claims to have achieved key objectives of the government's four year financial plan but, if members look at the data of this budget, it relies on the commonwealth budget initiatives to improve our economic growth, and I will say more about that in a moment.

The other thing about this budget is that there is very little in it for South Australian families and there is no attempt to stop South Australia's increasing reliance on revenue raised in other states, that is, through the GST and commonwealth budget payments. What we notice from the budget is that there is a cash operating deficit of $134 million for the non-financial public sector, which is partly funded by additional borrowings of $117 million, and that is shown in table A9 in Budget Paper 3. These borrowings have been attributed to SA Water and targeted voluntary separation packages. Rather than use that figure, the government prefers to refer to its cash-based, non-commercial sector result, which is a $2 million underlying surplus, thus nominally achieving one of the key objectives of its four-year financial plan.

The accrual-based operating result of the general government sector is a $38 million deficit and the cash-based results for the general government and non-financial public sector in the uniform presentation framework both indicate even larger deficits of $59 million and $134 million respectively. In the year ending June 2000, the South Australian government financial assets increased by $1.1 billion due to investments of SAFA and SAAMC—the bad bank. These two entities also contributed $296 million to receipts in the 2000-01 budget. The question is, though, whether these contributions to the state finances are sustainable, and that depends on the susceptibility of these investments to economic slowdown or changes in risk.

The other point I make in relation to the budget result is that there are key assumptions that underline the budget such as the consumer price index and the figure for economic growth. Unfortunately these figures may be jeopardised by higher electricity prices and that matter is not addressed in any way in the budget. In the last few days, as electricity prices have started to pass through into the community—for sporting events, through council rates and in a number of other areas—the impact of those higher electricity prices will be to increase the CPI and they must also have an effect on reducing economic growth. That matter is not addressed in the budget and it remains to be seen, when this budget is realised at the end of the next financial year, whether or not we have been able to sustain those estimated growth figures. Unfortunately, because of the electricity impact, I suspect that we may struggle to do so.

When looking at the economic impact of this budget, we could say that the budget should have a slightly expansionary effect on the economy due to the reduction in business taxes, and the opposition has certainly welcomed those reductions in payroll tax, and so on. However, what we can say is that the budget is relying mainly on national economic factors such as the current low rate of the dollar, low interest rates and expected low inflation, although we have seen figures in the last few days that indicate that those assumptions may not be realised. We are also relying on commonwealth budget initiatives such as the first home owners' grant, which will stimulate housing development, and the commonwealth contribution through the Adelaide to Darwin railway to improve economic conditions.

What has not been addressed in the budget, as I mentioned before, is the possibility of high priced and unreliable electricity, and in many ways that will be the problem area that we will face over the remainder of this financial year and probably for the next two or three financial years beyond. I have addressed that matter in considerable detail in the past and I will not turn the Appropriation Bill debate into another electricity debate because people have probably heard enough about it, and the people of this state have already made up their mind as to the capacity of the government in that area. However, in the context of this budget speech, I mention that electricity price rises will have a negative impact on the economy of this state and the budget outcome.

The Hon. L.H. Davis: Are you going to talk about New South Wales, too?

The Hon. P. HOLLOWAY: New South Wales is a lot better off than we are because, if electricity prices go up in that state, the state government gets the revenue for them. Unfortunately, I do not have the New South Wales budget with me but I can tell the Hon. Legh Davis that the estimates for future income from New South Wales when it comes to electricity assets are very rosy. I am sure that the Treasurer of this state would love to have the figures for projected growth in the electricity dividends that are facing Michael Egan in New South Wales. Unfortunately, we do not have that.

In fact, this state is having to spend a lot more from the budget on electricity issues. For example, increasingly in the industry budget we have seen that money that usually goes to job creation and industry investment has had to go to addressing electricity infrastructure issues in the state. There has been a substitution of what would have been ETSA expenditure for budgetary expenditure in terms of industry assistance, and that should concern us. It certainly concerns the head of the Treasurer's Department of Industry and Trade, because he has made comments to that effect, and I agree with him on this issue.

To return to the revenue part of the budget, one thing I notice is that commonwealth grants have risen by 7.3 per cent in the budget. This was a result of an increase in the pool of funds available and an increase in South Australia's disability factor relative to the other states because of reduced revenue raising capacity. Of course, the Commonwealth Grants Commission assessed South Australia as having an increased disability factor due to a reduced ability to raise revenue because of slower growth in population, property values and the economy compared to the other states. Therefore, what that means is that part of the increase in commonwealth grants is really equivalent to welfare. We also note that South Australia's share of the GST pool has declined from 9.2 per cent to 9.1 per cent, which is perhaps a minor decrease, but in terms of the size of the national GST pool it is nonetheless large and it is certainly a worrying trend.

If we look at the own sources of revenue for the budget, the budget statement argues that the government has achieved its medium term goal of a competitive tax regime because it collects less tax per capita than other states. However, what we see when we look in more detail is that this is due to low revenue raising capacity rather than competitiveness. We also note that royalties are higher than in last year's budget as a result of international conditions, for example the low Australian dollar at the moment and commodity prices and also the expansion at Roxby Downs. But, again, the effect of higher electricity prices on gas royalties has not been discussed. Gas prices may rise due to the increasing use of gas as a source of electricity generation and the use of gas as a direct consumer substitute for electricity. So, there are some worrying trends in relation to those aspects of our budget as well.

In conclusion, if we look at the budget as a whole, it is clear that for this government the main purpose of the budget—

Members interjecting:

The Hon. P. HOLLOWAY: It is clear that the budget before us is very much an election budget. The real question will be just how sustainable this budget is. When the opposition—

The Hon. T.G. Roberts interjecting:

The Hon. P. HOLLOWAY: Yes, we will be facing an election fairly soon and, as an opposition, we have no alternative but to base our election promises on the projections and future estimates for revenue and expenditure that the government provides in the budget. As an opposition we have no means of independently verifying those figures, so we have no option but to use them as the starting point for our election policies. Of course, sadly, in that we will have no

option but to trust the government that these future projections are accurate.

Whether or not that is true remains to be seen, and I think that that will be one of the big question marks over this government. Given the incredible secrecy that this government has shown in so many areas and given the sorts of cover-ups we have seen in so many areas, certainly for me there is some real trepidation that there may be some real horrors within the budget that we are not aware of. Of course, the capacity for that to happen is greatly increased for the reasons I outlined earlier in my speech. With the aggregation of statistics in the budget and the constant changing of the base, it becomes extremely difficult indeed to gauge what is happening to budget trends. For that reason—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: It may be an advantage, but I would defy the Hon. Legh Davis, who obviously classes himself as an expert. Perhaps he could explain some of those figures that I showed earlier.

The Hon. L.H. Davis: I will back myself against you any day.

The Hon. P. HOLLOWAY: The honourable member might be a gambler; he might find that he will lose. If you look at—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Well, lack of confidence has never been—

Members interjecting:

The ACTING PRESIDENT: The honourable member will ignore interjections and continue with his contribution.

The Hon. P. HOLLOWAY: The point is that this government has shown through its record over the last few years with the way it keeps changing the base on which the budget is presented that it is not a government that comes clean in terms of the information it provides for the public of this state. So that is the great trepidation I have with this budget. When we finally come to the next election if, as I suspect, this government is thrown out of office for the gross incompetence it has displayed over the past few years, the great fear is that the fact that we are still in this deficit situation that I indicated earlier—despite having sold something like well in excess of $7 billion or $8 billion of assets, despite the promises that the government has made, and if the financial situation is not as this government has claimed—will present great difficulties for us all in the future.

I indicate that we will be supporting this bill, as we always do. I think that the history of this country has shown that it is only conservative governments that have rejected Appropriation Bills. This government will go to an election and live or die on this budget. In view of its lack of achievements over the last eight years and what it has done—particularly in relation to electricity—it is my view that it is more likely to die—and it certainly deserves to.

The Hon. R.I. LUCAS (Treasurer): I thank members of the opposition parties for their whingeing and whining contributions to the second reading stage, and I thank members of the government for their constructive contributions and/or interjections to the second reading debate. I originally intended to address each of the major issues highlighted by opposition members in particular but, given the time and the pressures on the parliamentary process in the last couple of days, I will not do that now.

However, I will need to respond to a number of issues I guess to correct the record and put a government position. One general point I make in response to the Hon. Mr Holloway's contribution is that the government is desperately seeking some sort of policy response from the Labor Party as it tries to sneak its way into office by early next year. We have seen three endeavours which have been basically photocopied efforts, copying government policy, first, in interconnection and aspects of the electricity industry; secondly, in relation to the industry policy—the Centre for Innovation—that I highlighted in question time today; and, thirdly, in the last two weeks an endeavour to copy the state government's policy on clustering and to portray that as some new initiative. They are three examples so far of where the opposition has pretended to have a policy but has been caught out in terms of plagiarism or, as I said, photocopying sections of existing government policy and seeking to portray it as its own.

However, in this area of budget information presentation it does not cost the alternative government anything. When I put the direct challenge to the shadow minister for finance about whether he would give a commitment to change the budget documents about which he was whingeing and whining, he wimped it. He said that he would look at it; he would think about it; he would consider it—he would do as much as he might be able to do as a member of the alternative government in relation to this issue. However, he wimped it. It was a pretty simple challenge. If you are complaining about the budget documents, this is something you yourself control completely. You can stand up in this chamber, on behalf of the Leader of the Opposition and the alternative government, and say, 'We will change this. We will give every detail of every last individual unit within the government department and agency consistent with the complaints I am getting, and that is the firm commitment of this alternative government in South Australia.'

Why will they not do that? Because they want to whinge and whine. However, they can see the benefit of what is in the budget documents, and they will not change it. They will finesse at the edges. They have had the challenge, and the shadow minister for finance wimped it here tonight. In the extremely hard hitting response the honourable member gave to the Appropriation Bill debate here this evening, as the government reeled in this chamber from the forensic cross-examination of its budget by the shadow minister for finance, he wimped it in relation to coming up with a genuine policy on behalf of the opposition on something as simple as the budget documents.

It is not a policy about how you will change the economic direction of the state (because they would never do that), a policy about how they would fix the finances of the state (they would never do that) or a policy of how they will balance the budget, reduce the debt and take up the challenges of spending more in health and education which they have talked about (they would never do that): they complain, whinge and whine about the budget documents but will they actually change it and do what the shadow minister for finance says he would like to do? The answer is 'No'. They wimped it. The shadow minister for finance wimped it. He is a shadow minister desperately looking for a policy, and we only hope that either he or one of the other shadows might stumble across a policy somewhere between now and next March and the people of South Australia—

Members interjecting:

The Hon. R.I. LUCAS: We would desperately like you to stumble across a policy somewhere. It would be wonderful to have a debate about a policy issue rather than, as I said in question time today, have the new centrepiece for their industry policy, namely, the government's new Centre for Innovation, Manufacturing and Business, to which they will add the word 'industry'.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! It is about time the Hon. Ron Roberts ceased interjecting.

The Hon. R.I. LUCAS: That will be the centrepiece for the new industry direction in South Australia by the Labor Party for the coming election. The Hon. Mr Holloway really did not add much more, I guess, to an informed debate about the Appropriation Bill or, indeed, what an alternative economic or financial direction for the state might be. We are at the end of a four year term and the opposition has had four years to try to develop, perhaps, a coherent economic alternative to the government's position, which it trenchantly opposes. As the Hon. Mr Holloway's leader said, this is the last budget prior to the election, the last budget prior to a Labor government, so the leader and the shadow ministers have been trumpeting around the corridors. One would have thought that we could at least see a coherent alternative from the shadow minister as to what Labor would do that was different from the economic parameters and the framework that this government has established in terms of the state budget.

I turn to one area that the Hon. Ron Roberts addressed either in this debate or in the debate on the Supply Bill, and that is health expenditure. This government, in terms of its economic parameters, has said that health is a priority and this year we will spend $400 million more on health than in 1997-98, the start of this parliamentary term. In saying that, the government acknowledges that, even if we spend $400 million more, we will not meet all of the demand on the public hospital system in particular and the health system generally. We acknowledge that there will be waiting lists. We acknowledge that there will be problems in relation to equipment replacement and some of the items referred to by the Hon. Ron Roberts.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: No, in the city areas as well. So we acknowledge—

The Hon. R.R. Roberts interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS:— that even spending $400 million more there will continue to be problems in our health system. What is the opposition response? The Hon. Ron Roberts says that we need to spend more money in the Port Pirie health area, and the shadow minister says that we need to spend more money everywhere in the health area. What is the response from the shadow minister for finance? One of the key drivers of the economic policy for—

The Hon. P. Holloway: Wait for the election.

The Hon. R.I. LUCAS: Wait for the election! 'We will release fully costed policies prior to the election.'

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: What did the Leader of the Opposition say at last year's convention? He promised, by the end of the year, that fully costed promises from the Labor Party would be released—by the end of 2000, in plenty of time for an election by the end of 2001, as he was arguing, or the start of 2002, as the government had said. He broke—

The Hon. R.R. Roberts: That's a pork pie!

The Hon. R.I. LUCAS: Exactly. The Hon. Ron Roberts says that that is a pork pie, and that is exactly right. The Leader of the Opposition promised—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition promised that he would have fully costed promises released by the end of last year, and we hear an interjection from the Hon. Ron Roberts—

The Hon. R.R. Roberts interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: —which is in *Hansard* and which says, 'That is a pork pie', and that is exactly right. I agree with the Hon. Ron Roberts: that is a pork pie.

The Hon. R.R. Roberts interjecting:

The ACTING PRESIDENT: Order! The Hon. Ron Roberts has been interjecting with the words 'You are lying.' I ask him to withdraw.

The Hon. R.R. ROBERTS: Are you asking me to lie to parliament, sir?

The ACTING PRESIDENT: No. The honourable member was interjecting constantly and saying, 'You are lying.'

The Hon. R.R. ROBERTS: I said that is a lie: what he said was a lie. He made the statement that Mike Rann said that—

The ACTING PRESIDENT: The Hon. Ron Roberts will withdraw.

The Hon. R.R. ROBERTS: I have to withdraw. The standing orders say—

The ACTING PRESIDENT: The Hon. Ron Roberts will resume his seat.

The Hon. R.R. ROBERTS: I rise on a point of order.

The ACTING PRESIDENT: The Hon. Ron Roberts will resume his seat. The Hon. Ron Roberts was interjecting a great deal and I was very tolerant. At the end of that period, the Hon. Ron Roberts said, in a variety of manners, 'You are lying' or 'That is a lie'.

The Hon. R.R. ROBERTS: What he said was a lie.

The ACTING PRESIDENT: You said that, and I ask you to withdraw.

The Hon. R.R. ROBERTS: Mr President, did I ask you to rule on a point of order?

The ACTING PRESIDENT: No. I ask you to withdraw.

The Hon. R.R. ROBERTS: I seek to exercise my right under the standing orders to make an explanation or withdraw.

The Hon. R.I. Lucas: No, you are being asked to withdraw.

The Hon. R.R. ROBERTS: I know what I am being asked, but I am going by the standing orders.

The Hon. R.I. Lucas interjecting:

The ACTING PRESIDENT: Order! I have asked the Hon. Ron Roberts to withdraw, because the words that he has used are not acceptable to the Council, and there is a precedent for withdrawal. I ask the Hon. Ron Roberts to withdraw.

The Hon. P. HOLLOWAY: Sir, I rise on a point of order. I heard the words 'pork pie' used, but I did not hear my colleague, and the Treasurer was—

The ACTING PRESIDENT: The Hon. Paul Holloway will resume his seat.

The Hon. R.R. ROBERTS: Mr President—

The ACTING PRESIDENT: And the Hon. Ron Roberts will resume his seat.

The Hon. T.G. Cameron: You'll have to stand up in a minute, Mr Acting President.

The ACTING PRESIDENT: Order! There is no doubt that the words 'pork pie' were used by the Hon. Ron Roberts, and the Treasurer repeated them.

An honourable member interjecting:

The ACTING PRESIDENT: Order! However, following that period the Hon. Ron Roberts, on a number of occasions, used the words 'lies' and 'lying'.

The Hon. R.R. Roberts: I said 'lie'.

The ACTING PRESIDENT: I am sorry, the Hon. Mr Roberts, but you used a variety of those words. I have asked you to withdraw.

The Hon. R.R. ROBERTS: Mr Acting President, on the basis that you are ruling that for me to say that the statement made by the minister was untruthful or a lie, and if that is against the standing orders, I will withdraw.

The ACTING PRESIDENT: Thank you.

The Hon. R.R. ROBERTS: I will withdraw on that basis, sir, but I did not call him a liar. I said that what he was saying was a lie.

The Hon. R.I. LUCAS: I thank the honourable member for his gracious withdrawal of that outrageous and unparliamentary language. I must admit that I was shocked and horrified that the member would stoop to such levels during parliamentary debate. I have been diverted—obviously very successfully—by the Hon. Ron Roberts from the powerful points that I was about to make in relation to the issue of health funding, which is the issue that I was seeking to address, that is, that the government, as I said, had committed itself to a $400 million increase in health spending this year compared to just four years ago. As I said, the government acknowledges that there will still be complaints, problems and concerns within the health system—waiting lists, and the like—that have caused concern to South Australians.

The government therefore acknowledges and accepts that an opposition could certainly say, if it wanted to put a coherent alternative, 'We acknowledge that you are spending $400 million more this year, but we do not believe that it is enough, and we commit to an additional $100 million,' or whatever the number might be, to meet the sorts of problems that the Hon. Ron Roberts highlighted in his contribution with equipment problems at Port Pirie and the sorts of problems that the shadow minister for health has been highlighting for the last weeks and months. At least that would be a credible alternative, as long as they also said where they would cut elsewhere or where they would raise taxation revenue in South Australia. However, we did not get that response from the shadow minister for finance during the debate on the Appropriation Bill.

An honourable member interjecting:

The Hon. R.I. LUCAS: We won't get it even in the election campaign. We know the sort of response that members of the opposition will put up. They will say that they will cut waste in government spending, that they will cut consultants—

The Hon. Carolyn Pickles interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: They will say that they will cut the number of fat cats in the public sector, and I will address those issues in a moment. That will be that sort of general rhetoric we will get from the opposition—nothing specific.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I am going to address each and every one of those issues to demonstrate where there is no capacity for that to occur now because of the way this government has approached its budget planning. It is important, as we debate over the next nine months budget and economic policy, that we understand these issues. If we look at those three areas in terms of where the opposition says that it is going to cut expenditure, one area the alternative government has highlighted is to reduce expenditure on consultants. Indeed, the Leader of the Opposition has been merrily running around saying that this government is spending hundreds of millions of dollars every year on consultants, and I have a number of transcripts where the Leader of the Opposition continues to make that claim.

One member has already been accused of using unparliamentary language this evening, and I certainly would not stoop to using similar wordage during this debate but, when one looks at the claim from the Leader of the Opposition—

The Hon. T.G. Cameron: People might believe it.

The Hon. R.I. LUCAS: Well, if you say it often enough people might believe it, that is, the opposition leader runs around saying, 'Every year the government is spending hundreds of millions of dollars on consultants.' This year the budget speech reports that our program of slashing consultancy expenditure will see the expenditure on the consultants reduced to under $50 million in total across the public sector—not hundreds of millions of dollars that the Leader of the Opposition claims publicly, but less than $50 million this financial year on consultancies.

The opposition will not be able to argue—when it reveals its costings—that it is going to be able to save hundreds of millions of dollars on consultancy expenditure because we have made it quite clear that we have now monitored each and every year for the past three years the expenditure on consultancies, and there will be no capacity for the opposition to say that it is going to be able to cut—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway is about eight years behind because he might not recall that we were in opposition for 11 years indicating that that is what the policy direction ought to be, and the then Labor Government did not take it up. However, I put that aside for the moment. That particular route for funding the opposition's initial expenditure is no longer available. It cannot come along and say, 'We are going to slash consultancy expenditure.' We have already done it. If the opposition wants to photocopy another government policy, it can photocopy the government policy on slashing consultancy expenditure.

The second way that oppositions—and Labor oppositions in particular (as they try to sneak their way into office without putting up a policy at all)—try to justify additional expenditure is to say, 'We will have an efficiency dividend across the public sector.' Well, already done by this government. An efficiency dividend has existed for a three-year period, which started around about 1995. In this year's budget cabinet has approved, over the next two-year period, a 1 per cent efficiency savings target within portfolios in non-salary and non-commonwealth funded expenditure. Savings from that over the two-year period are to be used by the human services portfolio, for example, for new initiatives or cost pressures within their own portfolio.

It is not money taken out of the portfolio and put back into a central funding pool for distribution to other agencies, but the capacity to make the savings and to target additional spending on new initiatives and cost pressures within, say, the human services portfolio, or the particular portfolio that might be impacted. So the opposition is not going to be able

to say, 'We will put in a one per cent efficiency dividend or savings target.' That is already done by this government in this budget and, as I said, has been done for three years over the last four years as well.

The third area that oppositions around Australia seem to use is, 'We are going to slash fat cats, or the number of fat cats within the public sector.' We have seen already from the opposition leader, the shadow Treasurer and others inaccurate information in relation to the purported increase in the number of fat cats within the public sector. What they use is information from the Auditor-General's report which lists every year the number of staff who earn over $100 000 within the public sector for a financial year. So, what the opposition does, going back to the Auditor-General's report, is indicate, for example in, I think, the department—Ron stop whingeing. You got caught, so fess up and take your medicine. You are lucky we did not chuck you out—

The Hon. R.R. Roberts: You are an arrogant little pup. Always have been—

The ACTING PRESIDENT: The honourable member cannot interject when he is out of his seat.

Members interjecting:

The Hon. R.I. LUCAS: It is hard to speak when you have him whingeing in the corner of your ear over here, Mr Acting President. In relation to the Department of Treasury and Finance, the criticism by the opposition is that there has been a huge increase in the number of fat cats in that department, or a whole variety of departments. That is, back on 30 June 1998 there were 18 employees who earned more than $100 000 and there are now 31 employees who earn more than $100 000. Therefore, using Labor Party logic, there has been an increase of 13 or 60 or 70 per cent, in the number of fat cats within the Department of Treasury and Finance. Similar figures were trotted out for a range of other agencies and portfolios.

As I explained before, if you look at public sector wage increases over the past four years, wage increases for the average public servant have been in and of the order of just under or just over 20 per cent during that particular period—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No, I am talking about the last four years, not the next two years that might be the case—but in and around about 20 per cent on average.

The Hon. R.K. Sneath: They have done better than the low income earners.

The Hon. R.I. LUCAS: The Hon. Mr Sneath says that they have done better than the low income earners, and the Public Sector Association's teachers, police and nurses always do pretty well in terms of their enterprise bargaining negotiations with government.

So somebody who was earning, let us say, $85 000 four years ago and who has stayed in exactly the same position within the department, doing exactly the same job and just getting the public sector wage increases for the four-year period, all of a sudden, under Labor Party logic, has become a fat cat. That is the logic: what the Leader of the Opposition is saying is that if he is going to stop fat cats, he is going to be saying to those public servants, 'You are not going to get salary increases.' That is the only way that you will stop people from going over $100 000 in terms of total remuneration: you say to them, 'We will not be giving you salary increases to make sure that you will not be going over the $100 000 barrier.'

That is the sort of logic that the Leader of the Opposition, the shadow Treasurer and the shadow finance minister want to put to the people of South Australia. Sadly, there has been no analysis by the media or, indeed, anyone. It is an easy headline, in particular for the *Sunday Mail*—and if you want a *Sunday Mail* headline, claim that there are more fat cats in the public sector, more people earning more than $100 000; you will be guaranteed a headline. The response will, of course, be one paragraph at the bottom of the particular story.

Look at the Department of Treasury and Finance—or take a more stark example such as the Department of Industry and Trade where I think the figures complained about were an increase from, say, 19 to 27 people who are earning over $100 000. The department has advised me that between 1998 and 2001, the number of executive level positions in the department has actually decreased from 23 to 20 as at 30 May 2001. So there has been a slight decrease, or it has actually stayed about the same in terms of the number of executive positions, whereas the Auditor-General's analysis and figures show what looks like a 50 per cent increase in the number of executives—or 'fat cats' as the Labor Party would term them—within the public sector.

I think that senior public servants and the Public Service Association need to engage the Labor Party (as an alternative government) in debate in relation to these issues. Is it saying that public servants earning just under $100 000 over a four year period will not receive salary increases because, as soon as they go over $100 000, they will become fat cats under the Labor Party definition of fat cats within the public sector?

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: What you call the ones on $200 000 is a very rare breed in South Australia. They certainly do not include premiers, ministers and politicians: they include the chief executives of government departments and a very small number of others. I can say that, in South Australia, our average level of salary certainly is significantly lower than in some other states, in particular Victoria, in terms of the payment and remuneration packages for chief executive officers.

In the general debate on appropriation in both houses, the other area where the alternative government would see the cutting of expenditure has clearly been tourism promotion. Again I want to go on the public record and warn regional and rural communities in South Australia that the shadow treasurer made it quite clear during the budget debates in this Council that he was going to be targeting tourism expenditure, which currently is working to the benefit of rural and regional communities in South Australia—

The Hon. Diana Laidlaw: Why on earth would you do that?

The Hon. R.I. LUCAS: I have no idea why you would do that, because it has been one of the great successes of the government, the tourism portfolio and the tourism minister. I would hope that the Hon. Mr Gilfillan, who, as a spokesperson, is often in the media attacking the government in relation to rural and regional issues, having heard this explanation of the alternative government's policy, will next week be reported in the rural and regional media attacking Mike Rann and the shadow treasurer for their forecast cuts in tourism promotion, which has great benefit for rural and regional communities—in particular programs such as *Postcards*, *Out and about*, the insert in the *Advertiser*, *Discover* and other programs. The shadow treasurer in particular and the Leader of the Opposition made it quite clear that they were going to be targeted for expenditure cuts in those areas.

One would hope that the Hon. Ron Roberts, if he is prepared to speak up on behalf of his Port Pirie regional community rather than toadying to his own leader, Mike Rann, would be prepared to speak out in protest against—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Well, one would hope that the Hon. Ron Roberts would be prepared to speak out on behalf of rural and regional communities and strongly—

The Hon. T.G. Roberts: As he always does.

The Hon. R.I. LUCAS: Let us test whether the Hon. Ron Roberts is prepared to publicly oppose the policy of his own party, which would be looking to cut rural and regional tourism promotion and much needed expenditure in regional communities. When the Leader of the Opposition, Mr Rann—I am not sure whether I have the date of this particular transcript—was asked a question in relation to the government's financial support for tourism promotion programs, he said:

> We've got the government in this state that's pouring in millions of dollars into subsidising television programs in the hope that it'll get favourable coverage.

The Leader of the Opposition, together with the shadow Treasurer, is warning that this sort of program and this sort of policy, which the government has been pushing, will certainly be a key target for cutting.

There will certainly not be any room for their waffly words on cutting consultancies, efficiency savings and cutting back fat cats, because the government is already doing that right across the board, as we announced in the budget. I might have omitted to mention that the government announced a 5 per cent reduction in the number of administrative executive positions over the next two years, so the government has indicated clearly its budget parameters, but the opposition is clearly arguing that things such as rural and regional tourism promotion are its more likely targets than the areas that this government has been targeting.

The Leader of the Australian Democrats, as would not probably surprise you or other members, Mr President, made a number of claims in relation to both the state economy and the state budget with which the government strongly disagrees. Again, I would like to go through all the differences of opinion that the government has with the leader's melancholy view of the world, but I will not delay the Appropriation Bill debate any longer by doing so. I will make only one point, which the Democrats' leader continued to return to, and that is that the government has achieved much in terms of reducing public sector net debt.

It is true that, if we had not equally tackled the budget deficit by significantly reducing the number of public sector workers in South Australia, we could have had an even more significant reduction in public sector net debt. Through the payment of targeted separation packages, the government has had a net increase on public sector net debt, which was offset by the other actions that we took. At the same time, while it is hard to put an exact figure on it, we have saved in the order of $500 million a year, each and every year, in public sector salary costs which, if we had not taken that action, we would still be incurring. That would mean we would either be putting it on the credit card each year or we would have had to raise another $500 million in additional taxation revenue to meet the salary cost of those public servants who would still be on the public sector payroll.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: As I said in question time yesterday, if seven years ago a politician or leader had said that in seven years this government could achieve an unemployment rate less than that of Queensland or Western Australia, given our parlous state in 1993, people would have laughed at that person. The reality is that, as we debate this today, South Australia's unemployment rate is lower than Queensland's and Western Australia's. We are the third best-performing state in terms of unemployment.

Members interjecting:

The Hon. R.I. LUCAS: Given this state's performance in unemployment, I would have thought that even opposition members might be silent on that issue. For once they might get up and say that the government has got the economic direction of the state right. It has turned around the unemployment rate. The unemployment rate that the former minister for unemployment (Hon. Mike Rann) had of 12 per cent is now down to just over 7 per cent, and his unemployment rate for young people of 42 per cent has been significantly reduced as well. That is the sort of record of achievement whereby we would have hoped that the opposition would be prepared to stand up in the chamber during an Appropriation Bill debate and say, 'Okay, we did not think you could do it, Mr Premier, but congratulations, Mr Premier, you have made a significant achievement.'

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: That is one of the issues which the Democrats continue to raise. They are now complaining about the way in which the statistics are put together. It is the same way in which the statistics were put together under Labor. The inference is that in some way the Liberal Government has sort of manufactured new statistics, but this is the way in which the statistics were put together under Labor. We never heard a complaint from the Democrats when this was done under Labor—

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, we never heard this complaint from the Democrats when it was done under Labor. That was how the figures were reported. It is only under a Liberal government that we get this criticism. There is no criticism, evidently, of the way in which the Australian Bureau of Statistics defines unemployment. It is the same throughout the OECD or, certainly, the other western style economies with which we are compared. It is not something peculiar to Australia. It is an international standard, evidently, in relation to the definition of employment and unemployment.

It is interesting that we have this debate from the Democrats only when there is a Liberal government and there has been improvement in employment and unemployment figures in the state. Under Labor governments for 11 or 12 years, when Mr Elliott was in this chamber, we did not hear that sort of debate about the way in which the figures were put together.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Well, again, the arrogance of the opposition! The Hon. Terry Roberts says, 'They (referring to the Democrats) will attack you this year'. There is this assumption from shadow ministers, including the Hon. Terry Roberts, that they will win. It is the arrogance of the opposition. It is on the public record again from the Hon. Terry Roberts. I am surprised it is now coming from what I would have hoped were the more reasonable sections of the shadow cabinet, the more humble sections—

The Hon. L.H. Davis: There's a lot to be humble about.

The Hon. R.I. LUCAS: Yes, there is a lot to be humble about. Nevertheless, he is a humble South-Easterner who, I

would have hoped, is tutored in the virtues of humility, coming from the South-East, and particularly the Millicent area. One can understand the arrogance of members such as the member for Bart, the member for Hart and others like Mr Foley—but I am disappointed we now see this arrogance that Labor will win the next election, according to the Labor Party, and that it will coast into government.

I thank members for their contributions, as varied as they were, to the important Appropriation Bill debate and I look forward to its speedy passage through the Committee stage.

Bill read a second time and taken through its remaining stages.

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2031.)

The Hon. NICK XENOPHON: This bill concerns in many respects what is an ultimate issue of conscience. It strikes at the core of our beliefs and values and in a sense it relates to something we must all face. I respect the views of all honourable members on this issue whatever their viewpoint. I am opposed to the concept and practice of voluntary euthanasia and for the state to sanction it in any way. I believe our palliative care legislation is amongst the best in the world, and indeed Dr Roger Hunt, a palliative care specialist and proponent of voluntary euthanasia in this state, has acknowledged that our legislation is superior to that in other states.

I am concerned that the state sanctioning of a legislative regime of voluntary euthanasia will mean an inevitable shift from a right to die as some proponents have portrayed this bill to a duty to die. That will lead, whatever supposed safeguards are in place, to an intolerable and emotional onus on the terminally ill to feel that if they are a 'burden' on their family they have an obligation to avail themselves of euthanasia legislation passed by this parliament.

The point has been made by honourable members, in particular the Hon. Ian Gilfillan, who referred to a report by Dr Anthony Radford in 1995 in relation to another bill on voluntary euthanasia in this parliament, that a consequence of voluntary euthanasia being recognised will be that we may well turn our backs away from efforts to assist those who are seriously ill, elderly and depressed. That concern resonates quite deeply with me.

My concerns about euthanasia generally are intensified by the wording in this bill. What does 'hopelessly ill' mean? The potential for abuse frightens me. I am not satisfied that the so-called safeguards will protect the depressed and vulnerable.

Whilst I oppose the aims and intent of this bill and will vote against any bill that proposes to legalise voluntary euthanasia, I believe that on issues of conscience the proponent of the bill deserves support for the passage of the bill to the second reading stage to have the bill subject to robust debate and examination in the committee stage, particularly when the substance of the bill is the subject of quite significant public concern and contention.

That is the approach some members have taken to private members' bills that I have introduced on the issue of gambling, notwithstanding that their view would be to oppose the third reading of the bill. I said publicly, shortly after I voted against the second reading of the prostitution bill, that with hindsight (and we all have 20-20 vision with hindsight) I should have adopted that approach, notwithstanding my ultimate opposition to the bill at the third reading stage.

I note that earlier this evening I had a discussion with the Hon. Mark Brindal, the Minister for Employment and Water Resources, who told me that this was a practice adopted by the Hon. Bruce Eastick in the other place when he was Leader of the Opposition and a member of this parliament for a number of years. I believe that the approach that the Hon. Bruce Eastick took to support the second reading of a bill to allow for it to proceed to the committee stage to enable that rigorous examination to occur is a good one, particularly on issues of conscience.

For the reasons that I have given, I believe that it is appropriate that the Hon. Sandra Kanck proceed to the committee stage. Accordingly, I will support the second reading to allow vigorous examination of its provisions in the committee stage. I wish to make it absolutely clear that I will ultimately oppose this bill or, indeed, any other manifestation of this bill that in any way seeks to legalise voluntary euthanasia, and that I will vote against this bill at the third reading stage.

The Hon. K.T. GRIFFIN (Attorney-General): I have a position that is opposed to the bill and I will indicate the reasons why. My view is consistent with the view that I have previously expressed on the issue. Whichever way one goes on the moral question, there are some major flaws in the bill that I will briefly identify. The bill does not require the pre-condition that it not be possible or feasible in the true sense of those words to relieve the patient's distress by the provision of palliative care. It does not require that expert judgment be brought to bear on the question of palliative care or on the question of whether the patient suffers from treatable clinical depression. I would suggest that the key definition of the term 'hopelessly ill' is far too broad. There is no provision that provides that a trustee or witness should not be capable of benefiting from the death of a patient. The provision about revocation should be clearly explained to the patient.

The clause relating to causation of death does contain some internal anomalies, particularly the problematic distinction between injury and illness. This bill is almost the same as that introduced by the Hon. Anne Levy in 1997, and that bill, I understand, was loosely based on the Oregon statute, Death with Dignity Act. I remember that the Levy bill was referred to a select committee in July 1997, having passed the second reading. After the election, it was referred to the Social Development Committee and its report, which was a divided report, was noted in the Council.

I am certainly very conscious of the Consent to Medical Treatment and Palliative Care Act, which is very largely concerned with decisions to refuse treatment. It is very broad in many respects but, nevertheless, a framework within which competent adults can express wishes in advance about medical treatment that a person wants or does not want in the event that he or she is in the terminal phase of a terminal illness, or is in a persistent vegetative state. I can remember the debate about those words at the time, that what we were seeking to do was to try to find something that was both definitive and descriptive. 'Terminal phase of a terminal illness' in the context of that act means, in essence, the point at which a person who suffers from an illness or condition that is likely to result in death has no real prospect of recovery or remission of symptoms. It is in the context of that

definition that I have referred to the fact that that act is particularly broad.

In addressing the issue of palliative care and consent to medical treatment, the parliament has dealt with that provision and with the failure to continue treatment of a certain class of patient. That seems to provide an appropriate framework for dealing with both the issue of consents to treatment and also with palliative care.

The other aspect of the current law which is relevant for consideration in the context of this bill is the general law of homicide. Homicide is the causing of the death of another person with the fault required by law. The fault required by law for murder used to be known as malice aforethought but modern law has gone well beyond that. In essence, the fault required for murder is any one of the following: intention to kill, intention to cause grievous bodily harm, recklessness as to death and recklessness as to grievous bodily harm. When we talk about active euthanasia, we must have regard to the law relating to homicide, and I do not think there is any doubt that active euthanasia is technically homicide. Of course, the bill faces up to that fact by addressing that issue. If there is to be any change, quite obviously parliament is the place where that change should occur. To that extent, the bill does set out a framework which is transparent and does not resort to veiled technicalities.

I have just a few observations on the bill itself, and they are observations which identify the difficulties in dealing with this issue. To a large extent, they are issues of definition. They are also issues about who is qualified to make decisions and about the circumstances in which those decisions may be made. The key clause is clause 14 of the bill. It provides that a medical practitioner may administer voluntary euthanasia—that is not defined but the method is—if the following conditions are satisfied: the patient is hopelessly ill; the patient has made a request; there is no reason to believe that the request has been revoked; the patient has not expressed a desire to postpone the administration of euthanasia; the medical practitioner is satisfied, after examining the patient, that there is no reason to suppose that the patient is suffering from treatable clinical depression or, if the patient does exhibit symptoms of depression, the practitioner is satisfied that treatment for that depression will not change the patient's decision; and if the patient is mentally incompetent and has a medical agent called a trustee, that trustee is satisfied that the preconditions for euthanasia are present, and another independent medical practitioner certifies as to the first two points, namely that the patient is hopelessly ill and has made a request and that there is no reason to believe that the request has been revoked and also that at least 48 hours have elapsed since the independent examination.

The key definition in the entire scheme is 'hopelessly ill', and that is defined as follows:

> A person is hopelessly ill if the person has an injury or illness—
> (a) that will result, or has resulted, in serious mental impairment or permanent deprivation of consciousness; or
> (b) that seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person.

I would suggest that both subsections are extremely wide, despite the pejorative use of the word 'hopelessly'. It is probably difficult to quarrel with the words 'has resulted in permanent deprivation of consciousness' so long as 'permanently' means what it says, that is, irreversibly. I suppose if one were to make a choice between that and the drafting of section 17(2) of the Consent to Medical Treatment and Palliative Care Act, which speaks of prolonged life in a moribund state without any real prospect of recovery or in a persistent vegetative state, one would have to say that the latter is the preferable definition.

On the other hand, the rest of paragraph (a) is wider than the Levy bill. It refers to a condition that will result in permanent deprivation of consciousness. It is difficult to understand what that is aimed at. Further, paragraph (a) includes 'will result, or has resulted, in serious mental impairment'. 'Serious mental impairment' is not defined and no reference is made to the question whether the serious mental impairment is treatable or controllable. Without an appropriately limited definition, it could be argued that the bill authorises the suicide of anyone who suffers from serious mental illness, whether or not that is treatable.

Paragraph (b) of the definition of 'hopelessly ill' is very wide indeed. All that it requires is 'an injury or illness that seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person'. One could go to an extreme and suggest that perhaps the onset of a disease such as diabetes could qualify: multiple sclerosis might be in the same category. The test is, in significant part, subjective. No doctor can make a judgment, I would suggest, about an impairment to the quality of life, let alone when the life has become intolerable to that person. The only medical judgment involved in paragraph (b) is about whether the illness or injury has the required effect irreversibly. It should be noted that it is not a question of whether the injury or illness is of itself irreversible: the illness may be quite reversible. The question is whether its effect on the patient's quality of life is irreversible.

So, I think one can say quite confidently that the test leaves open the position in relation to the effects of treatment. For example, treatment for a curable cancer may be quite reversible but may, nevertheless, leave a person bald or with a disfigurement, and the baldness or disfigurement may be irreversible and, hence, fall within the paragraph if it is thought that there is no distinction between an illness which does not produce the effect and the treatment of the disease which does produce the effect. So, the description of 'hopelessly ill' is quite wide and far beyond the sort of sympathetic cases that the proponents of active euthanasia espouse, and the phrase 'hopelessly ill' is, to that extent, quite misleading.

There are some issues in relation to requests, but I do not wish to pursue those. However, they create some quite significant difficulties with the way in which the bill may actually operate. The emphasis on clinical and treatable depression is, I suggest, commendable. People approaching this kind of medical condition are, understandably, subject to depression. However, treatable clinical depression is not defined and, for that reason, it will be particularly difficult to administer.

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: It is difficult. The whole problem with this area is the question of definition, particularly because the line is very thin between what is homicide and what is active euthanasia, and the use of terms such as 'hopelessly ill' and 'treatable clinical depression' just makes it that much more difficult to address. There are some other issues. Clause 19(2) provides:

> If voluntary euthanasia is administered in accordance with this act, death is taken to have been caused by the patient's illness.

'Hopelessly ill' refers to both illness and injury. 'Injury' does not appear in clause 19(2), and one does have to ask why that

is so—and there may be a number of scenarios that the draftsperson had in mind.

The bill also erects what I would suggest is an administrative nightmare in relation to a register of all requests, both current and advanced, and revocations administered by a registrar. The provisions for witnesses and trustees, to which I have already briefly referred, are quite unsatisfactory. A witness is any adult of or above the age of 18, and that is any adult who happens to be available. Two witnesses have to be present at the making of any formal request for euthanasia. It is important to note that each must certify that the patient appeared to be of sound mind, appeared to understand the nature and implications of the request and did not appear to be acting under duress.

I would suggest that that is asking a lot of people and, in the circumstances, one questions the reason for the witnesses, because it cannot be that they offer any expertise on any of the questions—for example, where the person appears to be of sound mind—for there is no expert qualification required, even on such a difficult question. And it cannot be, of course, that they provide independent verification of these facts, for there is no requirement that they be independent. They may, in fact, be beneficiaries under the relevant will. So, they may be inexpert and they may be beneficiaries, and I do not think that that is satisfactory. The same, of course, is true for trustees.

As I said, there is a variety of other issues about the drafting of the bill. I think what they reflect is the difficulty, as I said earlier in response to the Hon. Carolyn Pickles, in drawing the line between homicide and active euthanasia. But, in any event, I have great difficulty in accepting that either the law should be passed or, as a matter of principle, there ought to be what is technically homicide actually being legitimised by this legislation. As I said at the commencement of my remarks, I cannot support the bill for those reasons and others.

The Hon. R.D. LAWSON (Minister for Disability Services): I will not be long in my second reading contribution in relation to this bill. I do not propose to support the second reading of the Dignity in Dying Bill, and I think that I should explain some of the reasons why I adopt that position. I again examined not only the speeches that have been made on this occasion with this bill but also the contributions that were made on the occasion of the Voluntary Euthanasia Bill, which was debated in this place in 1997. I notice there that I referred to an article that Morris West, the distinguished Australian author (then aged 80 and nearing death), wrote.

On rereading my contribution on that occasion I feel that, perhaps, I quoted the wrong passage of the article. The heading of the article is 'No legal solution to pain of death'. Very perceptively Morris West, I believe, identified the essential difficulty and weakness of legislation of this kind in relation to this matter. He said:

> A law, however carefully it is framed, becomes immediately an anomaly. It is at once permissive and inhibiting. It is always—and unavoidably—intrusive. It is always an abridgment of both liberty and privacy. It calls new presences into places and occasions where otherwise they would have no right to be.

He went on to say:

> What I do not want to see is the introduction of a new figure, a legalised terminator opening the exit from life only after all the forms and protocols prescribed by an impersonal state have been fulfilled.

I do believe that this legislation—which is possibly a necessary function of legislation of this kind—does provide forms and protocols that are highly limiting. When one sees the forms that must be completed (they appear as schedules to this bill), when one sees the various prescriptions by way of certification by not one but two medical practitioners and the like, when one sees the procedures all laid out in a statutory form that we in this dry legislative form lay down, one sees what I see in, for example, section 82 of the Criminal Law Consolidation Act of South Australia, which relates to the termination of pregnancy, where this parliament laid down what it saw as so-called safeguards against the proliferation of the termination of pregnancies.

Every member of this Council knows that those prescriptions in the Criminal Law Consolidation Act are merely hoops through which one has to jump in order to obtain a termination. In other places, where the legislators have not intervened in that particular matter, medical practice and community practice generally have developed systems which, I believe, are better than the legislative path that was adopted there; and what this bill seeks to do, in my view, is set up those sorts of hoops through which people must jump in order to achieve a particular result. The Hon. Carolyn Pickles—a strong supporter of this measure—was interjecting when the Attorney-General was speaking, saying, 'Well, it goes on already. Medical practitioners are already—

The Hon. Carolyn Pickles: Day in and day out.

The Hon. R.D. LAWSON: —'Day in and day out' she says—undertaking this. Perhaps they are. I have no evidence of that, but let us assume that is correct and that they are doing it. That is what medical and community practice is apparently doing on the leader's account of events in our community. Why then intervene, I would ask.

The Hon. Nick Xenophon, in his contribution, specifically mentioned and, I believe correctly identified, that this bill does not address issues around coercion and around the pressure that might be exerted and, undoubtedly, would be exerted on vulnerable people. I certainly agree with the reservations that the Attorney-General has about the definition of hopelessly ill. I believe that those difficulties are irresolvable. The concept of a terminal phase of a terminal illness which was used in the Consent to Medical Treatment and Palliative Care Act, which was passed after a good deal of debate in this chamber some years ago is, it seems to me, a far more graspable concept than the notion of hopelessly ill, with the weaknesses that the Attorney identified. I do not believe that this legislative measure can be improved by amendment. I would not be supporting it at the third reading, and I do not think that it is appropriate that I should support it in the second reading.

The Hon. SANDRA KANCK: I want to begin by looking at some of the negatives that have been put about this bill—some of the attacks that have been made. The Hon. Carmel Zollo was one of the first speakers and, first, I want to acknowledge her honesty in admitting that her religious beliefs contribute to her opposition to the bill. I suspect that there are others in this chamber who are being led by their religious beliefs but are not willing to make that clear. So, I really acknowledge the Hon. Carmel Zollo for doing that.

The Hon. Carmel Zollo: One of them, not all of them.

The Hon. SANDRA KANCK: No, it was one of the reasons that the honourable member gave. The Hon. Carmel Zollo said that it is not only the Catholic Church that does not sanction voluntary active euthanasia: so do all Christian

religions. I do not believe that to be the case. In fact, the Uniting Church does not oppose it and, clearly, when one looks at the annual survey done by the Roy Morgan Institute, one sees that the leaders of many of the Christian denominations in Australia are clearly out of step with their followers. That poll shows, for instance, that 73 per cent of Roman Catholics responded to that survey positively in favour of euthanasia and 84 per cent of Anglicans did so. Amongst other world religions, I do not believe that Buddhists oppose voluntary euthanasia.

Members would have received correspondence, I think, from the Reverend Dr Andrew Dutney, who some years ago wrote a paper on the issue of Christian support for voluntary euthanasia which the South Australian Voluntary Euthanasia Society has encapsulated in a leaflet. I would like to read just a little bit from that leaflet, as follows:

> As it happens, Christians have always been active in the modern voluntary euthanasia lobby. Among the founders of the American Euthanasia Society in 1945 were prominent Christians such as the New York divines Henry Sloan Coffin, the President of the Union Seminary and Harry Emerson Fosdick, the minister of the Baptist Riverside Church.

He refers to the Australian philosopher, Max Charlesworth, stating:

> He takes a position which has been characteristic of Christian supporters of voluntary euthanasia, affirming that God has created human beings to make their own decisions and to accept responsibility for themselves and their neighbours. There is nothing faithful about relinquishing that responsibility in the face of the power of nature or history. "It is not 'playing God' to seek freely to control the direction of my life," Charlesworth writes, "and it is not 'playing God' to seek freely to control the mode of my dying. For a Christian, God is not honoured by a person (made in the 'image' of God) abdicating her autonomy and freedom of will and passively submitting to 'fate'."
>
> Hans Kung, a well-known Catholic theologian, has taken a similar position. In his view, 'God, who has given men and women freedom and responsibility for their lives, has also left to dying people the responsibility for making a conscientious decision about the God-given character of human autonomy—he adds his confidence in the promise of eternal life.' For Kung, 'precisely because I am convinced that death is not the end of everything, I am not so concerned about an endless prolongation of my life—certainly not under conditions that are no longer compatible with human dignity.'

I observe also that the Scottish philosopher Hume said:

> Were the disposal of human life so much preserved as the peculiar providence of the Almighty that it were an encroachment on His right for men to dispose of their own lives, it would be equally criminal to act for the preservation of life as for its destruction.

The Hon. Carmel Zollo took issue with what I had to say about intent and made the observation that even children understand that. I agree with what the Hon. Carmel Zollo has said, but she has missed my point that the issue of intent and double effect forces doctors into lying both to themselves and to their patients.

Again in the correspondence we have received on this bill, members would have received a copy of a lecture given by Ian Kennedy, the Professor of Law and Ethics, Kings College, London. It was given to the Royal Society on 25 April 1994. I will just refer to one small excerpt from that lecture, which states:

> Everything turns on what the doctor claims he was trying to achieve. As long as he uses the right verbal formula and records it in the patient's notes and to be on the safe side does not use too unusual a drug, he will stay within the law. Knowing how to play the game becomes the crucial determinant of criminal liability, rather than what objectively is done or what results. When the crime is murder, this can hardly be satisfactory.

The Hon. Carmel Zollo told us that she respects the sanctity of life. Well, so do I, but there is no sanctity in having smelly, gangrenous wounds. There is no sanctity in being incontinent of faeces and urine. There is no sanctity in choking to death. The Hon. Carmel Zollo said:

> I do not think we should compare decent human behaviour with that of animals where life and death is purely based on instinct and survival of the fittest.

Again she has missed the point—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Exactly. The point I was making was that we do not make animals stay alive to satisfy some Christian view, that relates to some Christians, of the sanctity of life. The Hon. Carmel Zollo should look at my record and see how much of my political activity is based on respect for the individual. We are asking for the right for people to choose to die with dignity. The Hon. Carmel Zollo makes the comparison between humans and animals on the basis that animal behaviour is based on instinct and survival of the fittest. An individual's request for euthanasia is the exact opposite of that: it is reasoned, informed, intelligent, rational, caring and, if it involves someone from within your own family, very loving—all the best attributes of human beings.

The Hon. Carmel Zollo says that we should not be applying pressure on our elderly or their families by implying that there is a duty to die when a particular stage in life is reached. I agree. No-one has a duty to die and part of this legislation requires—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Everyone will die. The unfortunate thing is that you actually hear some people in this debate talk about 'if they die', which is a rather peculiar notion. However, this legislation—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Obviously, some people think they are immortal. Part of this legislation requires that those involved in signing and witnessing must indicate that the person making the request was not under any apparent pressure.

The Hon. Carmel Zollo quoted from the Lutheran Church's Commission on Social and Bioethical Questions, asking which people from of a number of examples given should be treated with a lethal dose. The answer is that none of the people in the examples given would be best treated with a lethal dose, firstly because most people's pain was able to be relieved, and there was a great deal of concentration in those examples on pain. Secondly, the bill has requirements regarding treatable clinical depression, and a doctor would not be allowed to administer voluntary euthanasia if the person requesting it had treatable clinical depression. Thirdly, being a burden on one's family is not a criterion to allow access to this legislation, and no doctor wanting to continue practising would sign the form if either of those was the reason for the person seeking to use voluntary euthanasia.

The comments that the Hon. Robert Lawson made about jumping through hoops were very interesting. Yes, this legislation requires people to jump through hoops. There are 14 different hoops that people would have to jump through before they could access voluntary euthanasia. I remember when the Social Development Committee dealt with this issue and Marshall Perron, the architect of the Rights of the Terminally Ill Act in the Northern Territory, appeared before the committee. He said that safeguards could be put in place. The hoops, which are what the safeguards are, could be put

there for people to jump through and there could be 14, as I have suggested, or 20 or 30 hoops, and the chances are that by the time a patient got through the thirtieth hoop, they would probably have died from exhaustion trying to get there rather than from their disease. That is what the opponents of voluntary euthanasia call for those who are supporting euthanasia to do, to put up hoops for people to jump through.

I must say that I was very surprised at the comments that the Hon. Robert Lawson made about doctors. He appeared to be taking a nudge-nudge, wink-wink approach, that parliament really ought not to be dealing with it, that we should allow the doctors to continue to bump people off covertly and place themselves at risk of being charged with murder.

The Hon. Carolyn Pickles interjecting:

The Hon. SANDRA KANCK: It is incredible that a lawyer would come up with that sort of response, but it is the sort of thing that would create more work for lawyers. The Hon. Caroline Schaefer referred back to the recommendations of the Social Development Committee's inquiry into voluntary euthanasia. She said that the Hon. Bob Such and I 'continue to allege that, because the other members found against their belief, somehow we were biased.' Of course the other members of the committee were biased.

The Hon. Carolyn Pickles interjecting:

The Hon. SANDRA KANCK: That would appear to be the logical conclusion. Of course the four members of the Social Development Committee who recommended that voluntary euthanasia legislation not be dealt with in this parliament were biased, and of course the Hon. Bob Such and I, who opposed that view, were biased. What is wrong with acknowledging that bias? I am not going to run around telling everybody that they were biased and we were biased, because it really does not need to be said. We all knew the purpose back then of referring the matter to the Social Development Committee rather than a select committee, as moved originally by the Hon. Carolyn Pickles, because it was designed to produce the result it did, that is, a report opposing voluntary euthanasia. That is history.

The Hon. Caroline Schaefer has invoked the AMA position as proof of the correctness of her beliefs. Yet I remind members that the AMA has never polled its membership on this issue. By contrast, the Royal Australian College of General Practitioners has adopted a far more mature and responsible attitude, and I will read from an editorial in their Faculty/Training Program News of April 2001, as follows:

> It is a big step to support euthanasia and I believe that it is one that can only be made individually from our own hearts and beliefs. The college cannot and should not impose standards based on personal beliefs and convictions. The college will not support the bill, nor will it actively object. It is properly the parliament as the voice of the people that must make this decision.

The Hon. Caroline Schaefer says that the current law is sufficient. She says that under common law anyone can refuse treatment. She is correct; yes, they can, but what is the effect of that? I remind the Hon. Caroline Schaefer and other members of this chamber of the case of Norma Hall who died earlier this year in Sydney. She had cancer in her bones, liver and lungs. She wanted to meet death on her own terms, so she refused any further medical treatment. She took the option of what is sometimes called slow euthanasia. It is legal so there are no problems in doing it. She took herself off food and drink but after more than a week she was still alive, at which point she asserted control and downed the contents of a bottle of morphine. The Hon. Caroline Schaefer is right: you can refuse treatment. One can subject oneself to slow euthanasia, but I hope, for her sake, that she does not ever have to watch a member of her family die in this way.

The Hon. Caroline Schaefer says that current law is sufficient and she refers to the pain relief aspect in the Consent to Medical Treatment and Palliative Care Act and, of course, double effect. Under that act you can die easily provided you are suffering severe pain because you can keep demanding increased levels of painkillers, particularly morphine. People in the know about the law can pretend because pain is subjective. The doctor cannot tell when you say, 'I have increasing levels of pain,' that you have not got it. But what if you do not know about that particular loophole and you have not got unremitting pain as a driver, because that is not the only thing that happens when people are in these situations. It is why I have a definition of 'hopelessly ill' in this bill.

I have a letter from Marshall Perron which is addressed to all members of the South Australian Legislative Council and the House of Assembly and which is dated 4 May 2001. He provides a list of examples. I will cite a few of the problems that people can face. One is raised intracranial pressure due to inoperable brain tumour: the symptoms are severe head pain due to pressure on sensitive nerve structures by tumour expansion in a confined space; it may be accompanied by a loss of function, for example, blindness, paralysis and incontinence. Another is recurrent bowel obstruction due to widespread abdominal cancer: diffuse deposits of cancer obstruct the bowel causing pain, nausea and vomiting, and abdominal distension. Surgery may be advised which may be either futile or of only very short-term benefit. Vomiting and malnutrition lead to a kind of starvation until death. This is what the opponents of voluntary euthanasia say that these people have to put up with.

Another is spinal cancer with nerve root pain, vertebral collapse: it can have varying degrees of paraplegia; one of the worst situations possible, confined to bed with episodic excruciating neuritic pain with simple movement. That is one of those examples where it is probably unlikely that pain will be relieved. Another example is inoperable bladder cancer with very frequent and painful urination, often with bleeding, blockage to flow and incontinence. Hence, the old medical saying, 'Please God, do not take me through my bladder.' There is chronic inexorably progressive neuropathic syndrome leading to paralysis of all limbs, loss of speech, blindness, loss of control of bowel and bladder, and perhaps inability to breathe or swallow as in multiple sclerosis or motor neurone disease. The person's body functions disintegrate, yet trapped within that shell may be a perfectly lucid mind. I imagine there are some members in this chamber who say that we are honouring the sanctity of life in keeping such people alive under those conditions. I certainly do not see it that way. My colleague the Hon. Ian Gilfillan disappointed me with his speech. He began by saying:

> I believe that the fear of anticipated distress beyond endurance and fear of lingering on as an incontinent, incoherent and maybe comatose person are also factors in convincing people to support voluntary euthanasia.

Right on, Ian; absolutely right on. These are the concerns that are motivators for people to say that they want voluntary euthanasia at some stage in their life. But the Hon. Ian Gilfillan clearly thinks that people who are dying or suffering under the sorts of conditions which I have mentioned and which were cited in Marshall Perron's letter are not entitled to intervention because some people may be pressured into requesting voluntary euthanasia.

The evidence is that some people may die incontinent, incoherent and maybe comatose, in his words, and that is just the half of some of these conditions. Dr Michael Irwin, former Medical Director of the United Nations, told the World Conference on Assisted Dying in Boston last year that 'much medical end of life treatment is torture'. The Hon. Ian Gilfillan suggests that some dying people would feel they are a nuisance to their family and opt for voluntary euthanasia. Places where voluntary euthanasia or assisted suicide is permitted show that the availability to voluntary euthanasia allows an honest and open discussion to occur and actually prevents that pressure from emerging. Because the discussion is open, the medical practitioners can, in turn, openly address the issue with greater awareness of the potential for pressure.

Helga Kuhse, who is the Senior Honorary Research Fellow at Monash University Centre for Human Bioethics, undertook a study which revealed that intended deaths without consent in the Netherlands was 8.3 per cent while in Australia it was 28.4 per cent and 18.7 per cent in Belgium. 'Without consent' means the patient was not asked at the time, although there might have been a prior indication to the family or the doctors. Doctors in Belgium and Australia place themselves at risk by asking the question. Hence, the very large differences in those numbers.

The Hon. Ian Gilfillan quoted Dr Anthony Radford, and I indicate that, like many other members, I received a copy of that same paper and I was extremely disappointed by the lack of intellectual rigour in it. He quoted Anthony Radford as saying:

> If those advocating euthanasia or assisted suicide prevail it will be a reflection that as a culture we are turning away from efforts to improve our care of the mentally ill, infirm and the elderly.

The reality is, whatever legislation for voluntary euthanasia or assisted suicide is introduced, palliative care is highlighted, its deficiencies acknowledged and funding is subsequently increased. The Hon. Ian Gilfillan, again quoting Anthony Radford, said:

> Instead, we would be licensing the right to abuse and exploit the fears of the ill and accepting the view that death is a preferred solution to the problems of illness, age and depression.

I really feel quite insulted by that sort of comment being included by the Hon. Ian Gilfillan, because he knows that, just as I fight for voluntary euthanasia, I fight for the better treatment of the mentally ill, the infirm and the elderly. The two things are not mutually exclusive. It is not a case that if you support one you are opposed to the other. It is a dishonest argument, and I am very surprised that my colleague has used it and been taken in by it. He also referred to Dr Kavorkian and the deaths that he has assisted in the US. These people all requested his assistance. Most doctors act covertly if they are involved in assisting suicide in this way, so it is difficult as a patient to know who to turn to. Kavorkian was honest and built up a reputation and, obviously, ill people sought him out.

I was disappointed also that my colleague chose to quote from Jeff Heath regarding Dutch laws, when he knows that Jeff Heath as a paraplegic approaches this issue with the view that those of us fighting for voluntary euthanasia are intent on bumping off people with disabilities.

The Hon. L.H. Davis interjecting:

The Hon. SANDRA KANCK: I admire Jeff Heath's passion, but he does not approach this issue in a rational way, and his knowledge of the new Dutch law is flawed. He claimed that the Dutch law requires a person to be both terminally ill and suffering uncontrollable pain to give them the right to seek legal voluntary euthanasia and that it is therefore better legislation than my Dignity in Dying Bill, which requires that a person be hopelessly ill, but Jeff Heath got it wrong. The basis for asking for medical intervention to die in Dutch law is that the person must be facing interminable and unendurable suffering, which bears a great deal of similarity to my 'hopelessly ill'.

In their speeches the Hon. Legh Davis and the Attorney-General concentrated on definitions and particularly that of 'hopelessly ill'. Again, when Marshall Perron appeared before the Social Development Committee, he gave some evidence about a young man who had become a quadriplegic in Darwin. He told us that that young man went from person to person, asking them to help him commit suicide. Because he was a quadriplegic, he could not even push a button in a lift to take him to the top floor of a building.

Even if he got to the top floor of a building, he could not get himself out of his wheelchair to get to the edge of the building to be able to jump. That man went from person to person to person. It was not just an odd thing; he did it all the time. He asked people to assist him to die all the time. Who is the Hon. Legh Davis that he should decide that life is not intolerable for that young man? Who else but that young man knows whether his life is intolerable? It is intolerable for me that I could develop Alzheimer's, gradually losing memory and understanding, having to depend on others to lift me out of bed, to feed and bathe me, to take me to the toilet and wipe me clean. For that reason alone, I want to be able to sign an advance directive to say that at a certain point I want medical intervention to end my life. If the Hon. Mr Davis was to get a diagnosis of Alzheimer's and did not want medical intervention at some point in the deterioration, that would be entirely his decision. But if I was to be given such a diagnosis, it would not be Mr Davis's or anyone else's problem; it would be mine.

The Hon. Legh Davis says that he does not accept that anyone at all should be able to sign an advance directive on the off chance that one person might change their mind and that somebody might not know. On the basis of a series of mights, he would deny to everyone access to voluntary euthanasia through an advance directive. It is fairly logical that, if we survive past 75 years of age, the chances increase that we will be debilitated or demented or both. The busy-body approach that is exemplified by the Hon. Mr Davis's position leads to a particular option of pre-emptive suicide. That option suggests that you should take your life now while you are still in possession of all your faculties, because if you do not the do-gooders will keep your body alive when your faculties are heading out of control. I cannot say that the Hon. Legh Davis misled the Council—I guess he was misled by material that he read—but he told this parliament that the Netherlands has voluntary euthanasia law because palliative care is not well practised there. That is simply not true.

The Hon. L.H. Davis: I did not say that, either.

The Hon. SANDRA KANCK: Well, re-read *Hansard*; I read it this morning. Back in 1995, the British House of Lords was debating a motion that was critical of Dutch voluntary euthanasia law, and that same sort of dishonest argument about Dutch palliative care was being promoted. A very frustrated Dutch ambassador felt compelled to issue a public statement to refute what was being said.

Contrary to the misinformation being put about by the opponents of voluntary euthanasia, the Netherlands, with a population of just over 15 million people at that time, had 53 000 palliative care beds, projected to increase to

57 000 beds by 1998. At the same point in time, with a population nudging 18 million, we in Australia had 5 000 palliative care beds. It is totally dishonest of the people who have written what must obviously be described as rubbish but which Mr Davis upholds to decry palliative care in the Netherlands. I doubt that any other country in the world does it better. One thing I have found in the arguments of the opponents of voluntary euthanasia is that they never let facts get in the way of a good argument.

The Hon. Ron Roberts made many references to palliative care, suggesting that this issue is either about palliative care or voluntary euthanasia. I refer the Hon. Ron Roberts to the dissenting view that Bob Such and I put in the Social Development Committee report, namely, that voluntary euthanasia is one aspect of palliative care. It is at the very end—one that most people who receive palliative care will never need to use. Nevertheless, it ought to be a valid tool.

Palliative Care Australia put out a very interesting position statement on euthanasia on 19 March 1999, and I will read two relevant statements, as follows:

> Palliative Care Australia acknowledges that, while pain and other symptoms can be helped, complete relief of suffering is not always possible, even with optimal palliative care; and recognises and respects the fact that some people rationally and consistently request deliberate ending of life.

The attitude is, 'We will acknowledge and we will recognise, but we will deny you the right to die as you choose. Instead, we will put you in a coma that will last for days, so that you will die not recognising your surroundings and any loved ones who might be there but, of course, we will do it respectfully.' What bunkum!

The Hon. Ron Roberts kept referring to the alleviation of pain but, for the most part, pain can be alleviated. People in Oregon who had indicated to their doctor that they wanted to access their physician assisted suicide act were asked why they were accessing it. Of those people, loss of autonomy and dignity were given as the principal reasons, not pain.

The Hon. Carmel Zollo said that she objected to the title of this bill, Dignity in Dying, as she regarded it as Orwellian. There is nothing Orwellian in that. Just as people in Oregon say that they accessed the physician assisted suicide act because of the potential loss of autonomy and dignity so, too, do people in Australia want voluntary euthanasia. If anything, I might have considered calling my bill the 'dignity and autonomy in dying bill' because that is what we are setting out to achieve.

Because I have felt the need to respond to the rationale given by those who are opposing my bill, I have of necessity concentrated on the negatives. However, I do remind members that the great majority of the public—their electors—support voluntary euthanasia. I want to thank the Hons Di Laidlaw, Carolyn Pickles, Mike Elliott, Terry Roberts, Bob Sneath and Trevor Crothers for their up-front support of the bill.

The Hon. John Dawkins has indicated an open mind, and he will support the reading. The Angus Redford and the Hon. Nick Xenophon have indicated that they will support the second reading vote, although they are very likely to vote against the bill. I record my appreciation to them for being willing to allow the bill to go into committee.

I thank all members, including those who have indicated they will vote against the bill, for their prompt responses. There have been only two days on which private members' business has been listed since I introduced this bill that someone has failed to speak on it. I record my thanks to the South Australian Voluntary Euthanasia Society for their tireless lobbying work in both talking to MPs and in providing some excellent written materials.

Should this bill be defeated today, I remind members that it took ten years of attempts for a successful bill to pass the South Australian parliament to allow women the right to vote. If we pass it at the second reading today, I will move on the committee stages when parliament resumes in September.

Dr Roger Hunt, who is a palliative care specialist, said about this bill:

> It seeks to make a crude criminal code more discriminating. It recognises the special context of voluntary euthanasia—the doctor-patient relationship. The patient is a victim of advanced and terminal disease rather than a victim of crime. The doctor acting in accordance with the patient's wishes and interests is fulfilling a duty of care rather than being a murderer with sinister motives. In ethical medical practice, examining a patient is not regarded as indecent assault and prescribing medicine is not illicit drug dealing. Similarly, VE is not murder and the criminal code should reflect this.

We are living much longer than ever before because of medical intervention in all its forms. Medical intervention ensures that we live longer, but medical intervention also ensures we take longer to die. Longer lives is the flip side of longer deaths. Life prolonging technology is also death prolonging technology. A majority of people in our society are asking for legalised VE. As one of that very large group, I ask this parliament to recognise that we are asking to end death, not to end life. We are asking for an end to terrorised dying. We are asking for the right to die with dignity.

The Council divided on the second reading:

AYES (10)

Cameron, T. G.	Crothers, T.
Dawkins, J. S. L.	Elliott, M. J.
Kanck, S. M. (teller)	Laidlaw, D. V.
Pickles, C. A.	Redford, A. J.
Sneath, R. K.	Xenophon, N.

NOES (9)

Davis, L. H.	Gilfillan, I.
Griffin, K. T.	Holloway, P.
Lawson, R. D.	Lucas, R. I.
Roberts, R. R.	Stefani, J. F.
Zollo, C. (teller)	

PAIR(S)

Roberts, T. G.	Schaefer, C. V.

Majority of 1 for the ayes.

Second reading thus carried.

MEDICAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2024.)

The Hon. T.G. CAMERON: This bill is a complete rewrite of the act, in light of the national competition policy review. The functions of the board remain, however, virtually unchanged under this bill. The board membership is increased to 12, including five lay people; terms remain at three years. The board is given the power of summons, medical students are required to register before commencing their education, and they would be required to present information on their current health status. This is to highlight any problems that they have currently that may adversely affect their ability to practise medicine in future years. This has been in practice in New South Wales for 10 years and is currently being considered in Victoria, Western Australia and Queensland.

Specialists are now allowed to go on a specialists' register before going on a general register. Practitioners will now be required to have compulsory indemnity insurance cover, and I understand that at least 300 to 500 practitioners in South Australia do not have it at the moment. They will also be required to have continuing medical education and professional development which must be accessible, reasonable, meaningful and defensible, and they must also provide a report on their health status.

The board is to determine—in the light of the practitioner's health status and medical profession—whether or not they are a risk to patients. This is based on whether or not the practitioner has a psychological illness, their general health, their infective status (such as Hepatitis C positive) and their line of work, such as intrusive surgery or non-clinical contact. The board is given the power to regulate titles to ensure that only qualified persons use them. It also gives the board power to determine—with regard to corporate-owned health providers—whether or not a person is fit to run such an organisation.

The Medical Practice Tribunal will now consist of 13 members and they will also have the power, among other things, to deregister practitioners permanently. SA First supports this bill.

The Hon. L.H. DAVIS secured the adjournment of the debate.

FOOD BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2012.)

The Hon. SANDRA KANCK: This bill has been a long time coming given the Garibaldi food poisoning outbreak in 1995 and the subsequent tragic death of Nikki Robinson from haemolytic uraemic syndrome, or HUS. A catering manager who was working in the aged-care sector during the outbreak has told me that he was less than impressed with the seriousness with which his local council addressed the issue. The environmental health officer fronted up, asked him whether he had any supplies of mettwurst in the kitchen and, when the reply was in the negative, departed. That particular facility has not seen another health inspector in that six years.

It is clear from such an example that it is essential we have new food standards set, albeit six years from the HUS outbreak and the subsequent recommendations from the coronial inquiry. Understandably, it is a complex bill made more complex by the national agreement signed by health ministers to have uniform legislation. I wrote to the Food Safety Program of the Australian New Zealand Food Authority (ANZFA) in February because I knew that this legislation would be debated at some stage and I noticed that something was missing. Chapter 3 of the January 2001 edition of *Safe Food Australia* states:

> Standard 3.2.1. Food safety programs is a voluntary standard. Where a state or territory decides to implement a requirement for food safety programs it must use this standard.

The document further states:

> A guide to the interpretation of the standard 3.2.1 will be developed separately.

I have another ANZFA document which is called Food Safety Standards and which is subtitled 'Chapter 3 of the Australian New Zealand Food Standards Codes (Australia Only)'. The document includes standard 3.1.1, standard 3.2.2 and standard 3.2.3, but it does not have standard 3.2.1. The reply from ANZFA states:

> Thank you for your letter of 27 February concerning the development of an interpretive guide for food safety standard 3.2.1 food safety programs. When the Australia New Zealand Food Standards Council agreed in July 2000 that Standard 3.2.1 would be introduced as a model standard, it was also agreed that consideration would be given to the mandatory introduction of the standard once the research into the cost and efficacy of food safety programs is completed.
>
> ANZFA intends to develop a guide to Standard 3.2.1 in the second half of 2001. The timing of development of the guide and further consideration of Standard 3.2.1 by Council will ensure that people who are required to enforce or comply with the standard are fully informed prior to its introduction.

What is concerning for me in this is that we are shortly to pass this bill without standard 3.2.1 of the ANZFA food standards being available effectively, which means that clause 78 of this bill, which deals with food safety programs and auditing, will probably not be able to be enacted. This is really putting the cart before the horse. I have another major complaint about this bill and that is that the real guts of it will be dealt with in regulations. The Democrats have never been happy about leaving things to regulation because we can never tell what it is we are really supporting. The Local Government Association has written to us expressing a similar view, saying:

> . . . key intergovernment issues are left to regulation rather than being addressed in the legislation itself. Experience has taught us that this is not a sound way to create trust in intergovernment relationships and our legal advice is that no other legislation effectively details the entire role of local government in regulation as does the Food Bill.

Concerns expressed to me during consultation have been about the implementation of the legislation, cost and staffing of local government, which will no doubt be the enforcement agency, costs to small businesses for the development of food programs and the training of their staff, adequate training of auditors and the definition of high, medium and low priority businesses.

One of my concerns is the need for consistent implementation of the new laws once enacted. Whilst it is admirable that the bill should provide a national uniform standard, it will be the consistent implementation across the councils which will be the test. There is hope that the new law will bring the opportunity for a more collaborative relationship between local and state governments. At the moment, the application of the current law is ad hoc and there is very little consistency across the state. What is in place to ensure that both levels of government will be able to effectively implement the legislation? Is it an arrangement that will be dependent purely on goodwill?

Currently, each council decides how much time and resources will be spent on food safety, and as a result we do not have a uniform approach. There is already competition for the resources of councils, so if the government expects efficient uniform implementation there will need to be uniform funding and resourcing for the enforcement agencies. Uniform funding would give a clear message that the government is serious about this issue and would set a clear responsibility for local councils to efficiently monitor food businesses in their area.

I understand that the matter of funding has been the subject of discussions between the minister and the Local Government Association. According to the LGA, the minister has made a commitment to allow a portion of audit fees, when undertaken by third party auditors, to go to local

government. This would mean that somewhere between $38 000 and $200 000 would be delivered and shared between the 68 councils in South Australia. If you take $38 000 and divide it by 68, you will see that it is not much money. I understand that the minister has given an undertaking that he will approve inspection fees to councils where they are investigating critical non-conforming issues identified in an audit, but this will not extend to fees for random or complaint based inspections.

Outside of any usual local government revenue, this will be the first resourcing the state government has allowed for food safety. This is a step forward, but there is a need for further clarification on the matter of resourcing. The minister has indicated that the number of random inspections of food businesses, as carried out by local government at the present time, will be reduced substantially. Presumably, he thinks that this will mean that the cost of auditing would not be an extra burden on local government. However, the LGA has indicated to me that the new scheme will cost it up to $3 million to implement.

I point out that the question of where the responsibility lies is still not clear. Who will be responsible, and who will bear the costs? Unfortunately, the bill does not tell us. It is another aspect of this bill, which, no doubt, will be left to regulations. Funding is clearly an issue and one which is a bone of contention at the present time between state and local government. Although the legislation does not say so, I understand that the minister has in mind that all businesses involved in food handling will be required to notify the relevant local council and that there would be no cost associated with this. The minister prefers this rather than a registration system with a fee, which is the LGA preference.

This appears to be a political decision and one which will have no real impact on the success of the new food safety standards, but we should be aware that, as things stand, the cost will be borne by ratepayers and not the businesses. This legislation is estimated to affect 10 000 businesses in the state. Medium to low priority businesses make up approximately 80 per cent of this number—and to the idle *Hansard* reader one should explain that the word 'priority' has been used instead of 'risk', as businesses understandably do not want to be characterised by their risk of food contamination. However, when we are talking medium to low priority, we really mean medium to low risk. It is of concern that nowhere in the bill is there a clear definition of 'high', 'medium' or 'low' priority.

Hospitals, aged care facilities and child-care centres, quite rightly, are considered high priority, but from my understanding a food processing plant is not. Why would an aged care facility be considered high priority and a 250 person turnover restaurant not? Is a correctional service facility considered high priority? If not, why not? Again, because of the lack of detail in the legislation, there is some confusion as to which businesses will be required to have a food safety program. The minister has indicated that all food businesses will be required to have a food safety program, yet information from his department has indicated that only high priority businesses, which make up approximately 20 per cent of all businesses in South Australia, will be required to do so. Which is it?

High priority businesses tend to be the businesses which already have in place some sort of food safety plan, as well as food safety training. It tends to be the low to medium priority businesses which do not have sufficient training in place. So who are we targeting and why? I have been told that in Victoria, where all businesses had to have food plans in place, small businesses with fewer than 20 employees are grappling with 100 page food plans, which is similar to the plans used for big food processing plants. This is onerous and unreasonable for such businesses, and I certainly hope that we will not be going down to the same path in South Australia.

What would seem to be a far more effective means of monitoring standards of smaller businesses would be auditing using a well designed, uniform questionnaire across all councils. Industry has voiced concerns about training. Who will meet the costs? The minister has indicated that $900 000 has been put aside in the budget to help implement the legislation, but will this be enough for training, education, implementing food safety programs and auditing? We need an explanation as to how this money will be allocated.

The State Retailers Association says that a majority of food retailers has a good working knowledge of hygiene and food safety issues, but very little documented or recognised training. It says that it is 'disappointed that the bill in itself sets no specific or minimum standards of knowledge'. I agree. It is again another of the defects in this bill. Training is needed when there is a management of risk. There is a need for a minimum standard to be set, which I believe should include the appointment of a designated responsible person for each food business, and for medium to large food businesses one designated responsible person for every 10 staff members. This person should be required to have some form of accredited training.

The question of who bears the cost of training needs to be clarified. I know that current TAFE college courses in food handling are very reasonable. The State Retailers Association has expressed concern at this cost and has stated that some medium sized retailers now consider that this Food Bill, plus GST compliance, will add one person to their staff for no monetary or service gain. The association has predicted that the new food laws will put some retailers out of business and will increase the cost of food by 5 to 7 per cent. This would indeed be cause for concern if the prediction is proved correct, but I believe that the quality and safety of food is a significant service gain, which, in time, will add value to business. Far greater costs would be incurred by businesses if the risk was not managed and an outbreak of food contamination occurred.

The issue of training also affects the environmental health officers. Many of these officers have a degree qualification but are expected to have knowledge in many other areas, including water quality, soil degradation, air quality and noise pollution. Is their generalised knowledge enough for the new food safety standards? I have been contacted by an independent auditor who says that, with his qualification, he is unable to audit certain types of businesses, for example, a fishmonger, yet an environmental health officer from local government who may be less qualified is able to inspect the premises. That independent auditor said that an environmental health officer is trained in inspecting the physical environment but not in auditing records monitoring temperature levels, for example.

What will happen under the new legislation? Will EHOs undergo further training to increase their audit qualifications to meet the needs of the food businesses in their area, or will the third party auditors be required to audit these businesses? I have been informed of a case where a trainer in food safety refused to continue training at a food business because of what he believed to be substandard hygiene conditions, yet a local government EHO subsequently inspected the premises

and gave it the all clear. What happens in circumstances such as those? Whose opinion prevails?

Although some concern has been expressed with regard to the application of the legislation to community and charitable groups, I believe that there is no good reason that these groups cannot comply with some basic essential requirements. All food consumption should be subject to food safety standards, but I support the opportunity for ministerial exemptions to allow for individual cases to be judged on their merits.

The LGA has also stated that the bill does not specifically require the enforcement agency to respond to a complaint. There is a duty of care, but the wording of the bill does not oblige the enforcement agency to act if, for example, a food business premises is deemed unclean or unfit. Clause 43 provides:

> If an authorised officer believes on reasonable grounds, that—
> (a) any premises used by a food business in connection with the handling of food intended for sale. . . is in an unclean or insanitary condition. . .

the authorised officer may serve an improvement notice on the proprietor of the food business. . .

I emphasis the 'may'. Similar wording is used in clause 46, which deals with the issuing of prohibition orders. Clause 46 uses the word 'may' for enforcement agency powers to act in serious cases. If grounds have been established that a food business is in breach of the act, then there is an obligation for the enforcement agency to act. I therefore believe that these clauses need to be amended.

I believe there is also a need for educating the public in notifying the correct authorities of any cases of food poisoning or complaints of poor food handling practices. All too often people may have had a bad reaction to food but do not think of informing their local councils, yet there may have been others who also have been affected. This can assist the tracking time of any future outbreaks.

One issue that is pertinent to the bill is the continued funding and maintenance of the Environmental Health Branch within the Department of Human Services. The department will preside in the unincorporated areas apparently because it will be less onerous in those areas. Does that mean that DHS does not have the resources to do what the minister expects local government to do? In 1985, there were 42 people in the Environmental Health Branch of the Health Commission; now there are only eight. Given the importance of this bill, it is essential that any restructuring of the department will not see any reduction in those services.

The Democrats recognise the need to improve food safety standards in the community but have concerns that considerable unknowns remain in this legislation due to the reliance on regulations. We support the second reading but we would not be at all upset if for some reason the bill did not proceed. We are not going to vote against it at the third reading, but we maintain our concerns. The devil is in the detail, and perhaps it might have been better for the government to wait a while to get it right before pursuing legislation which is only a shell.

The Hon. L.H. DAVIS secured the adjournment of the debate.

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) BILL

The House of Assembly agreed to the bill without any amendment.

COOPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

The House of Assembly agreed to the bill without any amendment.

CRIMINAL LAW (SENTENCING) (SENTENCING PROCEDURES) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1 Clause 2, page 3, after line 9—Leave out 'encourage or'

No. 2 Clause 2, page 3, after line 10—After 'victim' first occurring insert:

who wishes

No. 3 New clause, page 4—After clause 4 insert:

Transitional provision

5. The amendments made by the act are to be considered procedural rather than substantive.

ADJOURNMENT

At 11.45 p.m. the Council adjourned until Thursday 26 July at 11 a.m.