LEGISLATIVE COUNCIL

Tuesday 27 November 2001

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following bills:

Retirement Villages (Miscellaneous) Amendment,

Victims of Crime.

QUESTIONS

The PRESIDENT: I direct that written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 53, 95, 104, 106 and 109.

GOVERNMENT MOBILE PHONES

53. **The Hon. T.G. CAMERON:**

1. Is the government currently undertaking a review of taxpayer funded government mobile telephones?
2. If so, by whom?
3. Is the review to be in the form of a report to the government?
4. If so, will a copy be made available for study?
5. How many mobile telephones were in use by each state government department during the period 1999-2000?
6. For the same period, how much was spent by each of these departments on mobile telephone calls?
7. (a) What steps are being taken to curb any further issue of mobile phones; and
   (b) What steps are being taken, or have been taken, to eliminate taxpayers' funding of private calls to and from these phones?

The Hon. R.D. LAWSON:

1. I am not aware of any whole-of-government review of taxpayer funded government mobile telephones being undertaken currently.
2. As stated, no review is currently being conducted.
3. No answer is required
4. No answer is required

5. and 6. The number of mobiles in use in government departments as at 2 November 2000 was 11 338. Individual agencies have provided expenditure for the financial year 1999-2000. Under the new mobile phones contract with Cable and Wireless Optus signed in July 2000, reporting will provide expenditure information at various levels of government in much greater detail.

The number of mobiles in use and expenditure for the financial year 1999-2000 in each portfolio is shown in the following table:

Portfolio	No. of Mobile Phones	Expenditure
Department for Administrative & Information Services	1 262	$411 160*
Department of Environment & Heritage	319	$108 000
Department of Education, Training & Employment	2 770	$480 000
Department for Human Services	3 268	$398 100**
Department of Industry & Trade	118	$127 650
Department of Premier & Cabinet	136	$124 898
Department of Treasury & Finance	89	$54 897
Department of Justice	1 491	$605 215
Department of Primary Industries & Resources	664	$461 422
Department for Transport, Urban Planning and the Arts	1 129	$966 380
Department for Water Resources	85	$63 728
Auditor General's Department	7	$879
Total	11 338	$3 802 329

*Includes all costs associated with mobile phones

**Does not include incorporated hospitals and health units

7. (a) The approval for the procurement and use of mobile telephones is managed by individual departments based upon business-service requirements.
   (b) Payment for private mobile telephone calls is managed by individual departments. It is government policy for these services to be subject to the same internal control and proper use accountabilities as other government supplied facilities and equipment.

SPEED CAMERAS

95. **The Hon. T.G. CAMERON:**

1. What were the top 10 locations for motor vehicle accidents in South Australia during the year 2000?
2. (a) What were the top 10 locations for speed camera fines in South Australia during the year 2000?
   (b) How many fines were issued?
   (c) How much was raised as a result of the fines at each location?

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Minister for Transport and Urban Planning, and the Commissioner of Police of the following information:

The following tables show the top 10 postcode locations for speed cameras in metropolitan and country South Australia during 1 January 2000 and 31 December 2000, the number of fines issued, and revenue collected.

Metropolitan Offences	Issued		Expiated	
Postcode	Number	Amount $	Number	Amount $
5084	6 275	906 750	5 274	738 723
5007	6 174	907 098	5 023	718 470
5009	4 285	623 753	3 181	450 241
5045	4 501	655 894	3 302	462 970
5008	5 630	829 780	4 394	631 140
5014	5 757	840 418	4 584	651 798
5000	17 329	2 520 599	15 668	2 237 367
5031	3 988	583 149	3 308	473 791
5012	921	134 915	711	100 207
5064	5 366	773 491	4 488	637 527

Country Offences	Issued		Expiated	
Postcode	Number	Amount $	Number	Amount $
5290	2 498	368 825	1 902	275 867
5700	1 736	269 473	1 224	185 603
5355	1 821	272 731	1 497	222 335
5211	1 567	249 945	1 172	177 812
5540	1 214	193 399	796	124 709
5600	1 550	234 181	1 031	151 355
5343	950	139 556	818	119 018
5265	362	54 374	289	42 851
5241	418	68 328	365	59 247
5345	379	58 932	305	46 326

The following tables show the top 10 postcode locations for serious road accidents in metropolitan and country South Australia between 1 January 2000 and 31 December 2000, and how many serious accidents occurred in each of these postcode areas.

Postcode	Number Serious Road Crashes Reported
5000	54
5013	16
5072	16
5108	16
5162	16
5045	14
5008	13
5110	13
5114	13
5014	12
5023	12
5070	12
5086	12
5152	12

Country

Postcode	Number Serious Road Crashes Reported
5290	24
5700	20
5253	15
5291	15
5211	13
5264	12
5280	12
5341	11
5600	11
5271	10
5353	10
5355	10

WORKPLACE BULLYING

104. **The Hon. T.G. CAMERON:**

1. (a) Has the government undertaken any local studies into the impact of workplace bullying in both the public and private sectors in South Australia; and

(b) If so, what were its key findings?

2. Will the government follow the lead set by the Queensland government and set up a taskforce of employer, community, union and government representatives to develop strategies to combat this serious problem?

The Hon. R.D. LAWSON:

1. Workplace Services has not conducted any formal studies into the impact of bullying in the workplace. However, the indication is that the number of complaints in relation to workplace bullying is on the increase. For the period 22 March 1999—29 August 2001 Workplace Services has received 82 bullying harassment complaints. Discussions with other agencies such as the Equal Opportunity Commission, Employee Ombudsman and WorkCover Corporation indicate that they are experiencing a similar trend.

2. There are no immediate plans for the government to set up a task force similar to that in Queensland. However, I can report on the following actions taken by Workplace Services to address this serious problem.

- Workplace Services contributed to the Workplace Bullying Round table discussion organised by the Working Women's Centre in January 2001. A range of agencies impacted by this issue including solicitors, psychologists and IR consultants, attended this discussion. The purpose was to look at across-agency sharing of information and to cooperate with information strategies for employees and employers. It was apparent at this forum that the general view was that Workplace Services should be a lead agency in addressing this issue.
- Workplace Services recently reviewed the issue of workplace bullying in the context of the Occupational Health Safety & Welfare Act, in particular whether bullying is a health & safety issue and how should we respond. As an outcome of this review Workplace Services has agreed on the following:

  Workplace bullying will be considered by our agency to be a workplace hazard as it arises out of workplace activities, affects the health and well being of employees at work and may result in lost time injuries.
- Workplace Services currently are developing an internal policy and clear operational procedures for inspectors to handle bullying complaints, including a guidance checklist and flow chart.
- WorkCover Corporation has produced a number of publications and resources in relation to preventing bullying in the workplace. These publications are available through WorkCover Corporations website at www.workcover.com or by contacting the corporation directly.
- In developing the policy & guidelines, Workplace Services have liaised closely with interstate jurisdictions, particularly Victoria an Queensland and researched international literature.
- Workplace Services will continue to liaise closely with the three other key agencies in this state, namely WorkCover Corporation, the Employee Ombudsman and the Equal Opportunity Commission, to ensure that the three agencies have a coordinated approach to bullying complaints.
- Workplace Services will contribute to appropriate forums. For example, they will provide a speaker to address the bullying issue at a HR conference conducted by Polson HR & Training in Adelaide in September 2001.
- Finally, the Working Women's Centre:
  - have received a WorkCover grant to conduct a project 'Workplace Bullying—A Practical Approach' aimed to develop policies, procedures & training in the workplace; and
  - are convening the 'Adelaide International Workplace Bullying Conference in February 2002', which is being sponsored by Workplace Services, WorkCover Corporation and the Working Women's Centre SA Inc. Workplace Services will contribute also to a presentation and panel.

BELAIR RAILWAY LINE

106. **The Hon. T.G. CAMERON:**

1. Can the Minister assure railway passengers who use trains on the Belair line that the tunnels are completely safe?

2. When was the last time TransAdelaide undertook a safety check of the tunnels?

3. Are emergency plans to cope with either a train breakdown or fire inside the tunnels up to date?

4. Have there been any safety or mechanical incidents inside any of the tunnels in the last five years?

The Hon. DIANA LAIDLAW:

1. I have been advised by TransAdelaide that it has no evidence of any deficiencies in the tunnels that would impact on the safety of train passengers.

2. A walking inspection through the tunnels is undertaken by TransAdelaide every 28 days to check for obvious defects. TransAdelaide has engaged Transport SA to inspect its bridges and structures. Progressively Transport SA is inspecting the listing of major structures, and arrangements are in hand for a detailed study of the tunnels.

3. TransAdelaide's Emergency Procedures Manual (Administration Instruction No. 40) details all the contacts and actions to be taken in the event of emergencies in the tunnels or across the network.

4. There have been no major incidents within the Belair line tunnels that have presented any safety risk to train passengers in the last five years.

ERCP HEALTH RISKS

109. **The Hon. SANDRA KANCK:**

1. What are the health risks to a patient if an Endoscopic Retrograde Cholangio-Pancreatography (ERCP) is performed without an anaesthetist in attendance?

2. What percentage of ERCP's are performed at the Flinders Medical Centre without an anaesthetist in attendance?

3. What percentage of ERCP's are performed at the Royal Adelaide Hospital without an anaesthetist in attendance?

4. If there is a difference, why?

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. The health risks to a patient if an Endoscopic Retrograde Cholangio-Pancreatography (ERCP) is performed without an anaesthetist in attendance are patient dependent. Patients who are heavily sedated with concomitant severe medical problems are best managed for ERCP with an anaesthetist in attendance. Concomitant medical problems include:

- Patients with significant risk of reflux of gastric contents;
- Patients with raised intra-gastric pressure;
- Patients with respiratory problems; and
- Patients who have difficulty cooperating with the endoscopist because of a neurological or psychological condition.

2. No ERCPs are performed at the Flinders Medical Centre (FMC) without an anaesthetist in attendance.

3. Approximately 94 per cent of ERCPs performed at the Royal Adelaide Hospital (RAH) are performed without an anaesthetist in attendance.

4. There is a national minimum standard for sedation in the provision of ERCP and other endoscopy services that is endorsed by the Australian and New Zealand College of Anaesthetists and the Gastroenterological Society of Australia and the Royal Australasian College of Surgeons.

FMC has elected to exceed this minimum standard and provide an anaesthetist in attendance for all ERCPs.

At the RAH this standard is observed and patients are medically assessed to determine who should have an anaesthetist in attendance at endoscopy. This approach enables the RAH to provide a wider range of services for a given level of funding while ensuring the delivery of safe services to patients.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Reports, 2000-2001—
- Employee Ombudsman
- Police Complaints Authority.

Corporation/District Council Reports, 2000-2001
- Adelaide Hills
- Berri Barmera
- Burnside
- Loxton Waikerie
- Whyalla

By the Treasurer (Hon. R.I. Lucas)—

Reports, 1999-2000—
- Capital City Committee.
- Operations of the Auditor-General's Department
- Police Superannuation Board
- South Australian Multicultural and Ethnic Affairs Commission

By the Attorney-General (Hon. K.T. Griffin)—

Reports, 2000-2001—
- Claims against the Legal Practitioners Guarantee Fund
- Commissioner for Consumer Affairs

Courts Administration Authority
- Legal Practitioners Conduct Board
- Legal Practitioners Disciplinary Tribunal
- Legal Services Commission of South Ausralia
- Pastoral Board of SA
- Public Trustee
- Soil Conservation Boards
- South Australian Independent Pricing and Access Regulator
- State Electoral Office—South Australia
- Suppression Orders—pursuant to section 71 of the Evidence Act 1929
- Technical Regulator—Gas

Pig Industry Advisory Group—Report, 31 October 2001

Regulations under the following Acts—
- Explosives Act 1936—
  - Fireworks
  - Miscellaneous

Rules of Court—
- District Court—District Court Act 1991—Statutory Jurisdiction

Supreme Court—Supreme Court Act 1935—
- Miscellaneous
- Criminal Rules—Miscellaneous

By the Minister for Justice (Hon. K.T. Griffin)—

Reports, 2000-2001—
- Correctional Services Advisory Council
- Department for Correctional Services
- SA Ambulance Service
- South Australian Metropolitan Fire Service
- State Emergency Service

By the Minister for Transport and Urban Planning (Hon. Diana Laidlaw)—

Reports, 2000-2001—
- Administration of the Radiation Protection and Control Act 1982
- Local Government Superannuation Board

Regulation under the following Acts-
- Passenger Transport Act 1994—Taxi Fares
- No. 4—Moveable Signs

District Council By-laws—
- Barossa—No. 6—Moveable Signs

Coorong—Al-H2—Revision.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. A.J. REDFORD: I bring up the final report and minutes of proceedings of the committee and move:

That the report be printed.

Motion carried.

GAMMON RANGES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement tabled today by the Hon. Iain Evans, Minister for Environment and Heritage, on the subject of the Gammon Ranges.

Leave granted.

QUESTION TIME

BEDFORD PARK TRANSPORT HUB

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport a question about the proposed Bedford Park public transport hub.

Leave granted.

The Hon. CAROLYN PICKLES: On 26 September this year the minister announced:

> The state government has commenced community consultation and environmental assessments for a major public transport hub at Bedford Park.

The government's Bedford Park concept includes a proposal for a bus-bus interchange and a second option for a bus-rail interchange. I understand the environmental impact assessment has been completed in less than two months—which begs the question of whether an adequate level of community consultation has been undertaken. My questions are:

1. What is the estimated cost for option 1 (the bus-bus interchange) and option 2 (the bus-rail interchange)? Earlier suggestions have indicated somewhere between $12 million and $25 million.

2. How will this capital work be funded given that, at present, there is no expenditure allocated in the budget?

3. Can the minister detail the level of consultation that was undertaken with the affected local communities?

4. What is the time line for the project?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member will recall that, when the government had to abandon the southern O-Bahn proposal because of price and environmental considerations, an undertaking was given that, in terms of public transport, priority would be given to the south. It had always been the government's intention that, when the new southern expressway opened, that roadway would be used and optimised for public transport as well as ordinary vehicle traffic. So, the prized piece of land at Bedford Park has been under consideration for some time for public transport purposes (that is, the corner of Main South Road and Sturt Road). For that reason, recently, when the Lone Star restaurant (earlier Sizzlers) site came on the market, it was purchased for about $1.2 million from the DOTUPA (the Department of Transport and Urban Planning and the Arts) budget.

The two options which have been considered by government and which are out for public consultation are, as the honourable member mentioned, a bus-bus interchange or a bus-rail interchange at that site. As the honourable member also noted, the prices range from $12 million for the bus-bus interchange and $25 million for the bus-rail interchange. The

latter does not include an overpass or flyover of this dirt road, which is one matter that is under consideration. I am advised that a rail overpass to this site at Bedford Park would cost about $8 million.

There is a further consideration in terms of passenger safety and comfort, with the consultation to date identifying that, with a rail overpass at Sturt Road, there would be not only a cost factor but also a safety and amenity issue for passengers, with surveys revealing that passengers would not wish to have a split level facility, either from where the bus comes into the interchange from the Southern Expressway or other nearby areas, or when people park their car and then have to go to a higher level platform to catch the train. The government would want to maximise in the community's interest the number of passengers that use the interchange and then travel by frequent rail service into the city.

So, it is under consideration whether in terms of local traffic issues we have an at-grade rail or level crossing, without an expenditure of an additional $8 million, or whether we go with an additional $8 million and then have factors which, on customer survey and general survey consultation, reveal that there would be consumer resistance to that form of development, therefore potentially undermining the purpose of the interchange in the first place. Those matters are under active discussion both through the Development Assessment Commission consultations and local community consultations.

In terms of the time line, that will depend on Public Works Committee consideration, on government consideration and funding of the initiative, and on the DAC's consideration. So, there are three matters, as in the assessment of any proposals, that have yet to be concluded. What I do believe is very important when looking at the future of access and transport in the metropolitan area is that we consider viable alternatives to the motor vehicle. I believe that maximising the fixed corridors that we have for public transport purposes relieves vehicle congestion on our roads, and certainly relieves pressures for a north-south freeway, which I have not found any political party keen to endorse since the MATS plan was abandoned many years ago.

I will highlight the figures for repurchasing the land for a north-south freeway from Darlington through to Salisbury. Repurchasing the land alone would cost over $300 million. It was sold for some $18 million by the Bannon government, and it would cost some $300 million to purchase, before one surface is relocated or any asphalt relaid. I have not found one South Australian in the western suburbs who is keen to have the freeway outside their door, nor one local Labor member or federal member (Chris Gallus and Trish Worth) keen to see the development. Therefore, in my view we must look at optimising public transport and its fixed corridors, and to that end the government is actively considering the Bedford Park interchange at this time.

The Hon. CAROLYN PICKLES: I have a supplementary question; the minister did not quite answer the question. Will the minister detail the level of consultation that was undertaken with affected local communities?

The Hon. DIANA LAIDLAW: I thought I had done so, by saying that the Development Assessment Commission (DAC) has a statutory obligation concerning consultation, and that is under way at the present time. Certainly, I have received feedback and that has all been forwarded for the Development Assessment Commission to take into account. The Department of Transport, Urban Planning and the Arts has had discussions with the local council, as has the council in turn with local ratepayers, and much information has been circulated and discussions are under way. So, I am quite relaxed about the level of consultation, judging by the number of comments that DAC and I are receiving.

DRUGS, ILLICIT

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about illicit drugs.

Leave granted.

The Hon. P. HOLLOWAY: In a press release issued yesterday entitled 'Liberals combat illicit drug trade' the Deputy Premier is quoted as follows:

> 'The trafficking of drugs is a destructive blight on our community, in many cases causing irreparable damage to families and individuals. This Liberal government will not tolerate the growing number of crimes against people and property as a result of the drug trade. We have come a long way—under Labor individuals were able to grow 10 hydroponic plants. We will continue to fight drugs in our community and, contrary to common belief, cannabis can cause a number of health and psychiatric problems,' says Mr Brown. 'This government is committed to fighting the illicit drug trade.'

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: It was reported in the *Advertiser* of Saturday 17 November (for the enlightenment of Legh Davis), under the heading 'Two avoid prison in latest clash with the law', that two people, Loreta and Leke Simoni, were placed on a good behaviour bond for charges related to people smuggling. The article also states:

> On Thursday, the District Court was told the Simonis had cultivated 47 marijuana plants, some of which were to be sold to the Albanian community in Adelaide.

The article continues:

> For growing the marijuana, Mr Simoni was sentenced to two years in jail and Mrs Simoni to 14 months. Judge Ann Vanstone suspended their sentences. In her sentencing remarks, Judge Vanstone said the Simonis, who have a seven year old son, had been in court in 1995 for larceny offences. Also in 1996, Mr Simoni, now 43, was convicted of common assault and earlier this year Mrs Simoni, 36, was fined for shoplifting.

My questions to the Attorney-General are:

1. Does he believe that the decision in this court case—a suspended sentence for growing 47 plants, including some for sale—exemplifies the Kerin government's new-found commitment to fighting drugs?

2. In keeping with the Deputy Premier's tough words on the illicit drug trade, will the government follow up this rhetoric with an appeal against the leniency of this sentence?

3. Will the Attorney inform the Deputy Premier that his press release was dishonest in its claim that under Labor individuals were able to grow 10 hydroponic plants?

The Hon. K.T. GRIFFIN (Attorney-General): The honourable member ought to know that I do not get into the business of commenting on penalties imposed in individual cases before the courts. It is all very well for the shadow attorney-general to do that. He does that periodically, because he wants to create some sort of perception about what might be happening with law and order. But the fact of the matter is that, unless you get into a particular case and understand all the background to it and all the matters which are put to the courts, you cannot make a sensible judgment about whether or not the penalty is appropriate. In any event, even if one did, there would be differing views—even within this chamber—as to what would be an appropriate penalty in those sets of circumstances.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: The way you hear the opposition talk sometimes, you would think that everybody should be locked up for anything and that no rational approach should be taken. I suspect that as we lead up to the election it will get even worse when the opposition begins to pick particular cases and to make criticisms of the way in which the courts operate.

The Hon. Paul Holloway should know that the courts are independent of the executive, and that is one of the very strong virtues of our system. We do not have politicians interfering in the way in which the court exercises its discretion. We give the courts a discretion to exercise. We do not say, as politicians or as ministers, 'You must impose that penalty on this person. Don't go imposing a penalty on that person, because that person's a mate of mine.'

The honourable member would know that right around Australia there have been inquiries over a long period of time about corruption issues and about interference with the legal system. We are very pleased that in this state there has not been that level of activity, if any, demonstrating interference with either the policing function or the way in which the courts operate. In this case I do not know the facts of the matter that the Hon. Paul Holloway raised, and I am not in a position to say 'Yes, it was a good decision,' or 'No, it was not.' He will have to go to the court and look it up for himself. If it related to people-smuggling, it is a federal offence in any event.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: You said there were people smugglers, and you introduced it in this dramatic style by talking about people smugglers. People-smuggling is a federal offence; it is not a state offence. They are tried in state courts.

Members interjecting:

The PRESIDENT: Order! I call for order!

The Hon. K.T. GRIFFIN: So in this case, I will not be seduced by the prospect of an election into saying, 'We have to get this one on appeal' or 'We don't want to take that one on appeal. We think the courts are wrong. We will not give them any discretion. We will go down the path of mandatory sentencing.' That is where you are ultimately leading. If you want to ramp it up, you have to suffer the public criticism for that sort of approach.

On issues relating to drugs, we participate as a government in quite extensive programs relating to police drug action teams and police drug diversion programs; we have educational programs in schools and we have the pilot drug court scheme, all of which are directed towards helping those people who are offenders and who are dependent upon drugs of dependence to get off those drugs.

Where offences are committed, which are serious offences, they are still dealt with in the legal system and in the courts notwithstanding that they were committed as a result of their drug dependence. So, they do not get off because they have been drug dependent. However, if they have been drug dependent we try to ensure that they are given some assistance, hopefully, not to commit those offences again in the future. In terms of this particular matter, very strong penalties are in place in relation to trafficking in drugs, and the government supports those, but, on the other hand it recognises that there are those who are dependent on drugs and that, in the longer term, not only does one have to address the supply side of the problem but also the demand side and provide assistance to those who are dependent to try to kick the habit that they are on and, in that way, make some difference to their lives and to the lives of those in the community who would otherwise be adversely affected by them.

STATE ELECTION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about legal advice on election dates.

Leave granted.

The Hon. R.R. ROBERTS: It is now 47 days since the anniversary of the last federal election. The opposition has been—

An honourable member: You can't count.

The Hon. R.R. ROBERTS: The state election, Mr President. Unlike some, I am prepared to admit when I am wrong. The opposition understands that independent advice was sought and obtained in respect of the legalities of the length of time which could expire beyond the anniversary date of the last state election until the next election is held. This issue has been the subject of a great deal of public debate by both MPs and in the media.

The opposition believes that, as a result of a request made by the Attorney-General, a briefing was given which, I understand, was well received. I believe that written advice was also provided, particularly to Independent members of the lower house. Indeed, I am advised that it was given to all Liberal lower house members. This subject is dear to the hearts of many political commentators, and I am sure the press would be interested in looking at the legal advice. My questions are:

1. Will the Attorney now publicly release the legal advice sought by the government advising how long it can delay the calling of an election—advice that reportedly states that the government can continue to operate for months beyond the dissolution of parliament at the end of February?

2. Is it true that the latest date on which the government can call the election is the second last week of June?

The Hon. K.T. GRIFFIN (Attorney-General): That is an interesting prospect. I do not know from where the opposition gets its advice but if it did a bit of original research and looked at the Constitution Act it would find the answers—they are obvious to anyone.

An honourable member: Not to Ron.

The Hon. K.T. GRIFFIN: Maybe they are not so obvious to the opposition. The opposition and some of the media have been peddling a myth that four years after the date of the last election we should have immediately gone to the polls. That is rubbish. It is just totally inconsistent with the constitution.

The Hon. P. Holloway: It is not consistent with morality.

The Hon. K.T. GRIFFIN: That is rubbish. Labor governments—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: —have gone the longest period following the expiration of the fixed term of three or four years of any government in the history of the state. Let us not start throwing stones about who is the most moral in this. The fact of the matter is that since 1856—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts has asked his question.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! The monotonous interjections are getting on everyone's nerves.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The Hon. Ron Roberts says that he does not want a lesson in history.

The Hon. R.R. Roberts: Not your version of it!

The Hon. K.T. GRIFFIN: It is not my version of history. You have only to look at the facts. In 1856 provision was made for three year terms, and the constitution provided that the term would be calculated not from the date when the election was held but from the date when the House first sat. Then in 1908—nearly 100 years ago—a provision was added to the Constitution Act which provided that, after an election, if the House first sat after 30 September, the term would end on 28 February. So, the term of the parliament ends on 28 February. Then there is another three months during which ministers can hold office as ministers.

It is not a rare occurrence because, every time we go to an election and the House of Assembly is dissolved, we depend upon that provision for ministers to continue to hold office until the next government is elected after the election. So, it is used at every election because, the moment the writs are issued, the members of the House of Assembly cease to be members technically, and half the members of the Legislative Council cease to be members. Their remuneration continues, their allowances continue, and their entitlement to electorate offices continues.

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Well, that is the normal provision. The opposition is whipping itself into a frenzy, trying in some way or another to cloud the issue. All it has to do is very simply look at the history and the constitution and it will get to the facts. As I said, the term of the House of Assembly expires on 28 February next year—a provision which has been in the constitution for nearly 100 years. That has been the practice of governments and it has been applied by governments of all political persuasion. Members opposite should not come into this Council and imply that in some way or another this is a distortion of the constitution, because it is not.

In terms of the date of the next election, the Premier has already indicated and reiterated that he expects the election to be some time in March or April. In any event, the Hon. Ron Roberts' question about whether or not the election can be held in the second to last week of June is patently wrong. All he needs to do is look at the Constitution Act and, if he can read it and put it all together, he would find that out for himself.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts—the boring Hon. Ron Roberts!

The Hon. K.T. GRIFFIN: In terms of advice, I wrote a letter to the Editor of the *Advertiser*. Regrettably, the letter was not published, but I would be delighted to provide that letter to the Hon. Ron Roberts, because it will enlighten him—

The Hon. T.G. Cameron: He will not understand it because it is a legal opinion.

The Hon. K.T. GRIFFIN: That is a matter for him. I am quite happy to have that on the public record. There is no problem about that at all. The fact—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: Well, I might need to give him the Constitution Act as well as a dictionary. However, the fact of the matter is that, if you can read, you can put it together, and what I have indicated to you is all that anybody ever needs to know about when elections should be held.

The Hon. P. HOLLOWAY: I ask the Attorney—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts, you've lost the floor.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: No, I said that he has lost the floor.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Has there ever been an example in South Australian history where parliament has expired under the terms of the constitution without an election having been called?

The Hon. K.T. GRIFFIN: I will have to take that question on notice. The fact of the matter is that the constitutional provisions are clear, and the government acts and always will act in accordance with the constitution.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: The government acts and continues to act in accordance with the constitution. That is what we are required to do; I give a commitment that that is what we will do.

CLARKE, Mr R.

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government and Treasurer, the Hon. Robert Lucas, a question about the Hon. Mike Rann.

Leave granted.

The Hon. L.H. DAVIS: I received in my mailbox today a very attractive red, white and black pamphlet. On the front page in bold capital letters are the words 'Mike Rann's choice for Enfield' with a quite attractive and smiling photograph of someone who appears to be the Leader of the Opposition, the Hon. Mike Rann. The pamphlet continues with the words 'Ralph Clarke, Independent Labor', and there is the smiling countenance of Ralph Clarke who, of course, is now—

The Hon. J.S.L. Dawkins: Is that labour with a 'u'?

The Hon. L.H. DAVIS: No, there are no 'u's in it; it is 'or'.

The Hon. T.G. Cameron: He's not affiliated with Trevor.

The Hon. L.H. DAVIS: I think that should be on the record: he is not affiliated with the Hon. Trevor Crothers in any way whatsoever. Having been captured by the very bold black and red lettering on the front page, I then turned to the second page, which states—and I quote it directly and accurately:

> Mike Rann's choice for Enfield. The Labor factions are not listening to the people. Mike Rann listened and that's why he wanted Ralph Clarke for Enfield. . . rather than a factional puppet!

Everyone knows that Mr Ralph Clarke, who was at one time the Deputy Leader of the Labor Party, has now joined a growing band of former Labor members who actually could form their own party. There is Senator Chris Shacht, who of course was disposed of in a factional coup courtesy of the AWU and the factions; Mr Bill Hender, the Labor President in country South Australia, who was beaten off the Legislative Council ticket; and the hard-working and very highly regarded Murray De Laine, who was also defeated by

factional influences. What intrigued me particularly was Mr Ralph Clarke's assessment—and who am I to disagree with Mr Ralph Clarke—that Mr Mike Rann listened and that is why he wanted Ralph Clarke for Enfield rather than a factional puppet, John Rau. He has not mentioned John Rau, but he is the endorsed Labor candidate for Enfield—a factional nominee. So, we have this extraordinary situation where apparently the Leader of the Opposition—

The PRESIDENT: Order! You do not have leave to debate a particular point. You asked for leave to explain your question; it is not for debate.

The Hon. L.H. DAVIS: This pamphlet clearly states that Mr Mike Rann is supporting Ralph Clarke notwithstanding the fact that Mr John Rau is the endorsed Labor candidate. It strongly suggests that Mr Mike Rann has no control over the factions or the power in the Labor Party. My question—

The Hon. Carolyn Pickles interjecting:

The Hon. L.H. DAVIS: I am just accurately quoting the pamphlet. My question to the leader of the government in the Council is: has he seen this pamphlet, and does he agree with my assertion that, in fact, it strongly suggests that Mr Rann, the leader of the Labor Party, is supporting Mr Ralph Clarke, the Independent, rather than the endorsed Labor candidate?

The Hon. R.I. LUCAS (Treasurer): The answer to the question—

The Hon. Diana Laidlaw: I think you should refer the question to Mr Rann.

The Hon. R.I. LUCAS: Well, I think that is probably appropriate, as my colleague the Minister for Transport indicates. I have only just seen this rather bold piece of election advertising.

The Hon. T.G. Cameron: What about the car out the front of the house?

The Hon. R.I. LUCAS: No, I haven't seen the car out the front of Parliament House. But the issue that the honourable member raises is important because—

The Hon. T.G. Cameron: This wasn't a spur of the moment decision, was it?

The Hon. R.I. LUCAS: You think it has been some time in the planning? The recent federal election was determined on a number of issues, but one of the most significant was, clearly, the issue of leadership, the strength and stability in the leadership of the two federal parties, and the judgments that the Australian people made about the strength of leadership of Prime Minister Howard, as opposed to the flip flop leadership of Mr Kim Beazley as the leader of the Labor Party. For the coming state election, about which there has been much discussion in question time today, similarly, the question of leadership will be a critical issue. It is going to be an issue of the strength and stability of the leadership of the government, under Rob Kerin—

The Hon. Carolyn Pickles: Why have you got Rob Kerin?

Members interjecting:

The Hon. R.I. LUCAS: I have just been handed something from the web site, I understand, from a Morgan poll. I cannot attest to its accuracy, I guess, in the recent history of the federal election, but it mirrors a recent Newspoll which shows a very significant increase in support for the government in its most recent poll and another drop, a further drop, in support for the Labor Party under the leadership of Mike Rann.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We are about good government, not just about winning elections. There is no clamouring for an election in the middle of the December retail period. Go and speak to the retailers of South Australia about whether they want an election two days before Christmas.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Indeed, ask your supporters, as my colleague indicated. I am being diverted by these interjections from the Labor Party, but they are because they do not want to engage in a debate about leadership. The problem—

The Hon. Carolyn Pickles: We are not debating it.

The Hon. R.I. LUCAS: Well, I am. The problem, as we saw during the recent federal election, was a lack of leadership and strength in leadership of the Labor Party.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order, the Hon. Leader of the Opposition!

The Hon. R.I. LUCAS: We have exactly the same issue here in South Australia. All we have from the Leader of the Opposition is whingeing and whining every second day of the week. The Leader of the Opposition, the shadow treasurer and other shadow spokespersons for the Labor Party are whingeing—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Well, the only policies to get released are photocopies of existing government policies and programs. So, the people of South Australia are sick and tired of a whingeing, whining Leader of the Opposition. They are sick and tired of the lack of leadership. Much as I am tempted to, I will not go through the leaflet referred to in the Hon. Mr Davis's question in detail, but what it does demonstrate is that the Leader of the Opposition cannot even control his own party.

The Independent Labor member for Enfield is saying that the Leader of the Opposition allegedly supported him and he could not even control the machine men and women of the Labor Party, the factions within the Labor Party, that put a factional puppet into the seat of Enfield.

As I said, much as I am sorely tempted to go through the detail in the leaflet, there will be other opportunities, I suspect, to debate those issues. I conclude by saying that this is a damning indictment of the lack of leadership strength of the Leader of the Opposition, Mike Rann, and, as someone said during the recent federal election, 'If you can't run your own party or yourselves, how can you be expected to run the state or, indeed, the country?'

The Hon. P. HOLLOWAY: I have a supplementary question. Given the Treasurer's comments on leadership, will he guarantee that there will be a series of debates between the Leader of the Opposition and the Premier during the election campaign, unlike the situation that occurred during the federal election?

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: There are, have been and will be a continuing series of debates in the parliament between the Leader of the Opposition and the Premier, and I am sure that there will also be opportunities for the people of South Australia to see the whingeing, whining nature of Mike Rann in debate situations between now and the election.

The Hon. T. CROTHERS: I also have a supplementary question. I heard the answer—

The PRESIDENT: Order! The member must go straight to the question.

The Hon. T. CROTHERS: My question is: will the Independents in this chamber, along with the Democrats, get the opportunity to enter these debates as well?

The Hon. R.K. Sneath: You won't be a member by then.

The Hon. T. Crothers: How do you know?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: In all debates in the parliament, all members will have the opportunity to participate. If there are to be televised debates, the nature or structure of those will depend on either the radio or television station that generally organises such debates.

OPERATION SAFE PASSAGE

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about police search powers.

Leave granted.

The Hon. IAN GILFILLAN: All members would be aware, as I am, of a police swoop on the Sturt Highway—

Members interjecting:

The PRESIDENT: Order! It is very hard to hear the Hon. Mr Gilfillan.

The Hon. IAN GILFILLAN: It is an awful waste of question time if we cannot get on with it. That police swoop on the Sturt Highway over the past three months was titled Operation Safe Passage. It was designed, admirably, to encourage safe motoring and to monitor driver behaviour and vehicle roadworthiness. I applaud this. However, in some cases, the checks and searches carried out appear to extend beyond the bounds of legislatively granted jurisdiction.

I refer, first, to an article in the *Sunday Mail* of 18 November entitled 'Police highway blitz'. The final sentence reads, 'About five kilograms of cannabis also was seized in a suitcase belonging to a bus passenger.' Secondly, an article in the *Advertiser* of Monday 26 November, page 2, states:

> Tactics used in Operation Safe Passage, which will end on Friday, included random vehicle checks, the monitoring of traffic behaviour from helicopters and forensic swabbing of the interior of vehicles for drug residue.

It is a principle of democracy that citizens have the right of free passage and freedom of movement. To facilitate the maintenance of a lawful society, we have empowered police to stop and search people where the police officer has grounds for a reasonable suspicion that an offence has been committed. Aside from that, there needs to be a specific grant of power; for example, the random breath test legislation. The reasonable suspicion test cannot be fulfilled by random searches of private vehicles or buses. The fact that there have been random bag and suitcase searches and the swabbing of vehicles for drug residue raises serious questions of civil liberties abuse. My questions to the Attorney-General are:

1. What is the legal power for the searches conducted on the Sturt Highway Operation Safe Passage?

2. Were sniffer dogs used to conduct searches?

3. On what grounds was drug swabbing initiated by police in Operation Safe Passage?

4. Is evidence garnered in this fashion admissible in court, given that it may extend beyond legislatively granted search rights?

5. In his opinion, are police officers acting outside their legal power by conducting searches in this manner?

The Hon. K.T. GRIFFIN (Attorney-General): The Controlled Substances Act, which deals with issues related to drug trafficking as well as a variety of other issues, provides some very wide powers for police in relation to searching, but I do not have the detail at my fingertips.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: I have not finished the answer yet. I will take most of the question on notice and bring back a response. In respect of the issue of sniffer dogs, there was a case several years ago where dogs had been used in the searching of a bus. As I recollect, the courts held that exercise of police power to be a valid exercise of power, where in that instance the bus operator had given consent for the bus—and particularly the luggage compartment—to be searched. In the context of that search the use of the dog squad was held to be a lawful exercise of power. I will take on notice the issues and factual situations alleged by the Hon. Mr Gilfillan. I will have them examined and bring back a reply.

ADELAIDE AIRPORT

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the relocation of Adelaide Airport.

Leave granted.

The Hon. A.J. REDFORD: When I got up I noticed an article deep in this morning's *Advertiser* entitled 'Shift the airport, says MP.' I was interested to read the following in the article:

> Adelaide Airport should be moved or planes compelled to fly over the sea to protect residents from terrorist attacks and accidents, a Labor MP said yesterday.

I am pleased to know what he was doing yesterday, in fact. The article continues:

> The state MP for the western suburbs seat of Peake, Tom Koutsantonis, said he was 'very serious' about the proposal and planned to write to the federal government about the risks associated with the present flight paths.
>
> 'We are the only city in the world that has an airport 8 km from the CBD, surrounded by residential areas,' he said.

All this from the member who counted votes for Mr Georganis at one federal election, and recently for Mr Tim Stanley. Another two elections and we will see him in Mildura or Mount Gambier. The article continues:

> 'This is a genuine concern for people in the western suburbs. There are schools and hospitals in these areas,' Mr Koutsantonis [I must say, quite remarkably] observed. [He] said he had discussed the issue with Adelaide Airport Ltd management, which had 'reacted poorly to the idea.' But his proposal was not 'completely ridiculous' and could be financed by selling the airport land.

In response, the federal transport minister, Mr John Anderson, indicated that the shifting of the airport would 'not be high on our Government's agenda.' In light of those comments—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The honourable member interjects, and I must say that this is all in the context of some considerably delicate negotiations which have taken place over the past 18 months and which, in a rare occurrence, has received bipartisan support. I thank members opposite, the Hon. Mike Rann in particular, for that bipartisan support for the airport facilities upgrade. In light of that, my questions to the minister are:

1. Is the proposal ridiculous, as indicated in the article?

2. Is the member scare-mongering and particularly causing unreasonable fears amongst people in the western suburbs?

3. What is the real risk posed by airports being surrounded by residential areas, and do they occur eight to 10 kilometres from the city in other residential areas in Australia or overseas?

4. Will the minister inquire as to whether this is ALP policy and, if it is, what would a state Labor government contribute to the cost of the relocation?

5. Will this adversely affect the delicate negotiations for the new terminal and, if so, will the minister ask the Leader of the Opposition to get Mr Koutsantonis to shut up on the issue, in the spirit of continued bipartisanship in this difficult process of negotiating new terminal facilities?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I do not know whether it is ALP policy or whether Mr Koutsantonis, who I understand is on the ALP transport committee, has canvassed it with the shadow minister or the ALP. The government would be most interested to learn whether this is ALP policy or whether the Leader of the Opposition or shadow minister for transport will distance themselves from this statement. It is important for the government to take this matter quite seriously, and, as the Labor Party is always reminding us that we should be at an election at this time, it is important for us to know that the Labor Party is being serious in terms of the propositions that it is putting to the electorate. Therefore, it is important that the Labor Party either confirm or distance itself from this statement by a Labor Party backbencher.

I take the matter very seriously, because it has been so badly researched, and the honourable member seems to be more interested in frightening his local electorate and the Adelaide community at large with talk of crashes and the risks associated with the siting of the airport at West Beach. I would like to confirm here and now, and without qualification, that the risk is absolutely low, and that was most recently assessed by the purchasers of the airport, Adelaide Airport Ltd, when it did a risk assessment prior to purchasing the airport and in doing its master plan for the site. Adelaide Airport Ltd would not have invested its own money—$363 million—in leasing that site unless it thought it was low risk and it would be a sound investment.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Low risk in terms of safety and a sound investment. It has taken on this lease as a private sector consortium from the federal government for a period of 50 to 99 years. I do not know whether Mr Koutsantonis is now saying that a state Labor Party or a federal Labor Party would be prepared to buy out the lease—

The Hon. L.H. Davis: Just ask Mike Rann that, publicly.

The Hon. DIANA LAIDLAW: Well, I am. I would like to know what Labor Party policy is, or whether it will distance itself from this ill-considered—

An honourable member: They haven't got one.

The Hon. DIANA LAIDLAW: Perhaps they don't have one, but Mr Rann did say on the weekend that he was going to shortly, and certainly before the election, cost all Labor Party policies. Is he saying that they are going to buy out the lease from Adelaide Airport Ltd, which has a 50 to 99 year lease from the commonwealth, the purchase price being $363 million? Mr Koutsantonis—without research, I suspect—naively says that a new airport could be financed by selling the airport land. First, we do not own the land; secondly, it is leased to a private consortium; and, thirdly, the latest studies by Flinders University indicated that, if the land was sold for the maximum purposes—no open space or anything like that—which would be residential, fully covered by high density/medium density residential, the benefits would be $650 million. However, a new airport would cost $1.4 billion, and that is a minimum, or it could be over $2 billion.

That study was undertaken by Flinders University in 1989, updated in 1993, and, again, as recently as 1998. Anyone who had researched this subject would never have suggested (as Mr Koutsantonis has in this instance), first, that you would buy out the lease; secondly, that it could be financed by selling land that you do not even own; and, thirdly, that a new airport could be financed by selling airport land. The latest estimates are that a new airport could be, at least, double the maximum cost that could arise from selling the land, or even up to $2 billion. Why would you do this when the risk is low, notwithstanding what Mr Koutsantonis wants to exaggerate in the electorate—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —and when we have a situation where the present site is sadly used substantially below its capacity and there is room for many years of growth in terms of the private sector consortium management of that site? In terms of the federal airport, all of us have been wanting for years—

Members interjecting:

The PRESIDENT: Order, the Hons Mr Redford and Mr Holloway!

The Hon. DIANA LAIDLAW: When the Federal Airport Corporation owned this site, we pleaded for years—first, a Labor Government and now more recently a Liberal government with the new owners—for a new integrated air terminal with air bridges. We thought that that had been realised with all parties signing up. At this stage we cannot even get that as a result of Ansett's uncertainty and the future of Virgin, in whatever form. I think there is a real risk—when so much money is involved from Adelaide Airport Limited in terms of seeking to build a new airport—in any member of parliament, let alone the local member (and one who would wish us to take him seriously but I would suggest that we do not), arguing that the airport should even be moved.

I believe that that is really serious, and I call on the shadow Minister for Transport and/or her leader to distance themselves from, first, generating the fear in the local electorate when there is no basis for that fear; secondly, jeopardising the terminal upgrade in terms of an integrated proposal; and, thirdly, distancing—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order, the Hon. Mr Holloway!

The Hon. DIANA LAIDLAW: —themselves from such an ill-researched and ill-conceived proposition.

The Hon. J.S.L. DAWKINS: As a supplementary question, does the minister know whether Mr Koutsantonis is aware that proposals to shift the airport from West Beach to the Two Wells/Lower Light area were abandoned more than a decade ago when the current airport was owned by the commonwealth government?

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: Certainly, the plans were abandoned. I understand that, some 20 years ago, there were some plans. The Mallala District Council Development Plan does reserve some land but the project, for all real purposes, has been abandoned.

VOLUNTEER MEDAL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about the international year of the volunteer medal.

Leave granted.

The Hon. T.G. CAMERON: The year 2001 is the International Year of the Volunteer. A decision not to issue the South Australian Ambulance Service with volunteer service medals has left some members shocked, disappointed and disillusioned. At a recent meeting, the Country Ambulance Service Advisory Committee (CASAC) dismissed the opportunity to honour its 1 500 members with volunteer medals on the basis that they were inappropriate.

The medals, which have been approved by the United Nations for insignia use, are being awarded to CFS and SES volunteers across the nation as recognition of their work during the Year of the Volunteer. The decision not to award them to SAAS volunteers was deliberated at the CASAC meeting held on 14 September. The medals were deemed inappropriate because the South Australian Ambulance Service no longer has a dress uniform and its officers would have no opportunity to wear them. Well, well!

The committee made comment that the medals were too expensive, and that an off-the-shelf lapel pin, coffee mug or pen may be a better option. Many members of SAAS believe that the suggested options are an insult to the men and women who give their time in a voluntary capacity to assist the community. They have suggested to me that the awards process should rest with the executive of the South Australian Ambulance Service and not with CASAC, and that the decision to award the medal should rest with individual branches and branch committees. This would diffuse the situation and would place the decision to award the medals locally. My questions are:

1. Will the minister intervene or review this matter and have discussions with CASAC with a view to its reversing or reviewing its decision?

2. Will he examine the proposal to allow the decision to award the medal to rest with individual branches and branch committees?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

GOVERNMENT RADIO NETWORK

In reply to **Hon. CARMEL ZOLLO** (6 July).

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has been advised by the Minister for Administrative and Information Services of the following information:

1. The government is aware of the previous interference with television reception in Kadina and the matter has been examined by the relevant Federal agency, the Australian Communications Authority (ACA). The South Australian Government Radio Network is operating legally using frequencies for its paging service, which have been approved and assigned by the ACA.

2. The Australian Broadcasting Authority has the responsibility for planning service areas for TV transmissions and it is understood that Kadina lies outside the Mt Lofty transmission plan. Since Kadina residents are outside the particular transmission service area, they have made the decision to purchase masthead amplifiers in order to achieve reception from Mt Lofty. The interference problem relates to overloading of the masthead amplifier from nearby radio paging services operating legally on their own frequencies. It can be overcome by inserting a radio frequency filter before the amplifier and this already occurs in most modern equipment.

The Australian Communications Authority (ACA) has provided the self-help booklet, 'Better television and radio reception: Identifying your interference problem', to residents, who complained about interference in the Kadina area. This booklet also contained a questionnaire and the ACA Adelaide operations centre advises that any returned questionnaires have been dealt with. In addition, the ACA sent a consumer information leaflet about fixing the problem to TV service organisations in the area and to those residents identified as having interference likely to do with the paging service.

Given that the Australian Communications Authority is the appropriate body to receive and investigate any further complaints regarding interference, Kadina residents have been advised to contact the Australian Communications Authority for assistance directly on 1300 850 115.

COUNTRY FIRE SERVICE

In reply to **Hon. IAN GILFILLAN** (2 October).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has provided the following information:

The Metropolitan Fire Service currently takes calls on behalf of the Country Fire Service only when a 000 call to a CFS number is not answered locally, when a call in mutual response areas is made to 000, or at the request of a local CFS brigade.

The trial the honourable member referred to has not yet commenced, and will not commence until the necessary infrastructure has been established. The six-month trial will involve CFS officers working from the MFS communications centre, and those CFS officers will provide call-taking and dispatch services for those CFS calls previously mentioned that would normally have been taken by MFS officers. This process of having CFS calls taken by CFS officers does not result in any changes to current operational practices. The results of the trial will be considered by CFS and MFS, and if changes are considered necessary, wider consultation will take place.

The requirements review for a collective computer-aided dispatch (CAD) system is still in progress and will be informed by the results from the trial. Any involvement by the CFS in a longer-term proposition will be subject to operational and technical consultation. CFS local response plans are in the existing MFS CAD system, and these were introduced at the request of CFS.

As part of the Emergency Services' utilisation of the SA-GRN it will be possible to take all 000 calls centrally, for subsequent local dispatch, but this will not take place without due consultation. Furthermore, no decision has yet been made whether to divert to '000' those CFS calls that are currently taken locally by the Telstra ERS-7 system, which will not be supported after 30 June 2002. If a decision is made to divert the ERS-7 calls to 000, the caller can be confident that their call will be answered on a 24-hour, 7-day basis by professional communications officers.

POLICE PROCEDURES

In reply to **Hon. T.G. ROBERTS** (23 October).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has provided the following information:

1. and 2. The honourable member suggested that a report had been made to the Attorney-General's office in relation to the arrest of a young Aboriginal person. I wish to clarify that this was not the case.

I am advised that on 8 October 2001, the portfolio officer to the Minister for Police, Correctional Services and Emergency Services received two telephone calls, one from the Aboriginal Drug and Alcohol Council and one from Mr Roberts in relation to the incident in Victoria Square. Details were sought from the Commissioner of Police, and I am advised a brief was provided to the said Minister on 9 October 2001.

This matter is now before the courts and it would be inappropriate for me to comment further.

3. Police from the Adelaide local service area, transit services branch and special tasks and rescue group were trained during July and August 2001 in relation to the implementation of the trial dry zone within the Adelaide City Council area. The training was comprehensive and each session took four hours to complete. A number of issues were canvassed in the training package including the following:

- History of 'Dry Areas' within South Australia and in particular Adelaide.
- 'Dry Areas' Legislation.
- Policing strategies to be used: post education phase, education post implementation phase and the enforcement phase.
- Evaluation strategies.
- Media interaction.
- Possible impact on the community.
- Cultural awareness training.

In addition, training was provided regarding the Public Intoxication Act and in particular, relevant practices when dealing with support agencies such as the Salvation Army and the Mobile Assistance Program.

4. The training officers from the Adelaide Police Local Service Area worked closely with the Department of State Aboriginal Affairs and the Aboriginal Sobriety Group to facilitate the training. Mr Frank Lampard the Program Manager from the Department of State Aboriginal Affairs provided cultural awareness training, which utilised members of the Aboriginal community with diverse experiences. Prior to the training commencing the police training officers and the Aboriginal trainers met to discuss the issues to be addressed in the training. As a result of these discussions the following issues were integral to the training syllabus:

- Practical advice to assist police when dealing with members of the Aboriginal community who may be intoxicated.
- Practical advice to assist police when dealing with relatives or friends of Aboriginal people who may be intoxicated.
- Appropriate language for police to use when speaking with members of the Aboriginal community, as well as language to avoid.
- A brief outline of kinship ties.
- A brief outline of the relationship history between police and members of the Aboriginal community who frequent the City of Adelaide.
- Information as to where the members of the Aboriginal community who frequent the City of Adelaide come from.
- Details regarding other services, both government and non-government, who may assist members of the Aboriginal community from time to time.

The training sessions were evaluated by the trainers and it was their opinion that the training provided was worthwhile and assisted in breaking down perceived barriers between the police and the Aboriginal community.

5. I am not aware of other incidents as implied by the honourable member.

GAMBLING, YOUTH

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Gambling, a question about youth gambling.

Leave granted.

The Hon. NICK XENOPHON: The Sunday *Herald Sun* of 18 November 2001 reports that Victorian young people are the new victims of that state's gambling epidemic with the number of problem, at-risk gamblers aged 18 to 29 spiralling to 18 000, with counsellors fearing that young gamblers are making a poor start in life, are losing friends and partners, and are failing at work and study because of their problem gambling. As a consequence, the Victorian government has launched a massive education campaign aimed at youth gamblers. My questions are:

1. What research and figures does the minister have in relation to youth problem gamblers in South Australia?

2. What is the percentage of 18 to 29 year olds presenting to Break Even Gambling Services as a proportion of total clients presenting to Break Even?

3. Does the minister accept that there would be grounds for concern in this state over youth problem gambling, based on the Victorian findings?

4. What measures are being planned to deal with the issue of youth problem gambling in South Australia?

5. Does the minister consider that we are lagging behind other states in dealing with this issue?

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

TUNA FISHERY

The Hon. R.R. ROBERTS: I seek leave to make a personal explanation.

The PRESIDENT: On what subject?

The Hon. R.R. ROBERTS: A correction to *Hansard*.

Leave granted.

The Hon. R.R. ROBERTS: During a contribution regarding the fishing industry recently, recorded in *Hansard* on page 2540, when talking about quotas, I stated:

> When one looks at some of the donations that have been made by the South Australian Fishing Industry Council—$100 000 to this government on one occasion, and an expected $100 000—

I was in fact wrong. I did not correct the *Hansard* at the time but I do point out that the donations were made by the fishing industry. I obviously did say 'Council'. I am not disputing that and it was not corrected. I take the opportunity, as I was advised by a Mr Peter Welsh who picked it up and pointed it out to me, and I am happy to point out to the Council that the donation was made by the fishing industry and not the Fishing Industry Council per se.

Members interjecting:

The PRESIDENT: Order!

ROYAL AUTOMOBILE ASSOCIATION

In reply to **Hon. CAROLYN PICKLES** (15 November).

The Hon. DIANA LAIDLAW:

1. The e-mail was distributed only to agencies within the portfolio of the Department for Transport, Urban Planning and the Arts.

2. No. The intention of the e-mail was to advise employees across the portfolio that Mr Payze was standing for election to the Board of the RAA.

3. No. It was not undertaken at my direction or with my knowledge.

4. Mr Luks acted of his own accord. He was not directed by anyone.

5. None. Mr Luks has apologised for his actions, and I have accepted his apology.

ABORIGINAL HERITAGE SITE

In reply to **Hon.SANDRA KANCK** (26 September).

The Hon. DIANA LAIDLAW: The Minister for Aboriginal Affairs has provided the following information:

All three of the honourable member's questions are premised on either alleged or hypothetical circumstances. The Minister for Aboriginal Affairs refers the honourable member to her ministerial statement on 27 September 2001.

If the honourable member or any other party is aware of any evidence contrary to the advice the Minister for Aboriginal Affairs has received then it is their duty and responsibility to bring this to the attention of the proper authority, the State Aboriginal Heritage Committee, and it will be immediately investigated.

VOLUNTEERS

In reply to **Hon. IAN GILFILLAN** (26 September).

The Hon. DIANA LAIDLAW: The minister responsible for volunteers has provided the following information:

1. The South Australian government has led the way within Australia in the recognition and establishment of support for volunteers and the volunteer sector.

The need for a dedicated government office for volunteers arose from the volunteer summit and forum held by this government in 1999.

South Australia is the first state to not only establish a government office for volunteers, but also to recognise the importance of

volunteering to the community through Ministerial representation. It should be noted that this model is already attracting interest from other states.

The Office for Volunteers is developing a business plan and it will be made public once the appropriate processes have been completed.

2. The establishment of the Office for Volunteers, and subsequently all projects undertaken by the office, has involved extensive consultation with all sectors of the volunteer community. Volunteering SA is one of a number of representative organisations for the volunteer sector in SA. Volunteering SA has been consulted and involved in all major developments including the Volunteer Alliance, the Volunteer Protection legislation and has a representative on the Volunteer Round table.

3. The government has allocated significant funding to support and enhance the volunteer sector in South Australia. Consistent with processes across the public sector, this funding is allocated through the appropriate Government agency, which in this instance is the Office for Volunteers.

Some funds are directly allocated to volunteer organisations to assist the provision of programs or other support to the volunteer community while some programs or services are directly managed and funded by the Office for Volunteers.

Volunteering SA, as one of the representative organisations, has received significant financial support from the government since 1999 to assist in their service delivery to the volunteer community.

The following funds have been allocated to Volunteering SA:

1999-2000	$200 000	Premier's training initiative
2000-2001	$50 000	State Volunteers' Conference
2001-2002	$45 000	Rural training program

The state government, through the Office for Volunteers, will continue to support the many sectors of the volunteer community through a range of representative organisations, including Volunteering SA.

The government intends to ensure that the broad volunteer community is represented and actively involved in the development of policy and the establishment of appropriate support services to volunteers and volunteer organisations. Volunteering SA is one of the major volunteer organisations currently involved in the establishment of the State Volunteer Council, a government advisory body representing the broad volunteer community.

Representatives from many sectors of the volunteering community, including the president of Volunteering SA, met recently with the minister responsible for volunteers to discuss the establishment, structure and function of a State Volunteer Council. The meeting and proposal for the Council was well supported by the volunteer community and will provide them with a direct advisory role to government.

4. The premier appointed the Hon. Iain Evans MP as the minister responsible for volunteers in 1999, again as an outcome of the volunteer summit and forum. As a result of this appointment, the Office for Volunteers was placed within his existing portfolio responsibility being the Department for Environment and Heritage. Regardless of the portfolio status, the Office for Volunteers is working across government agencies to ensure a whole of government responsibility for volunteers.

ROYAL ADELAIDE HOSPITAL

In reply to **Hon. T.G. CAMERON** (25 October).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. The work bans and limitations by members of the Australian Liquor, Hospitality and Miscellaneous Workers Union (ALH&MWU) employed in the food services department of the North Terrace campus of the Royal Adelaide Hospital (RAH) were lifted from midnight Wednesday 24 October 2001. This action was in response to the ALH&MWU's in-principle acceptance of a proposal made on 22 October 2001 by the Office of the Commissioner for Public Employment to the ALH&MWU.

2. The full range of catering services for patients was restored from breakfast on 25 October 2001. During the dispute meals for patients with special dietary needs were not affected.

TOBACCO SMOKE

In reply to **Hon. NICK XENOPHON** (15 March).

The Hon. R.D. LAWSON: In addition to the answer given on 15 March 2001, the following information is provided:

1. No studies/research have been carried out by Workplace Services on the effect of environmental tobacco smoke (ETS) on workers in enclosed places in gaming rooms and the Adelaide Casino.

2. Workplace Services has not undertaken any studies as to the levels of ETS to which attendants are subjected.

WorkCover Corporation, which shares responsibilities with Workplace Services for OHS&W legislation in South Australia, notes that employers have a responsibility to arrange any measurement of exposures as part of assessing risks with a workplace.

Specifically, under Section 29 of the OHS&W Act 1986 & Regulations 1.3.2 and 1.3.3 of the OHS&W Regulations 1995, the identification of hazards, assessment of risks and the implementation of control measures are the responsibility of the employer.

3. My department does not have dedicated inspectors to measure ETS in enclosed spaces. However, Workplace Services will investigate, using available equipment, if it receives a formal complaint.

4. Whilst WorkCover Corporation has no specific plans to study the impact of ETS on gaming room employees, investigations into the risk posed by passive smoking in the hospitality industry are being conducted under the safer industries program.

Workplace Services has received a few inquiries from employees in the hospitality Industry after the implementation of Section 47 of the Tobacco Products Regulation Act 1997 (which establish smoke free dining as the norm through out SA). The inquirer's were advised of the OHS legislation and Workplace Services' complaint system.

STATE SUPPLY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 2742.)

The Hon. P. HOLLOWAY: The opposition supports the second reading of this bill and, as I indicated to the minister last week, we will facilitate its passage through both houses this week if possible. The bill has arisen as a result of concerns that the Auditor-General has expressed regarding the State Supply Board's role in the procurement of services. This came about after the board (at the request of the Treasurer) undertook a whole-of-government procurement review. The review highlighted the need for accountability and led to a unified approach to the procurement of goods and services. The State Supply Board was therefore given power over the acquisition of services. The Auditor-General expressed concern regarding the legal authority for this conferral. He considered that the government's unified approach policy may not be sufficient to confer upon the State Supply Board the necessary legal power regarding the acquisition of services. This bill expressly refers to services in order to give the appropriate legal authority to the State Supply Board.

It is important to note that the Auditor-General in his most recent report expressed specific concerns regarding the role of the State Supply Board in the area of procurement policies and made the comment that the board has not yet formally issued detailed instructive guidelines to agencies regarding best practice procurement policies. The Auditor-General states (page 131, Audit Overview, Part A):

At the public sector agency level, Audit's overview assessment has revealed that policy and procedural development has (and is) occurring. Notwithstanding, to date, no comprehensive whole-of-government policies and procedures (as to the conduct of procurement processes, structured and focused on each step in the procurement cycle process) have been developed at the government agency level. It can be said that in most cases agencies have only advanced

marginally beyond the high level policy framework material published by the board.

The Auditor states that considerable improvement is required in the areas of direction and development concerning instructive procurement policy and procedural formation. In conclusion, the Auditor-General states (page 135):

> It is most important that the identified shortcomings in the legal and policy framework and in the area of prescribed policy and procedural guidance for agencies is properly and quickly addressed. This will provide a strong foundation and support for the Board and agencies in achieving the guiding principles for procurement decision making and practice.

Whilst this legislation mops up some deficiencies in government policy framework, it is to be hoped that the concerns expressed by the Auditor regarding guidance for agencies will be duly noted.

I make the observation that, of course, it was the failure of the State Supply Act to refer to services which led to the resignation in disgrace of the former premier. We well recall the letter of 14 April 1994 which the former premier wrote to Motorola making a commitment by the government which we now know was contrary to the provisions of the State Supply Act. Of course, the Auditor-General then drawing the attention of the ex-premier to that fact led to the series of events which culminated in the Cramond and Clayton reports and the subsequent resignation in disgrace of the former premier. So, these matters relating to issues of services coming under the State Supply Act are of no small importance to the state.

Of course, the Clayton report contains a number of pages referring to the background of that particular matter and how the Auditor-General from 7 September 1995 onwards had raised those concerns which, I suppose, ultimately led to the changes in the legislation. My colleague in another place the shadow minister for government services, Pat Conlon, will no doubt speak on this bill in greater detail when it goes to that chamber. At this stage, I indicate that we support these long overdue changes to the act which will regularise the inclusion of services under State Supply.

The only concern that I indicate at this stage which the opposition might have relates to the amendment to clause 4 'Interpretation'. The new definition of 'Supply operations' is to include goods and services, but it does not include operations excluded from the ambit of this definition by regulation. Clearly, we would not want to see a situation where there was some sort of retrospective use of that regulation to exclude operations that might otherwise have been covered by the act. To sum up what really happened in relation to the Motorola contract, after this letter of April 1994 got the former premier into so much trouble, the government of the day got around that by letting its government radio network contract with Telstra. Of course, the Motorola arrangements for the exclusive use of that equipment was a sub-part or sublease of the government radio network contract. Obviously, given that history, we would be concerned if some device were to be used to try to get around the provisions of that act. With those comments, I indicate that we support this attempt to correct the State Supply Act along the lines suggested by the Auditor-General.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 4 October. Page 2445.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. This is not a complex bill but one which seeks to tidy up the legislation establishing the Legal Services Commission. The Legal Services Commission Act was enacted in 1977, more than two decades ago. Since that time, there have been a number of changes to both the regulatory and business environments in which the commission operates, including the development of a national uniform system of administration for all commissions across the country. At a practical level, the bill will give a director of the commission and the commissioners appropriate powers of delegation. Presently, the act restricts the commission to delegating expenditure from the legal services fund and a director is prevented from delegating the power to grant and refuse aid. This has proved an encumbrance to the day to day operations of the commission.

Under the bill, applicants for legal aid will no longer have to statutorily declare that their applications are true and correct. This requirement has been over-ridden by the adoption in 1995 of a national uniform application form. The proposed act also reflects a changed regulatory and funding relationship between the commonwealth and the states that occurred in 1997. The bill also removes the commonwealth nominees on the commission which, again, reflects the changed funding arrangements. There are a number of other minor amendments. The opposition supports the second reading.

The Hon. IAN GILFILLAN: This bill provides a number of amendments that will allow the Legal Services Commission to operate more efficiently and addresses the changed relationship between the state and commonwealth governments in regard to the commission. Most of the amendments arise from anomalies identified by the Auditor-General. The bill gives the commission and the director the ability to delegate the power to grant and refuse aid. It also removes the requirement for applicants to verify their applications by statutory declaration. Since the adoption of the national uniform application form, the commission has not required applicants to sign such declarations and has exempted applicants from complying with these verification requirements.

The bill removes the requirement for two nominees of the commonwealth government on the commission. The commonwealth has not filled these positions for a number of years and it is not appropriate to have the positions, given the current relationship with the commonwealth government. The bill also changes the wording of this provision to reflect the fact that the current agreement is a standard purchaser-provider agreement under which the commission has the status of a provider of services in respect of commonwealth law matters.

The bill removes the duty of the commission to liaise with and provide statistics to the commonwealth at its behest and addresses a number of other minor amendments substituting gender neutral terminology, removing restrictions on the name and location of the commission's offices, and replacing outmoded language. In correspondence with the Law Society,

I note that it has stated that the bill makes administrative sense and reflects the changed state vis a vis commonwealth relationship in the funding of legal aid. I indicate that the Democrats support the second reading of the bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 15 November. Page 2732.)

The Hon. IAN GILFILLAN: I sought leave to conclude my remarks later because I want to comment on what appears to be a complication in the bill, bearing in mind that we have a Public Trustee bill before parliament. I refer to the Attorney's second reading explanation, which states that a clause would:

> remove an existing restriction on the entitlement of trustee companies to charge for the preparation of wills. This was not a recommendation of the review but arises as a corollary of amendments to the Public Trustee Act which are proposed in another bill presently before parliament.

I will not read further from the explanation, in the expectation that the Attorney is aware of the matter and the significance of the clause to which I refer. When he concludes the debate, I ask the Attorney to comment on whether it is still appropriate for us to consider this matter in this bill while we have a specific bill to deal with the Public Trustee Act on the *Notice Paper*.

Certainly, from our point of view, the question of trustee companies being able to charge for the preparation of wills is still contentious and one which I would like to give more thought to but have not done so on the understanding that we would not deal with it in this bill. I do not intend to go further in my second reading contribution. I indicate that the Democrats support it. I emphasise again that the reason for my seeking to conclude my remarks later was our recognition, to our surprise, that the bill contains a clause which deals specifically with the Public Trustee at the same time that we are looking at a separate bill dealing with the Public Trustee.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT (COURTS AND JUDICIAL ADMINISTRATION) BILL

Adjourned debate on second reading.
(Continued from 31 October. Page 2574.)

The Hon. IAN GILFILLAN: I indicate Democrat support for the second reading. This bill makes a number of amendments to legislation dealing with the jurisdiction and administration of courts. First, it amends the Courts Administration Act to allow sentencing remarks to be published on the Courts Administration Authority's web site. Secondly, it amends the District Court Act to give the District Court the same powers as the Supreme Court in relation to contempt of itself. Currently it can deal with contempts; however, the powers are limited to contempts in the face of court. Situations where a media or internet organisation publishes information which tends to prejudice the mind of potential jurors, or to prejudice the prosecution or defence of a pending trial, must be dealt with by the Supreme Court as these actions have been held to amount to contempts at common law.

Part of the bill is also aimed at auxiliary appointment powers. In amending the Judicial Administration (Auxiliary Appointments and Powers) Act, the bill seeks to allow the Workers Compensation Tribunal to appoint retired District Court judges as auxiliary deputy presidents of the tribunal and to permit the Environment, Resources and Development Court to use auxiliary District Court judges as auxiliary judges of the ERD Court. The Attorney has argued that, in the case of the tribunal, this is to fill temporary needs, whether arising from illness or from a backlog of cases. In the case of the ERD Court, it is needed because of the potential for both judges of the ERD Court to be disqualified from hearing a case, as is the situation with a matter set down for trial early in 2002.

The Law Society opposed this amendment on two grounds: first, some retired judges may not be suitable for auxiliary appointments; and, secondly, it introduces a system where retired judges are employed on a short-term basis, and there is concern about potential conflicts of interest relating to decisions and further auxiliary appointments for that officer.

The Magistrates Court Act is to be amended to increase the monetary jurisdictional limits of the Magistrates Court from $30 000 to $40 000, and the Mining Act and Opal Mining Act are amended to allow the Warden's Court to order payment of monetary amounts in disputes between parties conducting a joint mining or prospecting venture, commonly termed partnership disputes. The Supreme Court Act is amended to allow the Supreme Court to waive court fees where a person is unable to pay the fees because of financial hardship or for any other good reason. This provision already exists in the District Court Act and the Magistrates Court Act.

While I note that the Law Society does not support all these provisions, the Democrats have not been convinced on the arguments against the bill and will certainly support the second reading.

The Hon. NICK XENOPHON: I support the second reading and I welcome that part of the bill that relates to the publication of sentencing remarks on the internet. I understand that immunity must be granted to court staff and to the courts, given the nature of publishing court remarks on the internet. This is another example of how the internet provides a very useful role in making the courts more accessible and open to the public. In that regard, it is a very welcome development. I support the second reading of the bill.

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

VOLUNTEERS PROTECTION BILL

Adjourned debate on second reading.
(Continued from 15 November. Page 2746.)

The Hon. IAN GILFILLAN: I indicate support for the second reading of this bill. The issue addressed by the bill was identified by a volunteer summit and forum in Adelaide in 1999. The development of the bill commenced then and was introduced at the beginning of November this year.

The bill is aimed at protecting individual volunteers from possible personal civil liability. The liability in these cases will rest with the organisation for which the volunteer is working. There are a number of exceptions, as set out below. Volunteering SA, the peak volunteer organisation in South Australia, has commended the government for placing volunteering on the state's agenda. It has, however, raised concern in regard to the scope of the bill. I quote from Volunteer SA's response to the volunteer protection legislation discussion paper, as follows:

> 5. Scope
> Scope—limited to civil liability—civil cases only—while this is important to protect volunteers, the need for rigorous consideration of wider insurance issues, particularly personal accident protection, is still important, even though cost implications are much more serious. Volunteering SA urges the government to continue to explore these further insurance issues.

I ask the minister what the reasons were for restricting the bill just to civil liability. While we recognise this bill is not ideal, we support its passage and look forward to additional measures supporting the vital work that volunteers do in our community.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill. Along with other members I also acknowledge the vital role that volunteers play in the community, and I understand the basis for the introduction of this bill. However, I wish to raise a number of points in relation to the bill. If the common law position is to be changed, as this bill proposes, so that a volunteer is not the subject of litigation in the context of their volunteering work—and I understand the rationale and history behind that—my concern is that it is imperative that volunteer organisations are aware of the change and take proactive risk management steps to ensure that they are not subject to legal liability and, further, that appropriate insurance policies are in place. My concern is that circumstances may arise where a volunteer organisation does not have an insurance policy and, as a result of the actions of a volunteer, how ever well intentioned, an injury is caused to a person or property. That person who is subject to the injury or damage could be left without any legal recourse or remedy.

Having said that, my principal concern is to ensure that adequate insurance policies are in place in relation to those organisations such as the CFS that are not already covered by virtue of legislation. In committee I will be asking what steps the government will be taking to educate those volunteer organisations so that they do everything possible to ensure that they have an insurance policy in place.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contribution to this important landmark legislation. I acknowledge the uniform, unanimous support for this measure and wish it a speedy passage.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: Given that this changes the legal regime in place so that volunteers are not the subject of litigation and do not sustain personal liability for damages, what steps will be taken to encourage voluntary organisations to take out insurance and advise them of the change? For instance, will organisations be contacted in relation to this bill, assuming it is passed? Further, will any education or information program on the part of the government include reference to the importance of undertaking risk management strategies and taking out appropriate insurance policies?

The Hon. DIANA LAIDLAW: I have the minister in close contact to help me with this answer. He has confirmed to me that, with the passage of this legislation, the department and minister are poised to call for tenders for the conduct of public education campaigns. It is their intention to write to everybody on the extensive mailing list and, in addition, undertake training. This includes one on one meetings with Rotary and the CWA at various AGMs and formal meetings set up just for this purpose of training and information. The proclamation of the bill will be delayed until the minister is satisfied that the volunteer community clearly understands the implications of this bill and in particular what this bill does not do as well as what it does in the coverage of volunteers. On behalf of the minister I highlight that the risk management issues will be an extensive part of this public education campaign so that the volunteer groups understand how to reduce their risks and liability to risk overall.

The Hon. T.G. CAMERON: This is really a follow-up question to the point that the Hon. Nick Xenophon has just raised. I am not sure whether his question covers my concern; I do not think the answer does. I am concerned that, since the HIH collapse, in some cases the cost of public liability insurance has risen by 2 000 per cent. These unincorporated bodies were all insured, and it might have cost them $300 or $400 for their little public liability cover. I have had calls to my office that a $300 or $400 bill has turned into a $2 000 bill. The unincorporated body will be bankrupt if it has to pay a $2 000 insurance premium. We know only too well that many of these unincorporated bodies are not asset rich. I have indicated my support for the bill, but this question must be raised. In view of the HIH collapse, if we create a situation where a whole bunch of these unincorporated bodies do not renew their insurance premium, we could well then find there is no cover for anybody who might have a claim, whether it be against a volunteer or the organisation.

The Hon. DIANA LAIDLAW: The honourable member asks a very good question. I have been told by the minister's office—in fact, the minister himself—that he has already anticipated the very concerns that the honourable member has raised. He has established a working party which involves volunteers and representatives of the insurance industry and which is being chaired by the Hon. Angus Redford. The undertaking is that the working party come back to the minister shortly, having addressed these issues in relation to risk management and insurance. I am not sure whether the Hon. Angus Redford could add more from the working party's perspective, but I thank the honourable member for his question.

The Hon. A.J. REDFORD: If I can assist the honourable member, he correctly identifies a serious issue. It concerns not just the HIH collapse but also the insurance underwriting market throughout the world, as a consequence of two major events, one recently. The most significant events were the hurricanes in the Caribbean which sent a shock wave through the insurance industry throughout the world. As the honourable member has correctly identified, the premiums have gone up of the order of 2 000 per cent. The figures I have been given may be wrong, but I have been told that two years ago the scouts were paying insurance premiums of about $15 000 and they are now looking at having to find $80 000 or $90 000. Such figures as those are rippling right across the volunteer sector.

The other issue is that governments traditionally, of all persuasions, have said, 'If we are going to give a volunteer sector agency a grant or a job to do, we require it to be appropriately insured.' They are coming back to us, particularly with respect to some of the smaller grants, and saying, 'Hang on, this is a $10 000 grant, but to comply with your conditions we will have to spend $7 000 on insurance.' These are the issues that are confronting us externally.

With that in mind, the minister has appointed me to chair a committee involving the volunteer sector, the insurance sector, the public sector and, more recently, the local government sector, because it has a very close relationship with the volunteer sector. We have had three meetings at this stage to identify a process, and I am happy to give any member any information that is available. We are trying to exactly identify the issues and how serious they are.

Last week we sent out a questionnaire, worded as simply as we could, bearing in mind the nature of volunteer agencies stem from the small four or five person outfit to the very substantial institutions such as the guide dogs, scouts and the like, to identify the sorts of coverage they have, the sorts of costs they are inflicted with and, just as importantly, risk management. As I said in my second reading speech, one of the issues that has not been directly addressed in this whole area for quite some time is risk management.

In the United States, an agency set up initially by President Bush senior, and followed through quite strongly by President Clinton, was focused entirely on risk management, avoiding accidents and the like. That is now totally funded from within the volunteer sector. I met with them in Washington. I believe that they provide us with a model, subject to consultation with the volunteer sector, on addressing that issue.

In relation to the insurance issue, I think we will have to work very closely with local government in developing a number of strategies, including whether we bulk purchase insurance on behalf of all volunteer sectors or whether we bring them together and get a broker to negotiate on their behalf. There is a range of different options which we are endeavouring to identify. I do not for a minute think that this will be a simple and easy thing to resolve. The minister's instruction to me is that he wants it fixed by February or March at the latest. There go the Christmas holidays, but that is life.

The Hon. T.G. Cameron: Why February or March?

The Hon. A.J. REDFORD: That is a very good question. It is simply that we cannot do it any quicker than this. We appreciate that this is an extraordinarily urgent issue. If we could fix it next week, we would fix it next week. It is a complex issue. There is a range of volunteer groups already insured under the government, such as Friends of the Parks and all our volunteers in the State Emergency Service and the various fire services. They are already insured because the state carries that insurance.

There are organisations like Rotary, Lions, Apex, the scouts and the guide dogs that are not covered under that insurance. There are also thousands of volunteer agencies that deal directly with local government. We would like to work with local government to see whether we could cover those agencies via local government. They will be absolutely critical in this whole process.

The Hon. T.G. CAMERON: Will the bill apply to volunteers working for a political party?

The Hon. DIANA LAIDLAW: The answer is 'Yes'; but they still cannot defame anyone. They have to be working as a volunteer for an incorporated body, and they cannot be drunk or committing a crime.

The Hon. A.J. REDFORD: It applies to protect the volunteer working for the political party, provided they are acting within the scope of their authority. If the volunteer acts outside the scope of their authority, then the volunteer is not protected. The political party is not protected. This does not in any way seek to protect the actual body itself.

The Hon. T.G. CAMERON: By way of example, if somebody were savaged by a dog whilst they were letterboxing, would they be covered? Would it matter whether the political party was incorporated or unincorporated?

The Hon. DIANA LAIDLAW: That is a different issue, because this is about the volunteer hurting somebody else and not the volunteer being hurt, whereas the dog would hurt the volunteer.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: As long as they were acting within their authority, they would be covered.

Clause passed.

Remaining clauses (2 to 6) passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (COURTS AND JUDICIAL ADMINISTRATION) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2574.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the bill which seeks to make amendments to numerous acts dealing with the courts and the administration of justice. The proposed amendment to the Courts Administration Act will insert a new provision to allow the delivery of sentencing remarks on the internet. I agree with the Attorney-General in his comments regarding the misunderstanding and, at times, the misrepresentation of sentencing of offenders. It is important for government to find a way of addressing the matter, and I hope this measure will provide a more balanced perspective for the community's benefit. I note the proposal to confer immunity on court staff in order to enable them to undertake this activity. I welcome this move. I have one question of the Attorney in relation to this: I presume people who do not have access to the internet can still get a transcript of the judgment; is that correct?

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: But a cost is involved. I also note that the Attorney has filed amendments with regard to this aspect of the bill, which the opposition supports. The District Court Act will also be amended to enable it to have powers in relation to contempts of itself as the Supreme Court has at present. The bill also amends the Judicial Administration (Auxiliary Appointments and Powers) Act to incorporate the offices of Deputy President of the Workers Compensation Tribunal and, secondly, of judge of the Environment, Resources and Development Court. This will enable the tribunal and the ERD Court to respond practically to temporary issues as they arise in the conduct of their business. The Magistrates Court Act will also be amended to increase the monetary limits which are prescribed under that act. Due to the increase in average weekly earnings, it is now necessary to amend the monetary limits to prevent them being pushed up into jurisdiction of the

District Court. There are a number of consequential amendments to other acts which I have noted and support, in particular, the ability of the Supreme Court to waive court fees in hardship cases. The opposition supports the second reading.

The Hon. T.G. CAMERON: This bill makes a number of amendments to legislation dealing with the jurisdiction and administration of our courts. In relation to the Courts Administration Act, this section allows the publication of sentencing remarks on the court's web site, with the same immunities and privileges as those remarks made in court during sentencing. The policy is supported by the Chief Justice and, as I understand it—and I always feel quite confident that I will be corrected by the Attorney if I make a mistake with any of this—publication is already a practice in the Northern Territory and Tasmania. It is a commonsense amendment, and I will be pleased to support it. In relation to the District Court Act, this section gives the District Court certain powers to deal with contempts of itself, the same power as a Supreme Court. This is appropriate now that the District Court is the main criminal trial court. Again, I support that move.

The Judicial Administration (Auxiliary Appointments and Powers) Act includes the positions of Deputy President of the Workers Compensation Tribunal and judge of the Environment, Resources and Development Court as judicial officers. This will give them the power to appoint auxiliary judges. It is a power they have sought to help alleviate the backlog of cases and keep the courts operating when judges are absent. This section also makes technical and consequential amendments to the Workers Rehabilitation and Compensation Act. Again, SA First supports that proposal. The Magistrates Court Act section updates the monetary jurisdiction of the Magistrates Court to bring the amendments of 1992 up to date and makes consequential amendments to other acts.

The Mining Act and Opal Mining Act section grants an extension of jurisdiction of the Warden's Court to order payments of monetary amounts in mining partnership disputes. It also updates the maximum compensation claims from $100 000 to $150 000. SA First supports all the amendments outlined in this bill. The Supreme Court Act section allows the Supreme Court to waive court fees in cases of financial hardship or any other good reason. As I understand it, the Magistrates and District Courts currently have this power. So, again, it is a commonsense amendment to give the Supreme Court the same power. I support the bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the bill. It is an important piece of legislation from a practical administrative perspective, as well as a public benefit perspective. I appreciate the attention that has been given to it.

Bill read a second time.

In committee.

Clauses 1 to 5 passed.

Clause 6.

The Hon. K.T. GRIFFIN: I move:

Page 4—
Line 33—Leave out 'were a publication' and insert:
consisted of a delivery
Lines 35 and 36—Leave out 'were a publication' and insert:
consisted of a delivery
Page 5, line 3—Leave out 'approved' and insert:
released

Because all the amendments are related, I have moved them together. The first amendment was requested by the Chief Justice and relates to part 3 of the bill, which amends the Courts Administration Act to provide an immunity to court staff who publish sentencing remarks on the Courts Administration Authority internet site. The amendment replaces reference to the 'publication' in court of sentencing remarks with a reference to 'delivery' of sentencing remarks. Part 3 of the bill was drafted in consultation with the Chief Justice and the Chief Judge. After having further opportunity to consider the amendments following introduction of the bill, the Chief Justice requested a couple of minor amendments to the provisions. The amendments simply ensure that the terminology of proposed new section 28A of the Courts Administration Act accords with the terminology commonly used by the courts.

The second amendment is consequential on the first. The third amendment was, again, raised in the consultation process. As I have said, the provisions in question were drafted in consultation with the Chief Justice and the Chief Judge who are concurrently developing internal procedures for ensuring that sentencing remarks are edited by sentencing judges to remove suppressed material and other material that cannot be published from the version to be posted on the internet site. This amendment replaces a reference to approval by the sentencing judge of the version of sentencing remarks for publication on the internet with a reference to releasing the sentencing remarks for publication.

Again, this change was requested to ensure that the terminology used in the Courts Administration Act accords with the internal procedures established by the courts. The proposed new section 28A(2)(a) still limits the application of the immunity to the situation where the sentencing remarks published on the internet have been vetted by the sentencing judge in accordance with the internal procedures established by the courts.

The Hon. T.G. CAMERON: I support all the amendments standing in the government's name.

Amendments carried; clause as amended passed.

Clauses 7 to 25 passed.

New part 10A.

The Hon. K.T. GRIFFIN: I move:

Page 9, after line 36—Insert new part as follows:

Part 10A

AMENDMENT OF PETROLEUM ACT 2000

Amendment of s.4—Interpretation

25A. Section 4 of the principal act is amended by striking out from paragraph (a) of the definition of 'relevant court' in subsection (1) '$100 000' and substituting '$150 000'.

Transitional provision

25B. The amendments made to the principal act by this part—

(a) do not apply in respect of proceedings commenced before the commencement of the part (and those proceedings may continue as if this act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of this part (including proceedings in respect of a claim arising before the commencement of this part).

This amendment inserts a new part into the bill to amend the Petroleum Act 2000. This amendment is consequential to clause 20(a) and clause 23 of the bill. Those clauses amend the Mining Act and the Opal Mining Act to increase the amount which determines the jurisdiction of the Warden's Court with respect to claims for compensation in cases of disputed entry onto land. The amount is increased from $100 000 to $150 000 to account for inflation since the amount was fixed in 1988. Since introducing the bill, I have

been alerted to the fact that jurisdiction is also conferred on the Warden's Court with respect to claims for compensation in cases of disputed entry onto land under the Petroleum Act 2000. That jurisdiction is presently limited to claims for compensation up to $100 000. This amendment to the bill will amend the Petroleum Act to increase that amount to $150 000 to retain consistency with respect to the Warden's Court jurisdiction.

The Hon. CAROLYN PICKLES: The opposition supports the amendment.

New part inserted.

Remaining clauses (26 to 33) passed.

Long title.

The Hon. K.T. GRIFFIN: I move:

Page 1—After 'the Opal Mining Act 1995,' insert:
the Petroleum Act 2000,

Amendment carried; long title as amended passed.

Bill read a third time and passed.

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2759).

The Hon. T.G. CAMERON: This is a pretty straightforward bill. The bill seeks to update the Legal Services Commission Act 1997 to do the following: remove gender specific terms; remove the requirement that two people appointed to the commission must be nominated by the commonwealth Attorney-General and consequential amendments; remove the requirement that the commission establish the Legal Services Office; remove the requirement that the commission establish local offices; and remove the requirement that the commission must cooperate with commonwealth legal aid bodies to provide statistical or other information.

The bill will also amend the principles on which the commission operates so that having regard to decisions of commonwealth bodies becomes a funding issue; it will enable delegation of authority by the commission to spend money from the Legal Services Fund; the director may delegate any powers in writing conditionally and is able to revoke the delegation at will; the requirement that the commission make arrangements with other legal aid bodies for the purpose of the transfer of staff is removed, and such arrangements are permitted but not required; and the requirement that an application for legal assistance be accompanied by a statutory declaration is removed.

SA First supports the amendments but it is concerned about the removal of the requirement to establish and maintain local offices. Whilst I appreciate that this would benefit the commission through flexibility and probably save it some money, will the Attorney give an assurance that the provision of services will not be adversely affected by the passage of this legislation? I am not suggesting that the commission is going to close down all local offices but, as I understand it, it removes the requirement to establish and maintain local offices and I ask whether that will have any impact on or adversely affect the provision of services.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their attention to the bill and their indications of support. One issue which was raised by the Hon. Mr Cameron has been raised by others in the context of consultation on the bill. I can give an assurance that this amendment will not adversely affect the provision of services by the Legal Services Commission. In introducing the bill, I said that the term 'local' was used to distinguish the commission's other offices from the Legal Services Office because section 10(1)(a) enables the commission to establish an office called the Legal Services Office, but in its 24 years the Legal Services Commission has not had a Legal Services Office as such.

All the offices of the Legal Services Commission have used the name 'the Legal Services Commission of South Australia'. The reference to 'legal services office' in the principal act subsequently was followed by the reference to 'local offices'. With the removal of the requirement for a legal services office, the definition of its other offices as 'local' is unnecessary and unnecessarily restrictive. The amendment simply formalises the way in which the commission has always arranged its offices. It has had a head office and branch offices—and that is without removing the possibility of a different configuration in the future.

The Legal Services Commission is always looking for new ways to provide its services. Earlier this year it closed one of its offices at I think Modbury or Tea Tree Gully, it opened an office closer to the court at Holden Hill, and it established outreach services which are much more accessible than the previous office at Modbury. It relocated its Port Adelaide office closer to the court in Port Adelaide, because the primary services provided by the Legal Services Commission office in Port Adelaide related to court attendances.

In addition, it has provided telephone advisory services, walk-in advisory services, and a range of other services, some of which are focused more upon education and training and the provision of information to the general public than the actual provision of legal services. So, I am on pretty safe ground in saying to the Hon. Mr Cameron that there will not be a reduction in services as a result of the amendment to which he specifically referred.

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

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2760.)

The Hon. T.G. CAMERON: My understanding is that this bill is a result of a competition policy review of the Legal Practitioners Act and that it seeks to update the definition of 'company' to reflect the Corporations Act 2001 of the commonwealth. It removes the requirement that a person applying for admission as a barrister or solicitor in the Supreme Court be a resident of Australia. I am not sure where that leaves someone who is not an Australian citizen. Perhaps the Attorney could answer that question for me later.

It enables agents registered under the Land Agents Act to prepare tenancy agreements regardless of the amount of rent payable. It allows a body corporate authorised by a special act of parliament to administer estates and to prepare a will or other testamentary. Notice of conditions imposed on an interstate practising certificate must be given within certain time limits. It provides that those appointed to the Legal Practitioners Disciplinary Tribunal for the remainder of another's term may be appointed for a full term. SA First supports the bill.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

PRICES (PROHIBITION ON RETURN OF UNSOLD BREAD) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 13 November. Page 2647.)

The Hon. T.G. CAMERON: Since the 1980s there has been an increase in the practice of bakeries accepting the return of bread from retailers and writing this cost off. I suspect it is a practice that found its way into the system as part of the competitive process in the market. Whilst large bakeries may be able to write this money off, smaller bakeries struggle to do so. In 1985 the regulations, which were due to expire in September 2001, prevented this practice. Smaller bakeries are struggling. During a recent country tour I noticed that Kapunda has lost its only bakery and that bread is now brought in from other places.

Since the Vietnamese community has arrived in Australia, members will have seen that they are very entrepreneurially minded and there is nothing that they like better than to run their own business and be in charge of their own destiny. It tends to be an Asian characteristic: they are traders and dealers, and they enjoy running their own small businesses. I do not know whether anybody has taken the time to try some of the produce of some of the Vietnamese bakeries, but they learnt their cooking and baking from the French and, let me tell you, it is pretty good—as is Vietnamese cuisine, if you have ever been to Vietnam. This bill extends the powers of these regulations and updates them to cover any possible gaps between the 1985 powers and the 2001 powers. SA First supports the bill.

The Hon. J.F. STEFANI secured the adjournment of the debate.

STATE SUPPLY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 2758.)

The Hon. T.G. CAMERON: Again, this is a pretty straightforward bill. The State Supply Act deals with the acquisition by government departments and agencies of goods, but not services. A procurement review and findings by the Auditor-General found that the State Supply Board should have its powers clarified and strengthened in regard to services procurement. I have great joy in placing on the record that I fully support the Auditor-General's recommendation in this area. I do not agree with everything that he says but, then again, I am sure that he would not expect me to. This is a sensible recommendation. The government has moved expeditiously to expand the scope of the act to provide for the procurement of services, energy, intellectual property, etc. SA First has pleasure in supporting the Auditor-General's recommendation and the government's bill.

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I thank members for their contribution to the seconding reading of this bill and for their expressions of support. The Hon. Trevor Crothers raised an important issue in relation to procurement regarding the capacity of the South Australian government to insist upon the use of South Australian suppliers for the acquisition of goods and services. He specifically mentioned his own experience of going, I think he said with Mick Tumbers, to see either Premier Dunstan or Premier Corcoran to suggest that there be greater use of South Australian supplied goods and services. This is, of course, an issue that governments constantly have in mind.

We seek to use, wherever possible, South Australian suppliers to improve our economy and also job prospects for South Australians. However, the National Competition Council and the regulations relating to competition in Australia require that we not set up barriers to interstate and, indeed, New Zealand suppliers of goods and services, and it is not possible for us to exclude suppliers from other states or to take measures which overtly discriminate against them. As a nation, we seek to create national competition and opportunities for all states to participate.

This principle advantages South Australian manufacturers and traders. If they were excluded from participating in eastern states markets—which are, after all, the largest markets in Australia—we in this state would suffer disproportionately. Accordingly, this bill does not address the particular issue which the Hon. Trevor Crothers raised but I can assure him that, as minister responsible for procurement of both goods and services, we seek, as I said, at all times, to ensure that South Australian businesses are used while, at the same time, not discriminating against those from other jurisdictions.

For example, the Ford Motor Company has always complained that South Australia buys a disproportionately small number of their vehicles and that our fleet is predominantly, in the six cylinder sedan field, Mitsubishi and General Motors products. That is because agencies choose to buy those products which they find are suitable for their use: it is not because we discriminate against Ford. Of course, we want to ensure that in the Victorian market, for example, Mitsubishi and General Motors products have a fair go as well. They stand to lose more if the Victorian and New South Wales governments adopt discriminatory practices against them.

The Hon. Sandra Kanck in her second reading contribution raised a number of issues which she has previously raised in this parliament about the activities of the former Hospitals and Health Services Association of South Australia, a purchasing agency which was established but which no longer operates. She complained about the activities of Mr David Burrows, the former director of Supply SA, correctly noting that Mr Burrows is no longer employed in that agency. The honourable member claims that criminal charges could have been laid against him but that nothing came of it because, as she alleges, witnesses felt too intimidated to come forward. I am somewhat surprised and disappointed by that allegation.

Why would witnesses be intimidated by Mr Burrows, who no longer occupies a position in which he might have influence over the future of any of them? I urge, publicly, any witness who has material which might lead to criminal charges being laid against Mr Burrows to make the evidence available to the police, who will make appropriate arrangements to ensure that they cannot be intimidated and, also, to lay charges if charges are, indeed, appropriate. I am not saying that it would be appropriate to level any criminal charges against Mr Burrows: indeed, the evidence which I have been given suggests that criminal proceedings are not appropriate.

The honourable member raised a number of issues which I believe have been addressed—although, I admit, not to her satisfaction—concerning the procurement of incontinence and other products for the health sector. Members will know that the procurement strategy envisaged that there would be a devolution from the central agency (from Supply SA) to the Department of Human Services and to the other large agencies of government. Certainly, the Department of Human Services has established and staffed a procurement unit which is, I am advised, highly trained and which is undertaking procurement for the Department of Human Services and for the health sector in particular—

The Hon. Sandra Kanck: What about the Auditor-General's comments?

The Hon. R.D. LAWSON: —and that it is operating satisfactorily, as are the other accredited procurement units. The honourable member interjects, 'What about the Auditor-General's comments?' The Auditor-General's comments are being addressed specifically by the amendment that we seek to introduce and for which I am grateful for the expressions of support.

The Auditor-General's principal complaint is that the State Supply Board is issuing—or has in the past issued—some directions or policies as it is entitled to do in relation to the acquisition, for example, of the electricity through the whole of government electricity contract which was entered into earlier this year by the government on behalf of the agencies which have contestable sites for electricity. In the Auditor-General's view, the legislation itself did not give specific power to the State Supply Board to issue any directions because electricity is not actually within the definition of goods.

Similarly, we have a whole of government panel contract for the supply of temporary staff services, and a number of the temp agencies have been selected on that particular panel. Again, that is not an acquisition of goods by government but an acquisition of services. I believe that we are appropriately addressing the issues raised by the Auditor-General. The honourable member did mention that the Auditor-General says that the board has not formally issued detailed instructive guidance to agencies concerning best practice procurement policies. This legislation will clarify the power of the board to do so.

The Hon. Paul Holloway asked a question about the amendment of section 4 in clause 4 of the bill which seeks to define 'supply operations' in the manner suggested but also includes, 'but does not include operations excluded from the ambit of this definition by regulation'. There is nothing sinister in this particular amendment. This government is not keen on legislation by regulation in most cases. However, in this particular case—and I think the Hon. Paul Holloway asked what was envisaged by this proposal—it was envisaged to include, for example, things like engineering works, or building works, which have traditionally been outside the ambit of the State Supply Board. Office accommodation is another type of operation which is not included because cabinet has dictated that any office accommodation contract over the value of $1 million should be considered by a specially established committee comprising public and private sector interests called the Government Office Accommodation Committee.

Things like engineering works are dealt with through the Public Works Committee process. Outsourcing contracts is another class which might be excluded, but they are contracts which are dealt with under the Prudential Management Group which has well publicised prudential procedures. There are certain other categories of operations for which there are other mechanisms to ensure prudential considerations are addressed. I thank honourable members for their expressions of support for the second reading.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO No. 2) BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 2449.)

The Hon. T.G. CAMERON: This bill amends the Civil Aviation (Carriers' Liability) Act, the Harbors and Navigation Act, the Motor Vehicles Act and the Road Traffic Act. In relation to the Civil Aviation (Carriers' Liability) Act, the courts will have the power to impose a monetary penalty where a corporate air carrier fails to have acceptable passenger insurance, and the minister will be granted the power to apply for an injunction against a carrier that fails to have proper insurance—both moves, I think, that will be more than welcomed by the public.

In relation to the Harbors and Navigation Act, the bill allows an unauthorised person to issue expiation notices. In addition, the act of causing, permitting or suffering an unlicensed person to operate a recreational vessel is a proposed offence. Further, the statute of limitations of offences against the act is brought into line with the Summary Procedures Act.

In relation to the Motor Vehicles Act, probationary drivers, specifically those returning from disqualification, are to be prevented from serving as qualified passengers for learners. I have some reservations about that proposal because it may well be that someone lost their probationary driver's licence for offences that some people would label as reasonably trifling. For example, a father might lose his licence and the family cannot afford to have their son trained by a qualified instructor, and it can get pretty expensive trying to get a driver's licence that way. I know one person who recently spent $3 000 taking lessons, only to be told at the end of it, 'I'm sorry. I don't think you'll ever get a licence.' Outrageous! This will obviously penalise drivers and probationary drivers who are situated in lower socioeconomic groupings, so I have some concerns about that.

A licensed driving instructor who surrenders their licence before it expires will be entitled to a proportional refund of their licence fee, and I have a question to ask the minister about that. I fully support that proposition. It is fair, it is equitable, and one has to ask whether or not the government intends to phase this extremely equitable measure into all other areas where licensing fees occur. If it is good enough to do it for licensed driving instructors, I would suggest that it is good enough for the government to have a look at it across the board.

Currently, under some circumstances, an uninsured driver can be provided with a more generous defence than an insured driver when it comes to recouping the cost of insurance claims. That is a silly situation to allow to continue and this bill remedies that and places an uninsured driver on the same playing field as an insured driver.

The bill also limits the uses for which photographs taken for licences may be issued. This is probably an appropriate time to point out to the minister that I think there is a bit of

a problem in the motor vehicle registration department. It is not a bit of a problem: it is a major problem. It appears to be the worst run government department that I have ever come across. If a driver wants to make application to have their licence marked as an organ donor—and I am pleased to see that tens of thousands if not hundreds of thousands of Australians have done so following a public relations campaign undertaken by the government—

The Hon. T. Crothers: I hope you haven't donated your brain.

The Hon. T.G. CAMERON: I couldn't possibly donate that, Mr Crothers; there would be too many people lining up for it. In relation to organ donations, there appears to be a problem with the motor vehicle registration department in that, if a driver wishes to have 'organ donor' removed from their licence, despite all the whiz-bang electronic gadgetry and computers in the department, a driver cannot be issued with another licence. They have to go back into the motor vehicle registration department and submit to another photograph. I cannot see how that is very fair, for example, to people who live in the country.

Say a country person got married recently and the spouse has a problem with organ donation. If that individual lived at Coober Pedy, he would have to drive down to the city and submit himself to a further photograph just to have 'organ donor' removed. I understand that it is removed from the official file but, unfortunately, if a driver is involved in an accident at 3 o'clock in the morning, is taken to the Royal Adelaide Hospital and is about to kick the bucket, they go looking for the driver's licence and, if the driver was carrying a licence with 'organ donor' on it (not that the person would miss them because they are dying anyway), those organs would be harvested.

If that person's wife comes from a different ethnic background and, for example, does not believe in cremation and believes that the body in its entirety should be buried in the ground in a coffin, there is the potential for an horrendous situation to develop, and I would request that, in relation to the use of photographs and the motor vehicle registration department, the minister look at that situation to see whether some improvement can be made so that people do not have to have their photograph taken again. In relation to the Road Traffic Act, amendments enable officers to issue defect notices to all vehicles that are not roadworthy and to vary a defect notice where appropriate. SA First supports the bill.

The Hon. SANDRA KANCK: I rise to indicate Democrat support for the second reading. Much of this bill is technical in nature and uncontroversial in its effect, but the one issue I would like to discuss is the decision to allow the motor registry office the right to keep photographic images of drivers licence holders. Currently the photographs are destroyed within 60 days of the licence being issued. This is done to protect the privacy of South Australian licence holders, and I uphold this. Unfortunately, this practice also opens the door for people to obtain a drivers licence fraudulently. The destruction of the photographic images makes it possible for a person other than the licensee to obtain a duplicate licence. These fraudulent licences can and are used in a variety of ways, including certain criminal enterprises. Consequently I am supporting the retention of licence photographs beyond the current 60 days, as this bill provides for, with appropriate safeguards.

The minister's second reading explanation lists a small number of permissible uses for the retained photographs. Clause 11 of the bill amends section 77B of the principal act to do this. Subsection (2) provides:

A photograph to which this section applies may be used by the Registrar only for one or more of the following purposes:

(a) for inclusion on a licence, learner's permit or proof of age card;

(b) to assist in determining the identity of a person applying for—

(i) the issue or renewal of a licence or learner's permit; or

(ii) the issue of a duplicate licence or learner's permit; or

(iii) the issue of a proof of age card; or

(iv) the registration of a motor vehicle;

(c) in connection with the investigation of a suspected offence against this act;

(d) for the purposes of any legal proceedings arising out of the administration of this act or the Road Traffic Act 1961.

So far, so good. That list of uses is appropriate. Unfortunately, we then find that the minister has left the door ajar for a greater range of possible uses by including the option of altering this list by regulation. This is where the government and the Democrats come to grief, because subclause (2)(e) provides 'for a purpose prescribed by the regulations'. At this point we do not believe that this is appropriate. Changes to regulations are far more likely to slip by the parliament with minimal scrutiny than is the case for legislative change. If other uses are proposed for drivers licence photos—and members should recall that civil liberties may be involved—then they should be debated in parliament. A short time ago I advised parliamentary counsel that I want to amend this, and I am not willing to go into committee until I have that amendment, which will be to delete subclause (e). With that one proviso, however, I indicate that the Democrats are happy with this bill.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: During the second reading debate the Hon. Angus Redford spoke at some length on this matter, because he was the Presiding Member of the Legislative Review Committee which undertook a substantial review of the Freedom of Information Act. During his contribution the Hon. Angus Redford referred to some issues related to local government and also to some matters that I had raised. I wish to put on the record that I was not necessarily pushing a barrow for local government; all local government was seeking was for negotiations to continue in relation to matters it had raised, but of course that matter has now been satisfactorily resolved.

In relation to the matter of local government, I point out that some years ago in another place I was the member whose electorate included the Centennial Park Cemetery Trust. I well recall some of the problems we had with that organisation, which would not provide information, not only to the public but also to its constituent councils. I am certainly not supporting the principle that any areas of local government must be less accountable to their members and ratepayers, but I was simply raising those matters because they have been raised with us by the Local Government Association.

Another matter that I raised in my second reading speech indicated that I would give an example of FOI which I believed illustrated some of the worst features of the way the act currently operates. I believe this example shows that, whatever the legislation, some public servants and governments will seek to get around it. I believe that one of the key issues in reform to the FOI act is identifying exact documents. I have been waiting for an opportunity to put a particular example on the record for some time. It relates to a request I made when I was shadow minister for primary industries. I had sought some information in relation to fisheries management groups. I had heard a number of rumours going around the industry that the government had conducted a consultants review in relation to the fisheries management group. So, I put in a freedom of information request almost two years ago. Having put that request in, I received a letter. For the record I should indicate what I was actually seeking. It was lodged on 26 April 2000—

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: I think it is relevant. The Hon. Ian Gilfillan might be interested in this, because it concerns an area in which he should be interested, namely, fisheries. It illustrates the point. I apologise that I did not have this with me during my second reading speech but, as I mentioned I would be raising it during the second reading, I will do so now. I received a letter on 26 April from the department acknowledging it. On 5 May 2000 I wrote to the FOI officer of the Department of Fisheries, as follows:

> Thank you for your letter dated 4 May 2000, regarding my FOI request for information on fishery management committees. I confirm that I am seeking information/documentation that relates to the overall performance of fishery management committees and groups from 1998 to 2000. It is understood that this includes any reports on the management review of fishery management committees. Please do not hesitate to contact me if you wish to discuss this matter further.

I received a response from that officer on 18 May, as follows:

> Dear Mr Holloway,
>
> Further to our recent correspondence concerning your FOI request for information on 'Fisheries Management Committees and groups':
>
> As previously discussed, your initial request was very broad in nature and, on preliminary evaluation, would be quite a sizeable task.
>
> The narrowing of the criteria to 'information/documentation that relates to the overall performance of fishery management committees and groups from 1998 to 2000', still raises some issues which require further clarification.
>
> In your request you seek information relating to FMCs and groups. Whilst the FMCs [fisheries management committees] are clearly identifiable, I seek clarification on the specific 'groups' you are referring to. It is further requested that you provide clarification on whether you are seeking general information on all FMCs or whether you have a particular interest in specific committees.
>
> The criteria relating to the performance also requires clarification.

The letter continues in that vein. It finishes:

> Each FMC also generates minutes for each of their meetings, which if permissible under the FOI Act, could also be released to assist you in assessing the operations of each FMC.
>
> It is therefore requested that you:
>
> · provide a listing of specific FMCs and 'groups' that you seek information about;
> · accurately define performance;
> · consider the offer to provide annual reports and FMC meeting minutes as a reasonable response to your request, specifically with regard to performance.

In my initial request I had specifically mentioned consultancy reports in relation to the fisheries management group. After that I had a visit from someonewho I think was the Acting Director of Fisheries; certainly now the person is the newly appointed Director of Fisheries. The FOI officer came to see me about the request, which I thought was rather unusual, because it was not particularly demanding. On 15 September I wrote the following letter to the Chief Executive of Primary Industries and Resources SA, which I would like to read into the record—and remember that the earlier correspondence was dated 18 May 2000. I stated:

> On 27 April 2000, I delivered an FOI application to your department which requested the following:
>
> 'Copies of all documents, including consultants' reports and management reviews, relating to fisheries management committees and groups, from 1998 to 2000.'
>
> After correspondence between myself and Vic Aquaro, FOI Coordinator, PIRSA, my request was clarified to include the following:
>
> '. . . information/documentation that relates to the overall performance of fishery management committees and groups from 1998 to 2000.'
>
> As a result of this letter, Mr Vic Aquaro and Mr Will Zacharin subsequently came to see me in my office. During discussions I asked if any reports by consultants into the performance of fisheries management committees and groups were undertaken since the Pivotal Report and was told that there were not.
>
> On 17 July 2000, I received documents from PIRSA as a result of my request. The letter stated:
>
> 'Following requests for further clarification of the specifics of your request the information to be provided relates to the following items:
>
> · a copy of the Pivotal Report, and
> · copies of the minutes of all Fishery Management Committees for the given period.
>
> Accordingly, pursuant to the Freedom of Information Act 1991, I have determined, on the date of this letter, to release the following details:
>
> · a copy of the Pivotal Report, and
> · copies of the minutes of all Fishery Management Committees for the given period.'
>
> On 12 September 2000, I was surprised to hear Mr Zacharin speak on ABC Radio and acknowledge the existence of a report into the performance of the fisheries management group which had apparently been requested by a West Coast fishermen. Mr Zacharin said he had refused to release this report under FOI, because 'there is no reason why these reports should be released to the community, they are of no use to them'. (ABC Online, Gulf Cities News, 12/09/2000). The existence of the report appears to contradict earlier statements made to me. The covering letter from your Department in response to my FOI request made no mention of any report into the management of fisheries groups beyond the Pivotal Report.
>
> Given that my clarification of the original application continued to request 'information/documentation that relates to the overall performance of fishery management committees and groups from 1992 to 2000', I believe that the response from your Department, as quoted above, is unsatisfactory. There is no doubt that the report referred to by Mr Zacharin on ABC Radio should have either been released to me or named by PIRSA as an 'exempt document'.
>
> In accordance with provisions of the FOI Act I would appreciate a review of the decision not to release the report which I have subsequently been informed has the title 'Fisheries Group Management Review'. . .

We should remember that I requested consultancy reports on the fishery group management but was not told that this report existed; in fact, I was specifically told that it did not. It is dated October 1999. The letter continues:

> Further, should you decide not to release this report I would appreciate it if you would inform me of the grounds on which you have taken this decision (section 23(f) of the FOI Act).
>
> Yours faithfully,

So that was a letter to the Chief Executive of PIRSA. I received the following letter from the department on 22 September 2000:

> Dear Mr Holloway,
>
> I refer to your letter dated 15 September 2000 seeking a review of the decision not to release the report titled 'Fisheries Group Management Review'.

I am aware that Mr Aquaro and Mr Windle have discussed your concern about the abovementioned report not being identified during your FOI request. I understand that Mr Aquaro went to some length to clarify the nature of your request which culminated in the view that reports relating to management of fisheries as indicated in your 26 April letter viz

'all documents, including consultants' reports and management reviews, related to Fishery Management Committees and groups from 1998 to 2000'

were of interest to you. Hence, copies of minutes of Fishery Management Committee meetings and the Pivotal Report were provided to you.

The report titled 'Fisheries Group Management Review'—

which I was not even told existed, let alone having access to it rejected by the department—

mentioned on ABC news of 12 September 2000 referred to examination of internal human resource management aspects of PIRSA staffing, including matters such as communication, team building, etc. between PIRSA staff. The report makes no reference to management of the fisheries, or any other external industry or policy matters, and was therefore considered to be outside of the scope of your FOI request. Hence, this report was not mentioned in previous correspondence. In any event, the document titled 'Fisheries Group Management Review' dated October 1999 is not available for release in response to an FOI request due to it being an exempt document under section 20(a) of the Freedom of Information Act 1991. Specifically, the document satisfies the criteria associated with clause 16(1)(a)(iii) and (iv) and (b) of Schedule 1 of the Act.

The report deals with internal agency staffing matters and I consider that the release of this report would have a substantial adverse effect on the performance of personnel and management in the agency and be an unproductive distraction to the effective performance of this agency's functions.

I trust that this explanation of the situation is satisfactory.

If you are unhappy with this determination you are entitled to exercise rights of review and appeal and rights of complaint to the Ombudsman conferred by the Freedom of Information Act and Ombudsman's Act. These rights and how to apply are detailed overleaf.

Yours sincerely,
(signed)
Roger B Wickes
Acting Chief Executive.

So there it is. I had applied for a report, the name of which was very close to the name of the report. I was specifically seeking details of consultancies that were paid for by the department during a specific period. I had visits from the office, which I thought were rather strange at the time. With hindsight, it is quite clear that it was a fishing expedition on behalf of those officers to try to steer information away. I had specifically asked for consultants' reports between 1998 and 1999 on fisheries group management, yet this report entitled Fishery Group Management Review of October 1999 was not even indicated as being available, in response to my request.

Subsequently, a copy of this report dropped on my desk and, in view of the comments that are made, I think that it is rather interesting. This report, for example, has conclusions in its summary as follows:

The issues that have been identified by this review are strategically related to the ability of the Fisheries Group to effectively deliver required outcomes. The issues must be addressed in the short term as the organisation risks unprecedented disruption to its operation. Of critical importance is the potential loss of a number of senior staff who together represent a significant component of the organisation's corporate knowledge and expertise. For many staff the current culture and management climate is not providing a rewarding, workable and motivating environment. In contrast, the current environment is one in which some staff would prefer not to be employed.

There are a number of conclusions, some of which, of course, include recommendations relating to the very officers who came to see me about what information I wanted and who tried to tell me there were no such consultant reports in existence. To say that I was not impressed with this particular exercise in relation to getting information under FOI would be an understatement. I think that it highlights one of the problems that does exist under the act and that, whatever amendments we make to it, there are officers in that department who, if they so wish, will find a way of keeping information secret.

I wish to put those matters on the record. It is a matter that has concerned me for some time. I believe that that example demonstrates the very worst way in which the Freedom of Information Act has been implemented by some agencies.

The Hon. R.D. LAWSON: The honourable member's rather long explanation of a particular situation he experienced with PIRSA illustrates, if anything, the fact that it is sometimes difficult to define precisely the document that is being sought. I take up the suggestion of the Hon. Julian Stefani that, in the honourable member's fishing expedition, he inaccurately identified the particular documents and information he was seeking.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: I do not believe that the honourable member's issue or example would be any different under any legislation which I have seen proposed. I think that it reinforces the point made by the Legislative Review Committee that you do require officers who are highly trained and reasonably senior to deal with these issues. I draw no conclusion from the example given by the honourable member. The honourable member seems to suggest that there is some sinister intent on the part of the officers concerned to suppress a particular document: I do not reach that conclusion based upon the evidence that he has provided.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 9 and 10—Leave out paragraph (a) and insert:

(a) by striking out subsection (1) and substituting the following subsection:

(1) The objects of this act are—

(a) to increase progressively the availability of information held by government to the people of the state in order—

(i) to enable their more effective participation in the making and administration of laws and policies; and

(ii) to promote the accountability of ministers of the Crown and other agencies and thereby to enhance respect for the law and to promote the good government of the state; and

(b) to provide for proper access by members of the public to information held by government; and

(c) to protect information held by government to the extent consistent with the public interest and the preservation of personal privacy; and

(d) to ensure that records held by government concerning the personal affairs of members of the public are not incomplete, incorrect, out-of-date or misleading.;

(ab) by striking out from paragraph (a) of subsection (2) 'the government' (twice occurring) and substituting, in each case, 'government';

(ac) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) conferring on each member of the public a legally enforceable right to be given access to documents held by government, subject only to such restrictions as are consistent with the public interest and the preservation of personal privacy; and;

I indicate that the amendment substitutes into the act some recommended objectives contained in the report of the

Legislative Review Committee. The objects of the act include protecting the 'proper administration of the government'. This amendment alters the objects of the Freedom of Information Act so that they include 'protecting official information' only to the extent consistent with the public interest and the preservation of personal privacy. I hope that members have had a chance to run their eyes down through the text of the amendment and are able to give a considered opinion to it. I repeat that the amendment is putting into effect objectives which the Legislative Review Committee recommended.

The Hon. R.D. LAWSON: The government will not support this amendment or, indeed, any of the honourable member's amendments which seek to restore the text of the government's amendment to reflect the bill which was introduced by the Hon. Ian Gilfillan earlier and which was defeated. I submit that there is relatively little purpose in seeking to define the objects of the act in this way. If one looks at the existing objects of the act, as amended, one will see that they are in terms very broad and reasonable. The objects of the act are to extend the rights of the public to obtain access to information held by the government to ensure that records held by the government concerning personal affairs are not incomplete, incorrect or out-of-date. The act provides:

> The means by which it is intended to achieve the objects are as follows:
> (a) ensuring that information concerning the operations of the government. . . is made available to the public; and
> (b) conferring on each member of the public a legally enforceable right to be given access to documents held by the government, subject only to such restrictions as are reasonably necessary. . .
> (c) enabling each member of the public to apply for the amendment of such of the government's records concerning his or her personal affairs as are incomplete, incorrect [or] out-of-date. . .
> (3) It is the intention of parliament—
> (a) that this act should be interpreted and applied so as to further the objects of this act; and
> (b) that the administrative discretions conferred by this act should be exercised, as far as possible, so as to facilitate and encourage the disclosure of information of a kind that can be disclosed without infringing the right to privacy of private individuals.

These are worthy objects. One could debate endlessly a different statement of objects, but I do not believe that the objects as suggested by the Hon. Ian Gilfillan widen the area of application of the act: they merely state objects which I do not think will enhance the way in which this act would be interpreted by the courts. For example, the honourable member's amendment provides:

> The objects of this act are—
> (a) to increase progressively the availability of information held by government to the people of the state. . .

How is a court to apply a general provision of that kind—to increase progressively the availability of information held by the government? In the existing legislation, as now amended, we seek to give to citizens a legally enforceable right to be given access to documents and information. General statements, such as 'to increase progressively the availability of information', in my submission, whilst they might be noble objectives, are not suitable for inclusion in legislation and, in any event, are really window dressing.

The Hon. P. HOLLOWAY: On behalf of the opposition, I set out our position on the two legislative options that were before us earlier this year. We had one option from the Hon. Ian Gilfillan, which followed the recommendations of the Legislative Review Committee, and we also had the government's approach. I indicated that the opposition had decided that it would, in this instance, support the government's approach for several reasons: first, that we believed that it would be more likely to pass the parliament in the remainder of the session given that the Hon. Mr Ian Gilfillan's bill was a private member's bill and, if it got there, would probably vanish without trace in the House of Assembly.

We indicated then that we would support that approach because we believed that it was important to get some changes to the act through, and there is no doubt that these changes that have been put forward in the government's bill improve the situation relating to getting information under the Freedom of Information Act.

Having read the amendments of the Hon. Ian Gilfillan, I think he is, as the minister suggested, seeking to amend the bill back into the form in which he had introduced it and against which we had taken an in-principle decision earlier. For that reason, I indicate we will not be supporting these amendments because it just simply returns the debate to where it was two months ago. We believe that it would be better—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: As I have just said, and as I indicated during my second reading speech on the original bill, we believe the important thing is that we get the positive changes that have been made in the government's bill, which relate to the improvements to the appointment of FOI officers and also in relation to the timing in which matters and appeals can be addressed. We believe it is important to get those matters up.

What the Hon. Ian Gilfillan proposed was a much greater change in the bill. It is our view that it is better that we have some progressive change. If we see that this legislation with these changes works better than it has in the past, we can then look at matters to go forward. I indicated in my speech that, as far as the opposition was concerned, we did not see that this would be the end of reform—far from it. We would be looking for progressive amendments to the bill.

What the Hon. Ian Gilfillan is proposing with these amendments is basically a completely different structure of the legislation. As I indicated, we thought it would be better to proceed with the incremental evolution of the FOI Act which was proposed by the government's approach. It is for those reasons that we will not be supporting the amendment.

Amendment negatived; clause passed.

Clause 4.

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

> Page 4, lines 15 to 19—Leave out paragraph (f) and insert:
> (f) any incorporated or unincorporated body—
> (i) established for a public purpose by an act; or
> (ii) established for a public purpose under an act (other than an act providing for the incorporation of companies or associations, cooperatives, societies or other voluntary organisations); or
> (iii) 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 (whether or not established by or under an act or an enactment); or

This amendment is proposed in response to the suggestions made by the Local Government Association. The association had sought to have itself excluded from the bill as an exempt organisation because it would otherwise be included, since the Local Government Association is a body established under an act of parliament, namely the Local Government

Act. It is not a body established under, for example, the Associations Incorporation Act or the Corporations Law.

In seeking to ensure that the definition of 'body' included all bodies—whether incorporated or unincorporated—established by an act for a public purpose, it does not include, for example, companies which are incorporated by a private act of parliament (as are some of our banks), or established for a public purpose under an act other than an act providing for the associations of cooperatives, etc., or established or subject to the control or direction of the minister or an instrumentality or agency of the crown.

This amendment is purely a drafting amendment to better express the intention sought to be achieved under subclause (f) which compresses these categories into two paragraphs rather than defining them in three paragraphs, which makes the position clearer, as will be seen from my amendment.

The Hon. A.J. REDFORD: What is the difference in practical terms between the amendment initially proposed by the minister and the one that he now puts?

The Hon. R.D. LAWSON: Previously the bill provided for any body 'established for a public purpose by or under an act'. My amendment reads 'established. . . by an act' and then 'established for a public purpose under an act (other than an act providing for the incorporation of companies. . . ', etc. If we simply left it as 'established. . . under an act' it would include all associations established under, for example, the Associations Incorporation Act, the Cooperatives Act or the Companies Act.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 4, lines 21 and 22—Leave out paragraph (c).

This amendment removes the definition of 'agency certificate' from the bill. The bill perpetuates and extends the intrusive and secretive concept of certificates which may be used by ministers and principal officers of agencies to preempt consideration of whether or not a document is to be exempt under the act. If an agency or an officer cannot fit a document into one of the many exemptions in schedule 1, it is entirely inappropriate for a minister or a CEO conclusively to put a document beyond reach on their behalf. The bill seeks to extend this anachronism to even any 'person or body declared by the regulations to be an agency'. My amendment seeks to delete all references to such certificates in both the bill and the act. I have a series of consequential amendments if this amendment is successful.

I make one observation. The Hon. Paul Holloway has inferred that my amendments are an attempt to re-establish the bill as it was (when I originally introduced it) reflecting the work of the Legislative Review Committee. It was based largely on the New Zealand act. It is not hard to find national and international commentary on freedom of information which highlights the quality and success of the New Zealand legislation. I hope that, sooner or later, this place will realise that just fiddling around the edges will not solve the major problems and obstacles that we have now even though we have freedom of information legislation. As the Hon. Paul Holloway indicated in one of the examples that he cited, which are multiplied many times over, the Freedom of Information Act is not accurately named in the way in which it currently works.

The only other comment I make is that I did not speak to the previous amendment of the government. It may well be satisfactory, but it is unfortunate that we have healthy or unhealthy suspicion that any amendments put by a government to freedom of information legislation are more inclined to curtail rather than expand the facility with which information can be made available. I do not want to cast aspersions on that particular amendment, but I think it was reasonable to question what its impact would be on the ground. I am not sure that I fully understand the implications of it, but I hope that, further down the track, I will not regret not having opposed it. My amendment is significant, and I ask the committee to consider seriously whether it will support the removal of the agency certificate.

The Hon. A.J. REDFORD: Is it the minister's intention in relation to these amendments and the amendment to section 46 to put beyond the reach of any reviewing authority (such as the Ombudsman or the District Court) certification by a minister pursuant to section 46?

The Hon. R.D. LAWSON: Yes. Section 46 provides:

> A certificate that is signed by the minister and that states that a specified document is a restricted document by virtue of a specified provision of part 1 of schedule 1 is, except for the purposes of section 43, conclusive evidence that the document is a restricted document by virtue of that provision.

There is a mechanism in section 43 which gives the District Court power to consider the grounds on which it is claimed that a document is a restricted document notwithstanding the fact that the document is subject to a ministerial certificate. That provision will remain.

The Hon. Ian Gilfillan described ministerial certificates as archaic. It is certainly true that there has always been a capacity in our legal system for ministers to certify, for example, that documents should not be disclosed to a court because of matters of national security or for any other reason of public interest. That is a well-established principle. There is no evidence that that principle has been abused or inappropriately applied by ministers. The Freedom of Information Act contains the capacity for a minister in certain circumstances to sign a certificate and, as I mentioned, under section 43, that certificate can be considered by the court. That provision is not being altered.

The Hon. Ian Gilfillan's amendment, which relates to agency certificates, is the first of a series of amendments (all consequential) which are in aid of the repeal entirely of section 46 from the act.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The Hon. Angus Redford interjects: 'Why do you need section 46?' It is appropriate that the executive government in the exercise of its power have the capacity to issue a certificate which can be reviewed by the court if an applicant wants to test the matter in court but which, subject to that, is conclusive evidence that the document is a restricted document. It gives the executive government power to act rather than acting as it does ordinarily through FOI officers. Incidentally, I do not believe that the report of the Legislative Review Committee—I stand to be corrected on this—specifically addressed this question.

The Hon. A.J. REDFORD: The Legislative Review Committee did not specifically deal with this in terms of any proposed legislative change, because it took a different approach. In a sense, what I am concerned about is, first, if a certificate is executed pursuant to proposed section 46, if it is not executed in good faith, if it is challengeable or, alternatively, if it is a specified document in part 1 of schedule 1 (it is certified to be in that category) and, if one looks at it and it is clear that it does not fall within that category, the Ombudsman and the court will have an

opportunity to fix that up and say, 'I'm sorry, but it doesn't fall within that schedule' or 'You've made this claim in bad faith, it doesn't fall within that category; I will reverse it and direct the release of the document.' Is that how it works?

The Hon. R.D. LAWSON: Yes, I believe that is an accurate statement of the way in which it operates.

The Hon. P. HOLLOWAY: I indicate that we do not support the amendment.

The Hon. R.D. LAWSON: I think it is also worth saying that all other FOI regimes in Australia and the newly introduced freedom of information legislation in the United Kingdom include provision for ministerial certificates, and it is my belief—and I will certainly verify this—that the new English legislation introduced by the Blair government gives a greater capacity for ministerial certificates, which is actually consistent with the British tradition.

The committee divided on the amendment:

AYES (4)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

NOES (15)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T.
Holloway, P.	Laidlaw, D. V.
Lawson, R. D. (teller)	Lucas, R. I.
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. IAN GILFILLAN: I move:

Page 4, after line 27—Insert:

'exempt matter' means matter within a document which, by virtue of schedule 1, makes the document an exempt document;

I am moving this amendment in a helpful manner. It inserts the definition for exempt matter. The term is not currently defined in the act and my amendment addresses that. It is nice to see that the minister is now properly accoutred with advisers so I might get support for this amendment.

The Hon. R.D. LAWSON: This matter is already covered, as I understand it, by section 20 of the act, which provides that an agency may refuse access to a document if it is an exempt document.

The Hon. Ian Gilfillan: Where is the definition?

The Hon. R.D. LAWSON: The exempt documents are listed in schedule 1, which is headed 'Exempt Documents'. I do not think we have any realistic belief that 'exempt documents' has any meaning other than that mentioned in the schedule. I thought at one stage that the honourable member's amendment was directed at exempting particular material from a document, which is a matter already covered by section 20.

The Hon. A.J. REDFORD: Why is the member defining exempt matter when the heading to schedule 1 is 'Exempt Documents'? Why did the honourable member choose that and not the words 'exempt documents'?

The Hon. IAN GILFILLAN: Obviously this is not a matter that deserves extensive debate. It is, in our opinion, important that the phrase 'exempt matter' has a definition. It is separate to the phrase 'exempt document' and, as I indicated, the amendment is self-explanatory. When one refers to exempt matter, it means the matter within the document, which, by virtue of schedule 1, makes the document an exempt document.

The Hon. P. HOLLOWAY: I have some difficulty trying to follow exactly what the amendment is aimed at. As I understand it, schedule 1 refers to exempt agencies.

The Hon. R.D. Lawson: Schedule 2 is exempt agencies.

The Hon. P. HOLLOWAY: Yes. The definition of exempt document is in the bill. If the Hon. Ian Gilfillan can explain why it might be necessary or why it might be helpful to have it in there, we would consider his amendment, but at this stage I find it hard to envisage why it would be necessary to have this matter in the bill.

The Hon. IAN GILFILLAN: I think that the only purpose is to make it clearer in so far as the bill and, eventually, the act go. New subclause (3a) within paragraph (g) of clause 34, which amends schedule 1, makes reference to a document being an exempt document if it contains a matter, and then there are some descriptions of such matter. If there is any uncertainty as to whether it is helpful, I am not going to stand or fall on it.

The Hon. A.J. REDFORD: I want to refresh the honourable member's memory. The term 'exempt matter', I am told by parliamentary counsel, is referred to in section 20(4)(a) of the act, which I will read for those who do not have it in front of them. It provides that, if it is practicable to give access to a copy of a document from which the exempt matter has been deleted, etc., the agency must not refuse to give access to the document. That might be the subsection to which the member is specifically referring, but I am not sure how the definition itself assists us in any event unless there is some confusion that it might cause.

The Hon. IAN GILFILLAN: I am advised that, under the act, exempt documents are exempt because of the matter they contain. Nevertheless, section 20(4) of the principal act refers to the possibility of deleting exempt matter. Exempt matter is not defined in the act, and I wish to have exempt matter defined in subsection (4) by reference to schedule 1 and provide that section 20(1)(a) be explicitly subject to section 20(4). If we are to have exempt matter capable of being deleted then I believe it needs to be defined.

The Hon. R.D. LAWSON: I would not have thought that it was necessary to define exempt matter. It is matter which has been excluded from the document and under section 20(4)(a) has been deleted. It becomes exempt matter by reason of its deletion. The honourable member's definition hardly explains anything. It means matter within a document which by virtue of schedule 1 makes the document itself an exempt document.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 5 after line 5—Insert:

(ha) by striking out from subsection (1) the definition of 'restricted document';

This is a separate issue. This amendment deletes the definition of restricted document. This concerns later amendments that deal with cabinet documents, executive council documents, exempt documents under interstate freedom of information legislation and documents affecting law enforcement and public safety. They are, numerically, 1, 2, 3 and 4. Numbers 1, 2 and 4 will be dealt with by later amendments to reflect the Legislative Review Committee recommended amendments, where the exemption of documents is subject to a public interest test. The subject matter of schedule 1, clause 3 is more than adequately addressed by clause 5,

which has the added advantage of containing a public interest balancing test as well. So, this is a reasonably substantial amendment, again attempting to open up the whole activity of freedom of information so that it is not restricted from an arbitrary determination of what are called restricted documents, as I outlined in my explanation.

The Hon. R.D. LAWSON: This is yet another of the series of amendments by which the honourable member seeks to have this bill and the act as amended conform to the legislation that he proposed. A restricted document is presently defined as a document that is an exempt document by virtue of part 1 of schedule 1. As members will recall, that part contains all the restricted documents—cabinet documents, executive council documents, documents affecting law enforcement and public safety, etc.—the four categories of documents so defined. The government opposes the amendment.

The Hon. P. HOLLOWAY: The opposition will oppose the amendment on the grounds that I gave in relation to the earlier amendment; essentially, these amendments are about changing the character of the bill back to the form of the Hon. Mr Gilfillan's bill, which we rejected some months ago.

The committee divided on the amendment:

AYES (4)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

NOES (15)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D. (teller)
Pickles, C. A.	Redford, A. J.
Roberts, R. R.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

Majority of 11 for the noes.

Amendment thus negatived.

The Hon. IAN GILFILLAN: I move:

Page 5, after line 11—Insert:

(l) by inserting after subsection (4) the following subsection:

(4a) If an agency engages an independent contractor, it will be taken to be a condition of the contract between the agency and the contractor that the agency has an immediate right of access to all information held by the contractor in the contractor's capacity as such (notwithstanding any agreement between an agency and an independent contractor to the contrary).

This amendment deals with relevant documents held by independent contractors to agencies. The bill does not address the situation where government records are held by a private company under contract which the company holds with the government.

My earlier bill addressed this issue, and the Hon. Paul Holloway is gracious enough to acknowledge that I am attempting to reshape this bill to a certain extent in compliance with that. I make no apology for it. If we have the opportunity to improve the way FOI works in this state, it is important to move the amendments. This amendment recognises that there has been a lot of outsourcing of activities which have previously been the sole purview of the government itself, which would have been under the direct impact of FOI legislation. Thousands of people—not just I or the Legislative Review Committee alone—recognise that, if FOI is to have any significance, it should extend to the independent contractors who are doing the work which for all intents and purposes is the work of the government for the people in the state.

The Hon. R.D. LAWSON: The government opposes this amendment, the effect of which would be to require, let us say, a cleaning contractor who is engaged by the education department to clean a particular school, or an electrician or a plumber, engaged as an independent contractor, to take, as a condition of the contract between the agency, in this case the contractor, that the agency has an immediate right of access to all information held by the contractor in the contractor's capacity as such. That itself creates some uncertainty. However, the information a contractor has about the contractor's own performance of the contract is something that should not be open to freedom of information. The effect of this amendment would be that any citizen could access information which is in the hands of a private business. That is certainly not the intended effect of the legislation. Just because a business is engaged to undertake certain work for the government does not mean that a citizen has an immediate right of access to all the information held by the contractor, and nor should he.

The Hon. A.J. REDFORD: I must say that I have a lot of sympathy for this amendment. The Australian Administrative Review Council report to the Attorney-General, numbered 42, on the contracting out of government services, which is dated August 1998, made the following recommendation:

> The Council considers that the contracting out of government services should not result in a loss or diminution of government accountability or the ability of members of the public—

and I emphasise this—

> to seek redress where they have been affected by the actions of a contractor delivering a government service.

If you go through the recommendations—and this is important—you see that they say a number of things. Recommendation 1 states:

> Agencies should be required to keep relevant information relating to the management and monitoring of contracts such as will enable the evaluation of the effectiveness of the delivery of particular services.

That happens now. Recommendation 2 is as follows:

> Agencies should include provisions in their contracts that require contractors to keep and provide sufficient information to allow for proper Parliamentary scrutiny of the contract and its management.

Again, that is consistent with the state government's announcements earlier this year about a more open and accountable government. Recommendation 3 provides:

> Agencies should include provisions in contracts which require contractors to provide sufficient information to the agency, to enable—

and I emphasise this—

> the Auditor-General to fulfil his or her role as the external auditor of all government agencies.

Recommendation 10 (and the Legislative Review Committee is currently dealing with this matter by way of Mr Hill MP's ombudsmen legislation) states:

> The jurisdiction of the Commonwealth Ombudsman should extend to the investigation of actions by a contractor under a government contract.

And so the document, a well put together, well-argued and comprehensive one, continues.

What concerns me is a situation like that at the Modbury Hospital, where significant services that are delivered to ordinary people are contracted out. Those people may want

to get information about their own personal affairs. There is an argument that they may not be able to get access to those documents. However, if they want a non-contracted out service, such as those that are available at the Royal Adelaide Hospital, they would be able to get it. I know that as a matter of practice with the Modbury Hospital people are getting access to their own personal records. I am concerned that the access of ordinary members of the public to personal documents will be dependent not on any legal right given under this act or this piece of legislation but on whether a particular service may or may not be contracted out. As a great advocate of contracting out and of smaller government, as a right-wing economic rationalist as some might call it, I think we should not be putting these sorts of impediments—

The Hon. T.G. Cameron: Did you just call yourself a right-wing economic rationalist?

The Hon. A.J. REDFORD: Yes.

An honourable member interjecting:

The Hon. A.J. REDFORD: No, the Hon. Sandra Kanck gives herself away, because that is a contradiction in terms. You cannot be left wing and rational, and I am surprised she even bothers to use the words in the same sentence.

Members interjecting:

The CHAIRMAN: Order! The honourable member will debate the point.

The Hon. A.J. REDFORD: If we do not look very carefully at ensuring that people dealing with what they perceive to be a government delivered service get the same level and standard of service irrespective of whether it is contracted out, there is a risk that the important reforms in terms of contracting out services, commenced by the Keating and Bannon governments, and completed by John Howard, Dean Brown and John Olsen of late, will be stymied. I just do not see why we should be running away from these sorts of amendments.

The Hon. R.D. LAWSON: Whilst the issue raised by the honourable member is cogent, it is not actually germane to the proposed amendment. The honourable member talks about the government contracting out government services and getting someone to act on behalf of the government in its interface with the community. This amendment relates to an agency—let us say an arm of the education department—engaging an independent contractor to provide not a government service but a service to the government. This amendment does not cover only so-called outsourced government services. The honourable member said that, if a contractor is delivering a government service, it should be treated as the government, but this amendment does not seek to do that—it is far wider.

The honourable member mentions the Modbury Hospital. This is a good example, because I can inform the committee that the Modbury Hospital board (which is established under, I think, the health commission act) outsourced the management of the hospital. So, the hospital itself is managed by Healthscope Limited, but the board itself still conducts the hospital. The records of the hospital relating to patients are the records of the Modbury Hospital board and they, like any other documents, are accessible under freedom of information.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The honourable member postulates a hypothetical question.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: If we are dealing with the Modbury Hospital example, let me complete my response to that. Under the Freedom of Information Act, any citizen can obtain his or her information from the Modbury Hospital. What a member of the public cannot do is access the financial records of Healthscope Limited in respect of the Modbury Hospital contract. That is confidential business information to a firm which has been engaged to perform a certain service.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The amendment would, in fact, change that because this would give to the agency—in this particular case, the Modbury Hospital board—an immediate right of access to all information held by the contractor in the contractor's capacity as the manager of the Modbury Hospital. That would mean that all financial information would technically be open to freedom of information, subject of course to the exemptions relating to commercially confidential information. This clause does not seek merely to deal with the situation of where the government outsourced a government service; it covers all engagements by the government of independent contractors—and that would include, as I have said, every electrician, consultant, carpenter, handyman and cleaner engaged by the government. The clause has very wide application and is opposed on that ground.

The Hon. A.J. REDFORD: Surely the exemptions (exempt agency, exempt documents and various other exemptions) would protect those documents which the minister is concerned might be released. What concerns me is the exact issue which the member for Kaurna raised in terms of his Ombudsman Bill, and that is that your right of access is dependent on mere luck, on whether you happen to go to a hospital that happens to have been contracted out.

I acknowledge that this government contracts out responsibly and is beyond reproach—it does it very well—but there is a risk of someone else coming along and forming government. What if that government contracts out the management of patient records? What is the position then? What if the contracted out agency says, 'I'm sorry, but I'm not going to deliver that document to the private patient; I'm not going to allow that private patient to have access to that document, because there is a cost to us, and that cost was not built into the original contract—therefore, you don't get it.' What happens in that circumstance? I know this is hypothetical, but it involves an important issue of principle.

The Hon. R.D. LAWSON: I imagine that in those circumstances the government, on entering into the contract, if it were appropriate, would insist upon the company which is undertaking the outsourced work to make available to any client information or documentation relating to that particular individual. There would be no difficulty at all with that arrangement being entered into.

I think it is also worth mentioning that in May this year the Premier introduced a document relating to contracting with the South Australian government which included a new policy of this government making available copies of all contracts with the government relating to the purchase of goods, services and works. This document is quite extensive—it has appended to it a number of legal advices and there are a number of protections and reporting arrangements described in it—but I accept that this is a policy of this particular government which is committed to openness and accountability. Any future government would, of course, be free to adopt such a policy if it chose to do so, but the Freedom of Information Act itself does not impact upon that.

The Hon. A.J. REDFORD: How is the policy of government different from this suggested amendment?

The Hon. R.D. LAWSON: As I have outlined several times already, this amendment applies to every possible contract. It does not seek to apply only to so-called outsourcing contracts. The honourable member has been making his points in relation to outsourcing contracts, but this amendment applies to not only outsourcing contracts but absolutely every form of engagement or every form of contract which could not be described as an outsourcing contract. For instance, a school does not describe the engagement of a plumber to fix a blocked drain as an outsourcing contract.

The Hon. IAN GILFILLAN: I think the minister is drawing far too wide a scope for the intention of the amendment. The interpretation of the wording is quite clear: the only vulnerability that the contractor has is that freedom of information will allow access to information relating to the contract that exists between the agency and the contractor. I do not care whether that is a plumber coming in to fix the latrines or someone who is outsourcing a major part of that activity, as a community we are entitled under freedom of information to have access to those particular details if anyone feels they are important enough to pursue.

It is impossible to define the difference between outsourcing and other contracting because it is all in the mind of the government as to how much is left of what is regarded as government responsibility and the hands-on provision of service compared with what is let to a contractor or some other enterprise to fulfil. So, it would be pointless for this amendment to attempt to distinguish between what in the year 2001 is called 'outsourcing' and other contracts.

I appreciate the cogent argument which the chair of the Legislative Review Committee (the Hon. Angus Redford) has applied to this particular amendment. If we are unsuccessful in this attempt to remove FOI, I will look forward in the years ahead to getting in place some effective legislation. I think the minister is unnecessarily raising fears and concerns which are not discoverable from a reasonable understanding of the language of the amendment.

The Hon. P. HOLLOWAY: The opposition took the view that we would oppose the amendment on the basis that it was potentially too broad in its scope. In his earlier remarks the Hon. Angus Redford read from a document—I gather it was a commonwealth act—and I do not think that anyone would disagree with the principle that where governments do contract out their basic core services there should be some access to that information. We have already had a conversation about the Modbury Hospital where that situation was dealt with in the specifics of the case. It was our view, when we looked at this clause, that it may be too broad in the sense that it would cover all sorts of contracts that go beyond what one might envisage as being the contracting out of core services. It also seems that there is some risk that, if this clause was carried in the current form, without some careful consideration being given to it, it may well discourage contractors from entering into business with the government.

An honourable member interjecting:

The Hon. P. HOLLOWAY: It is important to note that when contracts are drawn up a key issue will be the availability of information. It is important that those matters be resolved in any contract. We have already found out that in relation to the Modbury Hospital the matter was dealt with. I would suspect that in most major contracts this question of what information is available is a matter that does have to be dealt with.

In relation to the comments the minister made earlier about this government's policy about contracts, let me say that we do not share his enthusiasm about the intentions of the government in relation to how open they are, because the evidence would suggest that those intentions are anything other than the case. It would be interesting to note just how many contracts have been released since that policy was introduced. I think the government's policy was also supposed to cover industry development grants and the like and we are not sure what has been released in that regard. We are getting into a fairly grey area in the relationship between agencies and contractors but it is a very important area. We concede that it relates to matters where the government has to protect its interest in terms of the information that is available to it.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: It's not bad, is it? The Hon. Terry Cameron was elected to this parliament as a Labor member of parliament. If he believes that the Labor party is so bad, why does he not have the decency to resign from this parliament? That is what he should be doing.

The Hon. A.J. Redford: Ralph Clarke, too, has resigned from the Labor Party.

The Hon. P. HOLLOWAY: He has but he will be going to an election. The Hon. Terry Cameron is quite happy to stay in this parliament for seven years.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order, the Hon. Terry Cameron!

The Hon. P. HOLLOWAY: I don't think Terry Cameron should be lecturing us—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Get it on the record if you like.

The Hon. Terry Cameron: You're a grub Holloway: you're a grub.

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: I am pointing out facts.

Members interjecting:

The CHAIRMAN: Order! I will warn the Hon. Mr Cameron.

The Hon. Ron Roberts: Throw him out.

The CHAIRMAN: He is very close to it.

An honourable member interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: Whether or not I am a grub, what I have said in relation to that was a fact. Frankly, I am sick and tired of hearing interjections about what the Labor Party may or may not be doing.

The Hon. Terry Cameron: What about your rantings and ravings when you lose it on the front bench? You're the next leader and you just lose it.

The Hon. P. HOLLOWAY: Lose it? What have I lost?

An honourable member: If you want to have a go Paul, just go for it, mate. It's not a problem.

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: You began this. You were criticising the Labor Party.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Will we? We will see.

Members interjecting:

The CHAIRMAN: Order! The honourable member is out of order.

The Hon. P. HOLLOWAY: We are discussing the Freedom of Information Act—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I didn't say that.

The Hon. Terry Cameron: Yes you did. I can give you the date and the time—

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: We are discussing in this debate the outsourcing contracts, and other contracts, in relation to government. I am simply making the point, if the Hon. Terry Cameron wants an answer, that perhaps we could have a look at that in relation to the Freedom of Information Act as to what was done next, because it is a good case.

The Hon. Terry Cameron: What about the SA Gas Company?

The Hon. P. HOLLOWAY: They are actually good cases in relation to what information is available. In that case with the privatisation of ETSA—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! The interjection has nothing to do with—

An honourable member interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: In relation to ETSA—and there we had privatisation—the information has been taken out of the hands of government as a result of the sale. The information has gone from government because it sold it. Of course, what the government has to have in relation to that is some means of protecting the information that is necessary to it. That was done in relation to ETSA regarding the information that is contracted out, so that is a good case in point. To return to this clause, the opposition believes there is a risk that if it is carried it will be too broad but we do concede that this area of protecting information where governments have outsourced core services does need careful consideration.

Amendment negatived; clause as amended passed.

Clauses 5 to 14 passed.

Clause 15.

The Hon. IAN GILFILLAN: I move:

Leave out this clause and insert:

Amendment of s.20—Refusal of access

15. Section 20 of the principal Act is amended—

(a) by inserting in subsection (1)(a) 'subject to subsection (4),' before 'if';

(b) by striking out subsection (3);

(c) by striking out from subsection (4) '(even though the exempt document may be a restricted document subject to a ministerial certificate)'.

This amendment deals with exempt documents. Under the act, exempt documents are exempt because of matter that they contain. Honourable members will remember our having a lengthy discussion about exempt matter and my definition of 'exempt matter' was refused. Nevertheless, section 20 subsection (4) of the principal act refers to the possibility of deleting exempt matter from a document. This amendment allows for the possibility of documents being released with exempt matter deleted.

Clause passed.

Clauses 16 to 18 passed.

New clause 18A.

The Hon. IAN GILFILLAN: Mr Acting Chairman, it was fortuitous that you missed my previous amendment, because it was consequential on an earlier one and I was not going to move it, so you must have read my mind.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): The Hon. Mr Gilfillan might have missed my statement that I would put it only if his case had won the day on the earlier vote.

The Hon. IAN GILFILLAN: I believe they are different matters. Let us not dwell on that. I move:

Page 9, after line 3—Insert:

Repeal of s.28

18A. Section 28 of the principal act is repealed.

This amendment repeals section 28 of the act, which exempts documents that contain information concerning research that is being or is intended to be carried out by or on behalf of any person. This is not subject to a public interest test and purposes served by this clause are, or ought to be, equally well served by clauses 7, 9, 13, 14, 15 and/or 16 of schedule 1. These other clauses have the advantage of containing a public interest balancing test as well, which honourable members will realise not only was a major theme that I wanted to insert into the FOI legislation but was very much the theme song of the Legislative Review Committee realising that the public interest is an overriding factor and wherever possible should be the determinate when decisions are made as to whether materials should be made available on FOI requests.

The Hon. R.D. LAWSON: The government opposes this amendment. Currently, section 28 of the act provides special provisions in relation to documents affecting the conduct of research. They effectively protect those engaged in research for the government. Whether it be a PhD student in PIRSA, a scientist, an historian or any other person engaged in research, they cannot be required to divulge that research during the course of the research, except under the provisions laid down in the act.

The government believes it is entirely appropriate that people engaged in research should be able to engage in that research without having other competitors, other students or other contestants for PhDs encroaching upon their intellectual property. The Hon. Ian Gilfillan's amendment takes section 28 out of the act entirely. Material that is used during the course of that research would no longer be protected. So, the government will oppose the honourable member's amendment, which deletes that important provision.

The Hon. IAN GILFILLAN: I observe that, obviously, it would not be open slather. The case would have to be made that it is in the public interest for this material to be released, and I think that the minister is using scare tactics to create a protective fence around material which from time to time ought to be made available under freedom of information legislation on the ground of public interest.

The Hon. R.D. LAWSON: I think I should also inform the committee that it is the intention of the government to circulate an amendment, if it has not already been circulated, to include the three South Australian universities as agencies which are subject to the Freedom of Information Act—or, more correctly, to remove the exempt status of those universities from this legislation. I think if one were to make available documents that are being used in research in universities, it would give rise to all sorts of additional problems which are far greater than those that I have already mentioned.

The Hon. SANDRA KANCK: The government's position on this seems to be based on a view that whatever the government does is always benign. I do not think governments always act in a benign manner. I am thinking, for instance, of experiments that armies have conducted in a

number of countries. In the United States the army experimented with LSD on soldiers, which was hardly benign; and the army in Australia experimented on soldiers in South Australia at Maralinga and, again, it was hardly benign. I think that there are very good arguments for accepting my colleague's amendment.

New clause negatived.

Clauses 19 to 25 passed.

Clause 26.

The Hon. IAN GILFILLAN: I move:

Page 11, lines 6 to 9—leave out this clause and insert:

Substitution of ss. 40 and 41

26. Sections 40 and 41 of the principal Act are repealed and the following section is substituted:

Person may appeal against determination to District Court

40(1) A person may, by leave of the District Court, appeal against a determination to the District Court on a question of law.

(2) Proceedings under this section relating to a determination—

(a) must not be commenced unless the determination has been the subject of a review by the Ombudsman or the Police Complaints Authority under this Part; and

(b) must be commenced within 30 days after notice of the decision on that review is given to the applicant.

This amendment provides that a person may appeal to the District Court only on a point of law. It is my view that it is not necessary to have merits refused by both the Ombudsman and/or the Police Complaints Authority and also the District Court. The Ombudsman in his 1999-2000 annual report at page 60 describes how he can direct an agency to make a determination. This then becomes the agency's determination, albeit a directed determination. An aggrieved applicant may appeal to the District Court against this determination, thus having a second bite at the cherry, that is, a second merits review. Alternatively, an applicant may, under section 40, appeal to the District Court instead of to the Ombudsman or the Police Complaints Authority. It is appropriate for any appeals to the District Court to be limited to questions of law. Even these should not be capable of commencement until after the Ombudsman or the Police Complaints Authority has determined an external review application.

The Hon. R.D. LAWSON: The government opposes the honourable member's amendment. Existing sections 40 and 41 deal with appeals and also stipulate the time within which appeals are to be commenced. It is a general appeal against a determination to the District Court. This is a wide-ranging right of appeal and, although it is proposed in the government's bill to limit to 30 days rather than 60 days the time within which an appeal must be commenced, it is a general and comprehensive right of appeal. The Hon. Ian Gilfillan seeks to restrict a citizen's current right of appeal to only questions of law. Presently, a question of either law or fact can be appealed—it is a general appeal—and the government believes that citizens ought to have a fulsome rather than a restricted right to appeal to the District Court.

The Hon. P. HOLLOWAY: The opposition does not support the amendment.

Amendment negatived; clause passed.

Clauses 27 to 33 passed.

Clause 34.

The Hon. IAN GILFILLAN: I move:

Page 15, after line 19—Insert:

(ea) by striking out subclause (2) of clause 6;

This amendment deletes subclause (2) of clause 6 in schedule 1. The purpose of this subclause is covered by clause 6(1) to the extent that it is not an unreasonable disclosure of information concerning the personal affairs of any person. Then to that extent allegations of improper conduct against a person recorded in an agency document ought not to be withheld. Section 50 of the principal act protects the person disclosing such a document, and I quote from the Freedom of Information Act, schedule 1, clause 6, as follows:

(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

(2) A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) and the truth of those allegations or suggestions has not been established by judicial process.

The Hon. R.D. LAWSON: The government opposes this amendment. The existing exemption contained in part 2 of schedule 1, which relates to documents requiring consultation, would exclude after consultation a document containing allegations or suggestions of criminal or improper conduct of a person living or dead and the truth of those allegations or suggestion has not been established by judicial process. There are a number of celebrated cases where people have been named in documents held in files within government, named quite improperly and quite maliciously. The allegations are never tested by judicial process. False accusations about a person's character or antecedents can be contained in material, and the framers of the legislation thought it appropriate to allow those documents to be exempt. The government is not convinced that any case has been made out for the removal of that important exemption.

Amendment negatived; clause passed.

Clause 35.

The Hon. IAN GILFILLAN: I move:

Page 16, lines 22 to 26—leave out paragraphs (a) and (b) and insert:

(a) by striking out paragraphs (a), (b), (c) and (d);

(b) by striking out paragraphs (f) and (g);

(ba) by striking out paragraph (j);

This amendment removes the three universities, the Motor Accident Commission and the Parole Board from being exempt agencies. As the bill is drafted, those bodies—the three universities, the Motor Accident Commission and the Parole Board—are all defined as exempt agencies. We do not believe that any of those qualify with any degree of justification as exempt agencies, and this amendment would remove that exemption.

The Hon. R.D. LAWSON: The government certainly agrees that the three universities should be subject to the Freedom of Information Act, and I have on file an amendment to that effect. The universities were contacted in relation to this matter and I think it appropriate to put on the record their responses. I might say there was not a unanimity of view between the universities. The Flinders University of South Australia, through its Vice-Chancellor, Professor Anne Edwards, replied to the government on 13 July, indicating that that university had no objection to being brought within the coverage of the FOI Act.

The Vice-Chancellor of the University of South Australia replied on 3 August, saying that a comprehensive review of the University of South Australia Act was undertaken by the University Council in 1998, resulting in a resolution to seek amendments to several sections of the current legislation. At that time, the council's review committee noted that the

university was not defined as an agency by the FOI Act. However, it should be noted that the university has operated within the spirit of the act, acting as if it were governed by the FOI Act, and the university therefore raises no objection to the proposal that all universities in South Australia should be covered by the act.

A letter on behalf of the then Vice-Chancellor of the University of Adelaide, Professor Mary O'Kane, dated 1 August, said:

> It does not seem that the public of South Australia have been disadvantaged by the fact that the universities are not covered by the current act. The Legislative Review Committee report makes only passing reference to universities. Indeed, the report provides no justification for the suggestion that the universities should be covered. The universities are funded by the commonwealth government, not the state government, yet the imposition of FOI by the state government would invariably pose resource implications. The Adelaide University attempts to comply with straightforward requests for information. Staff and students have access to information concerning them which is held by the university. There are no compelling arguments in favour of the universities being covered by the FOI Act.

Notwithstanding the views of Adelaide University, and bearing in mind the Legislative Review Committee report as well as the replies from the other universities, the government is of the view that all three universities should be covered by the FOI act. I have an amendment on file to that effect which I will be moving after the Hon. Ian Gilfillan's amendment. The honourable member also seeks to exclude the parole board from exemption. This would enable members of the public to ascertain details of people currently on parole—information which is sometimes but not always provided. The honourable member has not made any cogent case for the exclusion of the parole board. It is our view that the parole board should continue to be an exempt agency under schedule 2.

The CHAIRMAN: I ask the minister to formally move his amendment.

The Hon. R.D. LAWSON: My amendment would have the effect of striking out as exempt agencies the three universities. Therefore, they would be included in the purview of the act.

The CHAIRMAN: The minister has moved only one amendment. There is probably another one.

The Hon. R.D. LAWSON: I also move my amendment to clause 35, as folllows:

> Page 16 line 26—After 'Commission' insert:
> in respect of any matter relating to a claim or action under Part 4 of the Motor Vehicles Act 1959;

The effect of this amendment is that the Motor Accident Commission would be an exempt agency, but only in relation to claims or actions under part 4 of the Motor Vehicles Act, those documents presumably ordinarily being accessed through the ordinary process of discovery rather than by means of a freedom of information application. The commercial operations of the Motor Accident Commission would not be subject to freedom of information.

The Hon. NICK XENOPHON: I indicate my support for the government's position with respect to the Motor Accident Commission. I have been in contact with the Australian Plaintiff Lawyers Association, of which I am a member, and have spoken to the State President, Angela Bentley. As I understand it there have been meetings between the Motor Accident Commission and the Plaintiff Lawyers Association on this issue. It is understood that FOI cannot apply to actual claim files, because it would mean that the claims system would lose its integrity, given the adversarial nature of the claims process. This is an improvement on the current position, and I look forward to supporting this amendment.

The Hon. R.D. LAWSON: I should put on record confirmation of the fact that I am advised that the Motor Accident Commission met with a committee of the Australian Plaintiff Lawyers Association very recently. The delegation from that association included Ms Angela Bentley and Mr John Dempster. They both agreed that an amendment along the lines that I now propose would be appropriate. It was stated during that meeting that, unless the Motor Accident Commission and its claims manager were allowed to continue to manage their files without having to reveal their contents, except as provided through court laws, the entire scheme could become unworkable. The amendment is being proposed for those reasons.

The Hon. A.J. REDFORD: In relation to the minister's amendment I would like to say a couple of things. First, the Legislative Review Committee dealt with this in its report, although in the report we talked in a slightly different way about litigation and legal professional privilege. Without revealing the discussion that took place within the committee, I must say that we spent a long time debating the position in relation to legal professional privilege, and I am pleased that we unanimously agreed that it ought to be retained. By implication we also agreed with the position that those documents which would be subject to discovery should not be the subject of a separate legal regime under the Freedom of Information Act.

Indeed, in her evidence, Ms M. Venning, a lawyer who gave evidence to the committee on behalf of the Law Society, talked of the difficulties that the Royal Adelaide Hospital had in relation to dealing with litigation matters, where people seeking to avoid the cost of discovery (and one cannot criticise them for that, having regard to the enormous expense that litigation brings to bear on people) were using the freedom of information process. In that regard, the Legislative Review Committee did not favour the position of the Australian Law Reform Commission. Again, as I said earlier, we supported the position concerning legal professional privilege, notwithstanding some of the comments made by the Australian Law Reform Commission. Its view was that legal professional privilege is inherently in the public interest and would be protected in any event.

This amendment is a classic case of one disappointment I have with this legislation, namely, the complexity of the act. This matter will be addressed one day, whether it be in this parliament, the next parliament or the one after. One only has to observe members scrambling around looking through different documents and schedules to see just how difficult it is for an ordinary person to understand this legislation.

The minister could have dealt with this issue in two ways: first—and this is the way he has done it—he could exempt the Motor Accident Commission in relation to files concerning claims or actions under part 4 of the Motor Vehicles Act. An alternative way would have been—and this just indicates the complexity of the act—to exempt documents which may be the subject of litigation under schedule 1 of the act. I personally think that that might have been a better way of going about it, because it secures a basic principle that those documents which are the subject of litigation, discovery or legal professional privilege, and the debates and arguments that surround those concepts ought to be left to the courts in the context of their rules and the common law as opposed to putting it into the category of freedom of information.

That is the point I make: it indicates that we are not simplifying this legislation or this process all that much because of the range of exempt documents, exempt agencies and various other exemptions that are contained within the legislation. Notwithstanding that, I congratulate the minister on his suggestion, and I congratulate the Australian Plaintiff Lawyers in securing the concession from the Motor Accident Commission. Obviously, one would hope that the application of the exemption and in particular the words 'in respect of any matter relating to a claim or action under part 4 of the Motor Vehicles Act 1959' will be construed narrowly to deal only with those files that are the subject of litigation or potential litigation in relation to dealing with third party claims.

The Hon. R.D. LAWSON: I should have mentioned that the amendment to exclude documents relating to claims under the Motor Vehicles Act is in consequence of the remarks made by the Hon. Angus Redford during his second reading contribution. I thank him for drawing our attention to what would have been an excessive exemption. If we had simply carried over from the SGIC to the Motor Accident Commission we would have been creating too wide an exemption.

The Hon. P. HOLLOWAY: I support the government's amendment.

The Hon. Ian Gilfillan's amendment carried; the Hon. R.D. Lawson's amendment carried.

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

Page 17, after line 4—Insert:
(q) the Local Government Association.

This amendment seeks to include as an exempt agency the Local Government Association. That association is a grouping of local government authorities. Each local government authority, which is of course an important part of our constitutional structure, is now the subject of freedom of information but its association is not. It seems to me its association is a bit like the Commonwealth Parliamentary Association. I seek support for our amendment.

The Hon. P. HOLLOWAY: The opposition supports the amendment. The Local Government Association is a somewhat unique body, given that it is formed from other levels of local government and—in my view, at least—should be responsible to those other bodies.

The Hon. A.J. REDFORD: I must say that I am not sure that I agree with that. It is a publicly funded body. It has no other source of money other than from taxpayers, and it should be subjected to freedom of information just like everybody else. Notwithstanding that, I understand politics, and the LGA is a master of it. Unless the Labor Party and the government agree, it will get its way and, from my dealings with it in the past, that has generally been the case.

An honourable member interjecting:

The Hon. A.J. REDFORD: If the government and the Labor Party combine, the numbers are there. The honourable member would understand that. I am sure that, when we inevitably revisit this legislation, that exemption will disappear, because as a matter of principle I cannot see any justification for it not to be included.

The Hon. IAN GILFILLAN: I can do no more than agree with the serving chair of the Legislative Review Committee, the Hon. Angus Redford. It is very frustrating to have spent as much time as we did on the Legislative Review Committee totally free of party political partisanship looking at this for the best approach for the proper governance of the state. The local government community and its governance is embraced very closely by this parliament, although it is a separate entity. For it to even ask for different treatment in relation to FOI demeans its stature as a tier of government.

An honourable member interjecting:

The Hon. IAN GILFILLAN: Exactly. The interjection is that the university, face-to-face with local government, is exemplary in that respect. Like the Hon. Angus Redford, I believe that we will be revisiting this, I hope in a more constructive climate after the next election, and I look forward to a non-party political approach to it. Local government may have only a very short time in which to enjoy this exemption, because I do not believe it should be in place at all.

The Hon. T.G. CAMERON: I rise to support the comments made by the Hon. Ian Gilfillan on the exemption of the Local Government Association. I am astounded that we are going to exempt the Local Government Association from freedom of information documents. The comments of the Hon. Ian Gilfillan in relation to this matter are correct. I am sure the Hon. Ian Gilfillan will recall over the past 15 years or so that the Australian Democrats have turned utilising the services of the Local Government Association against whoever the incumbent government is into an art form.

It is almost as though some of the amendments which the Australian Democrats move from time to time have been drafted by the Local Government Association, which makes no secret of the fact that it has cuddled up to the Australian Democrats for a decade or so and used them. We have seen the vote over and over again in this Council: if Labor is in government, the Liberals will find a way to cuddle up to the Democrats to support their amendment and give the LGA what it wants. Then the government changes and the whole scene is reversed: at the end of the day, we have the Local Government Association and the Australian Democrats in bed together screwing some other sweetheart deal out of the incumbent government. I have heard no argument—

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: Well, the Local Government Association in the days when Jim Hullick was the Secretary-General was an honourable organisation which treated issues on their merits, but it has now turned into some kind of quasi blackmailing organisation—I know that people will not like these words—which, if it does not like what the Liberal government is doing, rushes off to the Democrats to find some way of opposing it and Labor comes on side and they squeeze their position out of the government.

Exactly the same position occurs if Labor is in office—I have seen it over and over again—and I have heard no argument today by either the government or the Labor Party to exempt the Local Government Association from freedom of information action. At the end of the day, the Local Government Association is a body which, as I understand it, comprises about 98 per cent of all the councils in South Australia which have as their constituency every home owner and/or tenant in South Australia.

We have heard no persuasive argument from the minister, the government or the Australian Labor Party, but it has come as a little bit of a surprise that the Australian Democrats are actually standing up and being counted on this issue. They are demanding that the Local Government Association not be exempt from the freedom of information bill. I am not quite sure what this will do to future relationships, Mr Gilfillan, but I applaud the Democrats for belling the cat on this issue and asking the question, a question which has not been properly

addressed or answered by the government let alone the pathetic response that we heard from the Australian Labor Party—this puerile pathetic attempt to somehow or other justify why we are going to exempt the Local Government Association from freedom of information action.

What cosy, cuddly little deal has the government and/or the Australian Labor Party done with the LGA on this issue? Why is the Local Government Association, a body which purports to represent ratepayers in this state, going to be exempt from this legislation—heaven forbid, the Local Government Association under John Comrie and the new reign of super mayors of these super councils that have been created under the amalgamation process. If I wanted to get personal I would list them all according to those who are members of the Labor Party and those who are members of the Liberal Party.

We have very few independent mayors and councils that operate purely independently. One only has to look at the disgraceful, disgusting, grubby deal that was done by the Adelaide City Council last night when it would appear that the political parties, realising that they had the numbers, got together and did a deal to ensure that they pick the chairperson of all the committees. Is that what local government is going to come to under the Local Government Association?

We already have the Australian Labor Party committed to compulsory voting in local government in South Australia. If we get a Labor government at the next election, it will introduce a bill to ensure that we have compulsory voting in South Australia. What does that indicate that Labor is up to? Local government is going to be politicised—not 'is going to be' but 'is being' politicised—by the Australian Labor Party in South Australia not only as it pursues compulsory voting but as it systematically goes about securing councillors and mayors in council after council right across this state. Yet, this chamber is going to exempt the Local Government Association from having to respond to freedom of information claims.

I have not had an opportunity to discuss this bill with any members of this Council but, if body language is any indication, there are a few people on the other side of the fence who do not necessarily agree. They support the freedom of information legislation but they do not support exempting the Local Government Association, which under Jim Hullick used to have a sense of community and looked after the ratepayers. This has become something akin to the Adelaide Club: it looks after mayors and pursues salary claims on behalf of councillors, etc. The number of telephone calls that I received when we dealt with the remuneration of councillors under the local government bill was bizarre. Labor councillor after Labor councillor rang me and said, 'Why won't you support us being paid like state members of parliament?'

Is this local government's agenda: to create a system here in this state where everyone is to be paid $40 000 or $50 000 a year if you want to be a councillor—and even then it would only be about one-third of our salary. I want to hear from the minister the government's position and why it is sucking up to the Local Government Association and exempting it from this bill. I appreciate and understand why the Labor Party is doing it, but why is the government doing it? I indicate that I will support the Hon. Ian Gilfillan's amendment.

The Hon. R.D. LAWSON: The government is not sucking up to the Local Government Association in respect of this matter. There is no cuddly deal between the Local Government Association and the government. The Hon. Terry Cameron laments the politicisation of local government. He has a particular view about some of the activities of the Local Government Association. I make no comment about that—he is entitled to his view. I think there are many members of this parliament who lament the politicisation of local government in this state, but that has nothing to do with this particular issue.

At present, the Local Government Association is not subject to the Freedom of Information Act. It is not as though we are creating an exemption: the Local Government Association is not and never has been subject to the act because, as I am advised, it is not an agency within the definition as it currently stands. As far as I am aware, no-one has ever sought to include the Local Government Association under the freedom of information regime. I am not aware of any widespread concern about the secrecy of the Local Government Association. The Local Government Association is an association comprising a number of constituent parts. Those constituent parts are the councils. The constituent elements of the Local Government Association are being made subject to the Freedom of Information Act. This gives to the citizen the right to go to his or her local council and ascertain all information about local government in that area.

The affairs of the Local Government Association are of an entirely different order. The Local Government Association is an association of councils. It is not a public body similar to those public bodies which are not exempt. Because of the way in which the definition of 'agency' now appears and because we are now bringing the local councils under the act, the Local Government Association, being a body constituted under the Local Government Act, would be caught inadvertently by the legislation.

It was not our intention to catch the Local Government Association: it was our intention to catch councillors. We are not entering into any cosy deal: there is simply no justification or case made out to the satisfaction of the government at the moment that the Local Government Association ought to be subject to the Freedom of Information Act. If, in the future, some issue arises, perhaps it would be easy to exclude it from the exemptions, but at the moment no strong case has been made for including the Local Government Association.

The Hon. T. CROTHERS: I support the Gilfillan amendment. I have very good personal experience of why I should do so. I will not bother the committee again with a recital of my personal experience of dealing with councils but I want to say this: far from exempting the Local Government Association from the Freedom of Information Act, the minister must realise that there is a greater number of disparate people in councils than there are people in this state parliament. If ever anything should go wrong, if ever dishonesty could apply, one fact is a simple algebraic equation: the bigger the numbers involved, the greater the chance for dishonesty—the greater the opportunity for dishonesty. We have a very fine police force here, one of the best in Australia, but, because one has to give police officers great power so they can work to the benefit of the people for whom they are supposed to uphold the law, there is great opportunity—and fortunately we do not often get it but we do get it—for corruption. To exempt local government from the Freedom of Information Act and make it apply to the state parliament is a piece of humbug the like of which I have never seen in all my algebraic seeking days.

The Hon. T.G. Cameron: That's a century or two.

The Hon. T. CROTHERS: It's a bit longer than you would know, Junior. The facts are that there are more councillors than there are people in this parliament and

therefore the opportunity for humbug and skulduggery in respect of councils and their officers and their elected members is far greater than that which stands to us in this parliament. Yet we are subject, and rightly so, to the Freedom of Information Act. I have no objections whatsoever to that.

The Hon. T.G. Cameron: In this place we have given people the right of reply. You don't get that at council—

The Hon. T. CROTHERS: I understand what the honourable member is saying. If someone from outside feels that they have been verbally harmed in this place, they have the right to come into the Council and to have the right of reply in respect of any comment or statement any honourable member might have made about them or any business they are involved in: yes, that is true. But the position in respect of councils is as I have outlined it. In addition to that (and now here's the rub), those of us who have in the past two years felt the necessity to watch the councils will understand that in just about every Messenger newspaper there appears a Wat Tyler 'revolt of the peasants report' against the local council. There are ratepayers' associations being formed all over the place, and why is that? It is because the people who are the ratepayers in these council areas can remember better days before the amalgamations of councils, and they are not going to cop that which was handed out.

There was a case in point involving the Payneham, St Peters council, as I recall, where the council used its right to withhold information to do a particular thing which caused absolute uproar and brought about 300 people to the steps of this parliament. Unlike my colleague the Hon. Mr Cameron, I do not always agree with the Hon. Ian Gilfillan, but the one thing I will argue with anyone is that, when the man comes in here, he talks with the integrity of his heart and his soul and his morals. I do not always agree with him: on this occasion I do and I think moraturi te salutant—those of us who are about to die, Comrade Gilfillan, salute you.

Having said that, I rest easy and call on those people to understand what I have just said, because there is a Wat Tyler peasants revolt out there against the council and it is looming up fast, it is looming up quickly and it is looming up in volume. It will make the Washington Economic Summit look like a kindergarten if these people start going loose against these councils which have been rightly described as giants created beyond their scope and their intellectual capacity to deal with the powers they have. I rest my case.

The Hon. NICK XENOPHON: I support the position of the Hon. Ian Gilfillan, the Hon. Terry Cameron and the Hon. Trevor Crothers in relation to this amendment. It is extraordinary that the Local Government Association should be exempt from this legislation. The minister did make the point—and I am paraphrasing; I am sure the minister will correct me if I misquote him in any way— that, because the LGA looks after the affairs of councils, it is not a public body and because of that the LGA ought to be exempt. But the fact is the LGA does have an important role to play in policy formation in terms of the way that councils interact with government as a whole. It is often the conduit through which councils deal with government, with members of parliament and with members of the public. I would have thought that the LGA should not be in a special position given its role, given its interaction with councils and given the role it has in policy formation.

The statement that the LGA looks after the affairs of councils may be partly true, but it ignores the important policy role. In many respects it is a public body, and in that regard it appears to be inconsistent with the government's approach in relation to the partial exemption regarding the MAC and the universities. It also goes against the grain of the provisions in the Local Government Act and the LGA's own commitment to greater openness and transparency. So I am disappointed that the government and the opposition are seeking to exempt the LGA given some very important and legitimate public policy concerns that it ought not to be exempt.

The Hon. P. HOLLOWAY: The current situation under the act, as I understand it, is that the councils' policy on freedom of information is governed under the Local Government Act, or some other act. Earlier tonight under clause 4, paragraphs (b) and (e), we passed a provision to include councils in the definition of 'agency' under the Freedom of Information Act. That brought them under this bill rather than under the arrangements that previously existed. The question was to what extent one extends that.

The LGA is a body that is accountable to its constituent councils. It is a peak body. It is answerable to those bodies—the councils. The councils themselves, as a form of government, are subject to state law. There are some who believe that should not be the case but that they should be a separate tier of government—but we will not go into that debate here. They are subject to state law: that is a fact of life. So they are required to be accountable under the Freedom of Information Act. That means that, if any member of the public wishes to seek information from the council under the FOI Act, they have the opportunity to do so subject to the other provisions that will be in this act when it is passed.

The LGA is a different body. It is answerable not to the individual members of our community or to the individual ratepayers but to its constituent councils. If those constituent councils elected—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: If those councils wish to seek information from the LGA, they can do so. The fact is that, because the LGA is a body that is answerable to them, if within that organisation those councils wish to get that information, they can do so. It is up to them to get the information. If we were to extend this action to the LGA, what would we do in relation to other community bodies—to community associations and so on? Would we wish to extend the law to them? I suggest not. I suspect there would be outrage in the community if we did. You have to draw the line somewhere.

Councils are a part of government. They are established under an act of this state. Clearly, they should be subject to some freedom of information law. But we have to make a judgment in relation to those other community bodies that are outside, many of them set up by councils.

Members interjecting:

The Hon. P. HOLLOWAY: Some of them are, such as where they are commercial organisations.

Members interjecting:

The Hon. P. HOLLOWAY: We have debated this issue at some length under the previous bill. The question is whether a peak body that is answerable to constituent councils that are themselves to be covered by this act should be, for the first time, brought under the act. We do not believe that there has been a case made out for that to happen. For example, perhaps those that—

The Hon. T.G. Cameron: Pathetic!

The Hon. P. HOLLOWAY: The Hon. Terry Cameron says 'pathetic': perhaps he can give us an example—

Members interjecting:

The Hon. P. HOLLOWAY: Well, I just say this: let him give us an example of one piece of information which he believes the Local Government Association should provide to the people of this state.

The Hon. T.G. Cameron: You have now got 40 councillors in this state—members of the Labor Party. You control seven councils. When are you going to start—

The CHAIRMAN: Order!

The Hon. R.D. LAWSON: I respect the views that people may have about the Local Government Association. They are perfectly entitled to them. But by this bill tonight we have included, for the first time, under the freedom of information legislation in this state, all local government councils. The Hon. Trevor Crothers made some remarks about councils. He is perfectly entitled to make those remarks. His experience is such that he does not think much of them. That is fair enough.

The Hon. T. Crothers interjecting:

The Hon. R.D. LAWSON: Indeed. But the point is we have included, and the committee has voted to include, all local government councils in South Australia under the FOI legislation. The debate has been about another body of a different character—a public body, admittedly, but so is the UTLC, the Law Society and the Australian Medical Association. So are any number of other bodies that have a particular position in relation to policy which affects the community. But they are not included within the—

The Hon. T.G. Cameron: What are you protecting the LGA for?

The Hon. R.D. LAWSON: The Hon. Terry Cameron interjects, 'What are we protecting the LGA for?' We are not protecting the LGA in any way at all. Those who seek to have it included have been very keen to denigrate the LGA but they have not put forward any cogent reason, document or policy that ought to be accessed by the community under the freedom of information legislation. They have not put forward anything other than a general complaint about the activities and worth of the LGA.

The Hon. T.G. Cameron: So your attitude is that, unless somebody makes out a case for why it should be excluded, you won't do anything?

The Hon. R.D. LAWSON: For public bodies of this kind, such as the Law Society—

Members interjecting:

The CHAIRMAN: Order! The minister is trying to answer.

The Hon. R.D. LAWSON: This is a public body which is unlike the other agencies which are described in the definition.

The Hon. Nick XENOPHON: I take issue with what the minister said. The minister refers to the Australian Medical Association, the Law Society and the Australian Plaintiff Lawyers Association. The difference between those associations and the Local Government Association is that the Local Government Association represents a tier of government. If the councils themselves are subject to FOI legislation, it does not make sense to me that the LGA, in respect of its public policy functions, in respect of its functions in liaising with members of parliament, with government and with other councils, ought—

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: Sure, but it does not—

Members interjecting:

The CHAIRMAN: Order!

The Hon. NICK XENOPHON: The point has been made by the Hon. Paul Holloway about the AMA dealing with the government on the legislation, and the same point can be made about the Plaintiff Lawyers Association and the Law Society, and I take that point. But the distinction between those organisations and the Local Government Association is that the Local Government Association is funded essentially by taxpayers—by ratepayers—and I think there is a fundamental difference between the two. I am not here to denigrate the LGA but, as a point of general principle, it does not make sense that the LGA is exempt from this legislation given that councils now form part of the FOI regime.

The Hon. T. CROTHERS: What happens if I am elected as a member of the council and then I am elected to the governing body of the LGA? Does the Freedom of Information Act apply to me because I am on the governing body of the LGA? And, if it does not, am I Mohammed's coffin? What is the score here?

The Hon. R.D. LAWSON: The act does not apply to individuals in the circumstances described. You would be a constituent member of the LGA, and the act does not apply to constituent members in that way. You would remain exempt, but the council from which you came, in respect of its public activities, would be subject to the FOI legislation. The body which you attended as a representative of your council would not be subject to FOI.

The Hon. T. CROTHERS: In other words, if I want, as a councillor, to escape the Freedom of Information Act, all I have to do is engineer my election to the LGA in some office of that body. Is that true?

The committee divided on the amendment:

AYES (11)

Davis, L. H.	Dawkins, J. S. L.
Holloway, P.	Laidlaw, D. V.
Lawson, R. D. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

NOES (6)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I.
Kanck, S. M.	Xenophon, N. (teller)

Majority of 5 for the ayes.

Amendment thus carried; clause as amended passed.

Remaining clauses (36 and 37), schedule and title passed.

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I move:

That this Bill be now read a third time.

The Hon. A.J. REDFORD: First, in closing this topic, at least for six months, I congratulate my colleagues on the Legislative Review Committee and all those who participated. Secondly, I congratulate the minister, who came at this from a different perspective from the committee, and I have high hopes that the principle of open government that was endorsed by the Legislative Review Committee—and, indeed, followed through by the government in the guise of the minister—will come to pass particularly in relation to the education and training of staff.

I also go on record as saying that there are some aspects of the bill that I would have preferred had a different outcome, but I know that the minister approached this in a spirit of endeavouring to achieve the same outcomes as me—perhaps by different means, but certainly from a genuine

perspective and, I suspect, notwithstanding perhaps some opposition from within cabinet.

I congratulate the minister on what he has done with this bill and I hope that over the next couple of years we will see a marked improvement in the openness of government. In that respect, having regard to the way in which the minister approached the legislative aspect of the recommendations of the Legislative Review Committee, I have no doubt that, assuming he retains the portfolio, with the same approach we will achieve a much more positive outcome and a much more open government. I hope that this will be seen as a step to being the most open government in the commonwealth.

Bill read a third time and passed.

GENE TECHNOLOGY BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 2646.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this bill. It is really a companion bill to the legislation passed in the federal parliament regarding the introduction and control of gene technology. It is not my intention to analyse the bill in detail. I think it is reasonable to quote from the last two paragraphs of the minister's second reading explanation that this is what is seen as the general approach, as follows:

> If the State, after taking account of the results of the consultation process, should decide to legislate for 'GM crop restricted areas', it should be done once the Gene Technology Ministerial Council has established the policy principle and by an Act that is separate from the South Australian Gene Technology Act. Therefore, this bill should proceed without such provisions.
>
> In summary, the national regulatory scheme for GMOs adopts a cautious approach to the regulation of GMOs. It is transparent, accountable and based on best practice risk assessment and risk management. The Bill will form the corresponding South Australian law in the national scheme to ensure that the ability of the scheme to protect our South Australian community and South Australian environment is complete.

It is in part true. However, we believe that the federal legislation was deficient in several significant areas, but that is past history. That debate has been fought and concluded in the federal scene and it is not our role to rehash that now.

I want to make some observations about GM generally, but it would be clear to members of this chamber that I have had a very strong interest, as have the Democrats, in establishing GM-restricted areas or areas with a GM moratorium for a five-year period. In fact, a bill to that effect was successful in this chamber and awaits debate in the House of Assembly. I do not want to dwell on that but I think it is important that that is part of the background clearly recalled by members when I contribute on behalf of the Democrats to this particular bill, which is more an enabling and facilitating piece of legislation.

The bill arises from legislation passed by the commonwealth parliament late last year and it came into effect on 21 June this year. It established a statutory officer, the Gene Technology Regulator, to administer the legislation and make decisions under the legislation. It also set up a number of committees to assist the minister and the regulator—a scientific committee, an ethics committee and a community committee. The essence of the act is to prohibit the use of GMOs unless the use is either exempt, a notifiable, low-risk dealing on the register of GMOs, or licensed by the regulator.

Under this, all field trials and commercial releases will need to be licensed by the regulator. Currently there are in excess of 180 field trials of GMOs in Australia and only a couple of varieties of GM cotton and carnations are licensed for commercial release. Of these, only carnations are being grown in South Australia, although the South-East of the state has a considerable number of trials being conducted and other areas of the state, members may remember, were sparsely dotted with some trials on the eastern side of the gulfs. Generally speaking, large areas of the state can be considered GM free and, in particular, Eyre Peninsula, and, may I say, Kangaroo Island.

What is genetic manipulation? There are a number of techniques in genetically modifying an organism. The two most common methods involve using a virus or bacteria and the biolistic method. In the first, a virus or bacteria that would usually infect a plant is used to carry the introduced gene. The second involves the additive gene being bound to extremely fine gold particles. A gene gun device then fires these gold particles into a sample dish of the host plant's cells or seed embryos. The gold particles penetrate into the host plant's cell nuclei, and the accompanying additive genes are incorporated into the DNA of the host plant cells.

This is a very inexact science. There is no guarantee that the gene will be inserted into the target DNA, nor is there an adequate method of targeting the introduced gene to a specific section of the target DNA strand. To overcome this, a market gene is also inserted with the introduced gene. Then all the cells are exposed to a particular antibiotic and they are able to identify the cells that have been successfully modified, as only those cells that have received the attached antibiotic resistant marker gene will survive.

The benefits espoused by proponents of genetic engineering are wide and varied. It is argued that the ability to modify individual traits in plants and animals allows an infinite array of possibilities: food with longer shelf life; herbicide resistant crops; crops able to withstand colder temperatures; and more productive crops. To date, the key modifications to crops have been by increased resistance to herbicides. Benefits to consumers are not yet evident. In fact, many consumers are turning away from foods that have been genetically modified. The greatest attention has been given not to the perceived benefits but to the potential costs of GMOs.

Highlighting that this gene technology is not an exact science, it is widely recognised that genes do not work independently of their environment. Opinions that are widely held suggest that the functioning of genes is totally dependent on the environment in which they, the genes, find themselves. This is evident in many examples where a modified plant exhibits properties that were not expected. Cases that are known of include yield reductions in crops modified for insect resistance; increased toxins in yeast modified for increased fermentation properties; and the example of gene coding for red pigment being taken from a maize plant and transferred into petunia flowers. The modification did, in fact, turn the flowers red, but the flowers also had more leaves and shoots, a higher resistance to fungi and lower fertility, all not forecast.

Crosspollination of GM crops presents another problem. It is possible for non-GM crops to be pollinated with pollen from GM crops, hence casting doubt on the status of the non-GM crop. The problem is magnified with the distances across which the pollen may travel, and in particular we have references to canola. It is reported that bees can carry this pollen up to four kilometres. Crosspollination of other crops is not the only concern because there can be crosspollination of genetically modified pollen with a variety of weeds. If the

crop is modified to be resistant to a particular herbicide, there is a possibility of the weed's becoming resistant to that herbicide.

The Canadian government farming research agency (Ag Canada) has found that different strains of GM canola resistant to different herbicides can interbreed and lead to a canola that itself becomes a weed. There have been cases where crops have been overrun by GM canola that cannot be removed, hence destroying the integrity of the cash crop. That was reported in an article in the *Advertiser* on 14 August this year. The nature of growing these crops also raises questions regarding the liability of a farmer, both in inadvertently growing a patented crop type and in growing crops from seed grown on their land.

The issue was also recently raised by United States Senator Tom Daschle. Senator Daschle is a Democrat Senator from South Dakota and the majority Leader of the Senate in the US Congress. In a recent letter to Director Tobias from the Department of State he wrote:

> I am writing to express my concerns regarding negotiations related to rights of farmers and the use of agricultural seed. I urge you to do all that you and the US delegation can to oppose any provision that limits farmers' rights in this regard.
>
> Specifically, I support proposals to exempt farmers from paying royalties on patented farm animals and the technical fees on seeds that have been genetically modified. We support their right to plant seeds derived from proprietary organisms on their own land, and a prohibition on the development and selling of seed that are sterile. Additionally, patent holders or owners of genetically modified organisms and related technology should be liable for health, safety and environmental impacts. Finally, any damages caused to farmers through lower prices, lost markets or contamination due to genetically modified products should be reimbursed by the company producing any such product.
>
> In summary, I believe, like many of my colleagues in the Congress, that agricultural research and resulting products or processes funded by and conducted in the public domain should remain in the public domain.
>
> Thank you for your assistance on this important matter,
>
> Sincerely, Tom Daschle.

I believe that this is a very important issue that is not addressed by the Gene Technology Bill. Members may also know of a case in Canada where a judge ruled that a farmer must pay Monsanto some thousands of dollars for violating patent laws on genetically modified canola seed. Under Canadian law it is illegal for farmers to re-use or grow patented seed without signing a licensing agreement. Under this law it did not matter how the modified canola seed came to be on the farmer's property. Incidentally, the farmer alleged that he had no knowledge of the seed coming onto his property and that there had been some natural cause for it to have done so. I am not making a judgment about whether that is right or wrong; the fact is that the law opens up vulnerability to the farmer, whatever the reason the seed may have been found on his property.

These concerns are further focused in the market implications of growing GM crops, and there has been consumer concern about genetically modified foods. Across the world people are demanding the right to know what they are eating, and many are insisting on GM free food and are prepared to pay a premium for it. The United Kingdom, the European Union and Japan all have mandatory labelling for GM foods. Australia has a labelling regime as well, although up to this point it has been somewhat dysfunctional.

In 1999 the US lost about $US2 billion because the market for GM foods collapsed. Canada lost $30 million in canola exports to Europe, because they could not guarantee the GM free status of the product. As this continues, more and more food companies are declaring that they will not use GM products. With this, if a country wishes to supply GM foods, it must segregate its crops at the source. Given the possibility of cross pollination, this is a difficult task, with many people campaigning to have entire regions free of GM crops in order to maintain the GM free accreditation for their growers.

It is interesting that, currently when there is any debate in South Australia about the costs of segregating GM from GM free crops, there is an assumption on the part of both the government and others that are making public comment about it that it is an obligation of the GM free crop growers to cover the extra cost of keeping their product free from contamination by GM crops. It seems to me to be totally illogical that those who have been growing and continue to grow a traditional product should suddenly be assaulted with a cost layer imposed on them purely because an agribusiness has been promoting a genetically modified crop which, by being planted in an area, means that there is a complication in the handling of that crop, in separating the GM from the non-GM.

It has not occurred yet. It is an area where I have pursued requesting information from the bulk handling company, AusBulk. It was quoted earlier as saying that it would not maintain a separation of GM and non-GM crops; however, I have been reassured in a letter from its General Manager that that was inaccurate reporting and that it will make an effort and it does have the facilities to do it. However, I come back to the point that those of us who are expressing concern about GM and non-GM crops being grown together or certainly being handled together as export products in South Australia think that in no way should the extra cost of segregation be borne by one particular category of producer. I think there is a stronger argument to say that those who introduce new crops should cover the cost of the separation of their product from the more traditional crop.

It is clear that the commonwealth bill falls short, probably far short, of adequately addressing all the issues that those of us who are concerned about the premature and over hasty introduction of GM crops into South Australia would like to have addressed in legislation. So, the bill that we are now debating in South Australia is still more deficient than I would have liked. We believe it is a step forward and we will support the second reading, but I feel that it is far from the end of the issue. We will continue to advocate and push for a stronger regulatory regime.

In conclusion, I must repeat (because it is frequently misunderstood) that using the precautionary principle and advocating a five year moratorium, as I proposed in my earlier bill for the whole state, should in no way imply that I do not accept that there could be benefits. There could be quite extraordinarily significant benefits from genetic modification in the years to come, but I have very serious concerns about our being impetuous and leaping into it before the technology has been proven. I do not like to be beholden to the large, international agribusinesses which are conducting their businesses purely for profit and which wish to control the producers and the markets.

Those of us like me who have been in primary production for many decades know that the quality of the product that we produce does not matter; if the market does not want it, we cannot sell it. In South Australia we have to take into account the sensitivity of international markets particularly and the local market if we go down the path of allowing our whole state to be contaminated because we have not been cautious enough to restrict the areas where GM crops can be grown.

I hope that, even with the passage of this bill, the debate on where and for how long we have moratoriums will be very lively. It is of extraordinary interest to me to note that a respected Liberal—I assume she is a respected Liberal of some years—Liz Penfold, the member for Flinders, has done a remarkable backflip on the situation on Eyre Peninsula. She had a major article headlined in the *Port Lincoln Times* indicating that she strongly supports a five year moratorium of GM products on Eyre Peninsula, and in that she espoused the very arguments that I have put forward. I think it is somewhat ironic that she is able to make that statement with conviction in that area, yet on this side of the gulf we find portions of the government heedlessly galloping towards introducing genetic modification technology as if it were the answer to all our health, nourishment and financial needs.

I am sorry to say it is a false god to be chasing at this stage in this manner. Let us proceed with caution, and under those circumstances there is scope for progress if we properly manage the opportunities that are enabled through this bill and matched with the federal bill for South Australia to control its own destiny. It is quite restrictive in so far as the federal legislation will only enable a state to declare restricted areas on the basis of markets. That is too restrictive; there may well be other grounds upon which a responsible government may decide to restrict certain crops. At least with marketing, we have evidence—if we are honest enough to go looking for it—that large areas of South Australia may well be declared GM free, at least for a period of five years. Having said that, I indicate the Democrats' support for the second reading.

The Hon. NICK XENOPHON: I indicate that I support the second reading of this bill. I endorse the remarks of the Hon. Ian Gilfillan and his concerns about the use of GM technology and the risks it poses. The precautionary principle is important and fundamental, and we ought to be guided by that before we proceed any further with respect to GMOs being introduced into the environment and into our food cycle. I have material from GE Free Australia, a recently incorporated association based in South Australia. In a booklet it has prepared on GM products and GM foods, it makes a number of very important points. In relation to the issue of allergies and reactions, GE Free Australia says:

> Because the GM process is still unsure and unstable, there are many new unexpected toxins and allergens being created. In the United Kingdom, and elsewhere, there are currently no allergy tests carried out on GM food before it is marketed for sale.

The booklet also states:

> Reactions to the enzymes in genetically modified food was highlighted by a case in the UK of a child who drank GM soy milk; the GM enzymes within this milk triggered the herpes simplex virus (otherwise known as coldsores).

That is the sort of problem we have with GM technology. The Hon. Ian Gilfillan's approach is that we need to step back and have a moratorium at the very least before we introduce these technologies into our community and into our food cycle. Once we go down the path of introducing GM organisms into the environment, there is really no turning back.

In relation to gene pollution, GE Free Australia makes the following point:

> One of the greatest problems with genetic modification, which arises from cross-pollination, is that it is one type of pollution that cannot be recalled or cleaned up. There are other environmental damages, such as oil-slicks, that are highly dangerous to wildlife and ecosystems, but they can be cleaned up. Genetic pollution cannot be, and it can be hard to spot, particularly with Terminator and Traitor technologies. Once it gets away, it cannot be undone. Gene pollution can also occur through things such as GM fish escaping into the wild and breeding with other fish.

The information from GE Free Australia makes the point that GM salmon farms in the US have lost up to 200 000 fish per day.

That is an indication of what we face here. This bill is part of a federal legislative package. It will give us an opportunity to have a vigorous and robust debate, as the Hon. Ian Gilfillan wishes, and many others in the community wish it is as well, on the extent to which we use GM organisms in the community. When I was on Kangaroo Island a few weeks ago I spoke to some people who are involved in the production of gourmet foods and the like. They have a concern about Kangaroo Island being GE free.

With those remarks I support the second reading of this bill. I endorse the remarks of the Hon. Ian Gilfillan that we ought to go further. There ought to be a robust debate in the community on this matter. It is very pleasing to see the remarks of Liz Penfold, member for Flinders, in relation to GE. Obviously her community is also concerned about the impact of GE on Eyre Peninsula.

The Hon. T.G. CAMERON: I do not have a prepared speech on this subject, but I would like to make a few observations. First, I rise to support the second reading of this bill, and I will look closely at any amendments moved in relation to it. Some 20 years ago, when I became actively involved in politics, an old friend of mine taught me a very good lesson. He said, 'Remember son, it's always easy to oppose something. The difficulty in politics is supporting it, and having good reasons for doing so.' That is the challenge. The easiest thing in the world to do is to stand up in this Council and oppose whatever bill is put up. We have heard a whole lot of cant and hyperbole—if not arrant nonsense—about the Gene Technology Bill 2001 being introduced by the government. When the Hon. Di Laidlaw introduced this bill into the Council, she said the following:

> The Gene Technology Bill 2001 is the South Australian component of the national cooperative regulatory scheme for genetically modified organisms.

Surprisingly she is 100 per cent correct with that statement. Further, she said:

> The bill is necessary to ensure that coverage of the national scheme in this state is complete. All Australian governments have worked together to establish the national scheme with the aim of protecting the safety of the Australian community—

this is all Australian governments, both Labor and Liberal; this is five Labor state governments. I defy anybody to stand up in this Council and argue that it was not the aim of every state and federal government that supported this cooperative regulatory scheme for genetically modified organisms. If one were to be absolutely correct, one could say that the states wet their pants with this legislation. They were delighted that the federal government was prepared to deal with the matter nationally to get a uniform state approach. You could almost hear the state ministers and premiers going, 'Thank God for that one. All we have to do is cuddle up and nut out an agreement with the federal government on this matter, and maybe we can slip through without any problems.' The key words in the minister's statement here were:

> All Australian governments have worked together to establish the national scheme with the aim of protecting the safety of the Australian community and the Australian environment by assessing and managing risks posed by or as a result of GMOs.

I am one of the members who have stood up in this Council from time to time and taken issue with the Hon. Di Laidlaw. However, I will not be standing on my feet today and taking issue with that statement, because it is faultless. I thought, 'I'd better go and look at what the Hon. Paul Holloway has to say about this bill.' I will put on record his quote as follows:

> The opposition supports the second reading of this important bill.

It often supports second readings. The important message in that sentence is 'this important bill'. Further, the honourable member states:

> This bill of course comes to us from the House of Assembly where it was debated at some length. He continues:

Absolutely correct. If you look at the debate, you will see that it was debated at length. He continues:

> So I will make my comments relatively brief—

Thank goodness! He then goes on to say:

> But it is certainly a most important measure.

Once again, you do not have to read very far into his speech to see that the government and the opposition are at one on this. He then goes on to say:

> This bill is necessary to ensure that South Australia meets the requirements of the national scheme to regulate genetically modified organisms. All states and territories under the gene technology intergovernmental agreement have agreed to introduce legislation in their respective parliaments to ensure that the national scheme applies consistently throughout Australia.

He continues:

> Therefore, it follows that, if we are to be part of the national scheme—

and this is the message that I have for the Hon. Nick Xenophon and the Hon. Ian Gilfillan—

> as I believe we should be in this and many other areas, essentially we must pass this bill in its existing form.

Heavens above! I am one of the best nitpickers in this place, but the Hon. Paul Holloway went on to say:

> Even if we as one state might disagree with small parts of this bill, I think we have to accept the fact that it is better to have a nationally agreed scheme than to have no scheme at all.

He then went on to talk about how the Northern Territory and Tasmania were still to support this bill.

Here we have the shadow minister for finance and the Hon. Di Laidlaw, the Minister for Transport and Urban Planning (representing the minister in this place), using different terminology and different words but essentially saying exactly the same thing. I have looked at the bill and I have sat on the Social Development Committee with the Hon. Caroline Schaefer as the presiding member, and at various stages the committee has taken evidence from representatives of the federal government body, academics and a whole range of other people, and if there was one consistent theme coming through the evidence to that committee it was that the evidence supports what the Hon. Di Laidlaw and the Hon. Paul Holloway are saying about where we should go with this bill—and I must say that I am terribly inclined to agree with them.

When we talk about the Gene Technology Bill and consumer concerns, we are essentially talking about our concern with the food that we put down our throats. The provisions to introduce regulatory controls for genetically modified crops—particularly for food, which I think is what we are talking about—seek to establish policy principles for the regulator and to correspond with the commonwealth act which is complementary—and I support that. It is fair to suggest that, for the present, the government does not want to legislate for GM crop restricted areas in this state.

I listened with intense interest to the contribution of the Hon. Ian Gilfillan and I took note of the foundation that Liz Penfold set out for him, but I suggest to the honourable member that it is a foundation with far too much sand mixed in with the cement. I suggest that Liz Penfold has adopted a convenient position. I think members of the Council always have to be respectful and appreciative and perhaps a little understanding of the pressures that lower house members can be placed under when it comes to an individual bill, particularly if they represent a constituency which has an interest in that bill far in excess of any other constituency in the state.

So, I will not quarrel with what Liz Penfold has done or said. Who knows? Many members of both houses may well have done exactly the same thing but, as I indicated at the outset, a very good friend taught me that a chip on the shoulder and opposing everything—and I am still learning—is not necessarily the way to go. That was the Hon. Ian Gilfillan. I refer to a conversation that he had with me about 16 years ago. He said, 'You can't oppose everything, son; the real trick is being positive and finding things that you can support.'

This bill deals with something which I do not believe has been dealt with to date, and that is how the GMO register is to be administered in South Australia. Perhaps at a later stage we can hear from the minister some specific details about that. The commonwealth act provides for the regulator to report directly to the federal parliament, and his or her administration is part of the commonwealth Department of Health and Aged Care. We appreciate that the regulator has been endowed with extremely wide sweeping powers which, from time to time, may give rise to arbitrary decisions which may or may not be in the best interests of all concerned.

Most regulators do not make decisions with which the entire community agrees. It is part and parcel of the regulatory function to be an arbiter and make decisions, and naturally those decisions will not be in the best interests of all concerned, but I believe that it should be clear that the regulator is restricted to an instrument of the findings of rigorous scientific assessment of risks to human and environmental safety. I am sure that the Hon. Ian Gilfillan would agree with that statement: the regulator is restricted to an instrument of the findings of rigorous scientific assessment of risks to human and environmental safety. The policy principles issued by a ministerial council concerning social, cultural, ethical and other non-scientific matters should, in my opinion, be changed to read 'other related and unscientific matters' to block irrelevancies.

Whilst from time to time I share the opinions of the Hon. Ian Gilfillan, I have almost a fear of the entire debate on the use of GMOs and gene technology, whether it be stem cell research, etc. On the one hand, we have various religious groups doing everything that they can to stop research into learning about in-vitro fertilisation, etc. but, on the other hand, I have a fear that the Australian Democrats are predicating many of their concerns about this bill and this subject on emotional grounds. I know that the Hon. Ian Gilfillan has a bent for fact, information and research, etc., but I say sincerely that I would like to see the Australian Democrats' position on this rest more on an assessment of the principles and the facts surrounding the matter rather than—

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: Good point.

The Hon. T. Crothers interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. T.G. CAMERON: The Hon. Trevor Crothers makes an interesting interjection. It is difficult but, as a human species, it is those difficulties that challenge us. What separates us from every other species on this planet is our thirst for knowledge and learning. Heaven forbid—the honourable member would be the last person in this place who would ever suggest that we should stop acquiring knowledge and learning. I am not making a statement here that we should rush off into the never-never and do whatever we like in this area, but—

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: It might be a bigger step than going to the moon, but I do not know that it would be a bigger step than going outside the universe. As much as I would like to continue this conversation, the Acting President will pull me up in a moment. I am surprised that he has not called the Hon. Trevor Crothers to order for his incessant interjections. Perhaps he is afraid that if he does you will get up in the chair.

Since 1950 there are genetic modified introductions for various food crops of significant and recorded benefit developed at internationally recognised agricultural research stations. I think there are more than 1700 reported by the UNFAO alone. These germ plasms have been distributed in more than 50 countries through a large number of government to government agencies. Whilst I take on board the Hon. Trevor Crothers' comments in relation to this—I hardly dare paraphrase him because he will be wont to get up and correct me—if I dare paraphrase, he said 'proceed, but proceed with great caution'. We have to proceed down this path. I believe this legislation is necessary. If there are amendments to come forward from the Hon. Ian Gilfillan I will have a look at them. But Kofi Annan, the head of the UN for those who did not know, in his book *The UN in the 21st Century* implores the philanthropic organisations that have done so much good for food production to address the poverty and starvation in Africa.

This bill is directed to regulating the development and subsequent introduction into the environment of genetically modified food crops. Although no mention is specifically made of fibre, this would probably be included by the regulator. After culture and harvest the next phase is the inclusion of GM altered harvests into the food manufacturing chain. It is evident that genetic developments in the Western world for both food and fibre have advanced to the stage where some of the fear out there in the community has been placated. But it has not been put to bed; it has not been put to rest: people are concerned about what might be done to their food. And this subject is mainly about what we eat.

At the end of the day, eating is about risk at the best of times, whether we are eating unpasteurised stilton, a peach off the tree or, as one honourable member of this house regularly does, having a dozen raw oysters for lunch: food in its own way has always been a risky adventure for the human species. One could argue that any intelligent person would recognise that if the GM component has been part of the product for decades, years, and no consumption has resulted in people requiring medical attention during that time—

The Hon. T. Crothers: They were crossing apples with apples, not crossing apples with fish: that's the difference.

The Hon. T.G. CAMERON: It may well be a reasonable assumption that it is okay to eat. Whilst I would not stand up in this place and press the green light for genetically modified foods to be released into Australia ad nauseam, I do believe that we need a gene technology bill. I do believe that we need a national approach to this problem. We are dealing with a situation where all the state governments and the federal government have recognised that we need a national approach. It may not be perfect and it may not be everything I would personally support, as the Hon. Paul Holloway has pointed out. When you look at the attitude of all the state governments, the federal government and the Labor opposition on this, I do not believe that passing this bill in this place is agreeing to an open slather when it comes to genetically modified foods. In fact, quite the reverse will be the case.

What this bill is about, and what the national approach is about, is putting this contentious subject, this subject about which there are varying views in the community, into one camp and then bringing the states, the federal government and the entire community along with it. If we do not bring the community with us on this important issue, it will not succeed. We will end up having one section of the community only buying genetically modified food, or rather eating whatever they want to, and another, growing section of the community—if you go down to the market and look at the people congregating around the organic fruit and vegetable sections—in which more and more people are queuing up because they have a distrust of herbicides, pesticides and the various chemicals that are being used in our crops. And we now find that a whole range of food products are being genetically modified through a process of cross-breeding. We only have to look at some of the fruit and vegetables that we consume on a daily basis. How much do you have to pay for a kilogram of decent tomatoes these days? I am not talking about the ones you get served here in Parliament House: you need a hacksaw to get through the skin and, when you eventually get through the skin and you take a bite—

The Hon. Diana Laidlaw: You have had that experience too?

The Hon. T.G. CAMERON: It is hard, tasteless and there is no flavour to it. It is almost like eating a tasteless piece of cucumber.

The Hon. T.G. Roberts: But it looks good.

The Hon. T.G. CAMERON: It looks okay. With a bit of ammonia, NH4, they have been able to turn that genetically modified or cross-bred tomato, giving it a slight tinge of orange—that is what ammonia does to a green tomato—

The Hon. T. Crothers: And bananas.

The Hon. T.G. CAMERON: If you can find a restaurant that will serve you a decent vine-ripened tomato these days and is not charging in excess of $20 a plate for a main meal, let me know where it is. I love tomatoes, but, let me tell you, I have not had a decent tomato in Parliament House for six years. And it is not just tomatoes: it is a whole range of food products. Whatever happened to decent watermelon? Do you remember that nice pink, sweet watermelon flavour that you used to get when you chomped into a nice piece of watermelon on a hot summer's day?

Unfortunately, it is very difficult to find. The same thing has happened with delicious apples. The market gardeners had trouble delivering decent peaches and decent nectarines to our market, so they came up with the wonderful idea of making a peacherine. As much as I like peacherines, it is hard to find a nice peacherine that tastes like one of those wonderful, white, full-fleshed, sweet-tasting, luscious nectarines that I picked off my father's tree when I was a young lad. To buy

a decent nectarine these days you have to pay about $10.99 a kilo.

One would hope that, if we are to be delivered food that is good for us, it tastes good too. That is the challenge that people involved in gene technology need to look at. It should not be forgotten that, at the end of the day, it is consumers who eat the food, and I suggest that the parliamentary kitchen look at the volume of tomatoes that are religiously sent back to it by the honourable members of this place, who are voting with their feet and refusing to eat them because they are rubbish.

The Hon. L.H. Davis: Is that why we have tomato soup all the time?

The Hon. T.G. CAMERON: Yes. They are using our leftover tomatoes. I think they get it out of a can, Legh. Genetically modified foods and a gene technology bill, unfortunately, at this stage are about profitability. It is about how we can grow something which looks good and which has the requisite number of vitamins and minerals in it. We do not give a damn that it tastes like shit and you will vomit if you eat it—that does not matter—just so long as it has a long shelf life, it will keep and it does not bruise. I could go on and on about this. There is no consideration for the customer.

An honourable member interjecting:

The Hon. T.G. CAMERON: No. I will go for another hour if you want me to. I can wind up at 12. I learned a bit from the Hon. Legh Davis. All you have to do is get up here and not repeat yourself and the President lets you go.

An honourable member interjecting:

The Hon. T.G. CAMERON: But I stick to the point. I am talking about food, and that is what this bill is about. For people like Monsanto and the advocates of genetically modified food—and I do not categorise myself as an opponent of it—I have concerns and I have fears, and these fears, I believe, are a reflection of what consumers' concerns are about. They have had a gutful of genetically modified food if it means fruit and vegetables the skin of which looks and tastes like leather when you chomp into it. There is no flavour because their priorities are about ensuring that that product—no matter what has to be done to it—can be picked early so that the bugs do not get at it. It can be picked when it is green, put into a factory and dosed with ammonia to change its colour. We end up with a product with the skin so hard that you could play bouncy ball with it. Yet these products end up on our plates and, whilst they look good, for that reason alone are we expected to eat them?

This is just a small message for those who support genetically modified food. Remember: if you do not, you do it at your peril. At the end of the day, it is the consumer that is important. One only has to visit the market these days and look at the purchase of tomatoes. People wander around and look for vine ripened tomatoes that actually taste like a tomato, or the ones I remember, not the crap that they serve up today.

Of course, all the research that the GM people—Monsanto and so on—are on about is not about how to improve the vitamin or mineral content, or the nutritional value of the food. It is not about how to improve its taste, its flavour or its smell: it is about how to improve its shelf life and appearance. So, at the end of the day, if the people who push this will make money their god and make money the only thing that they are going to look at in relation to this, they will lose the community in this debate.

The debate on this issue is not over yet. I think it is coming down on the side of what the Liberal and Labor parties are pushing with this bill, and that is that we can have the debates later about this product or that product or whether we are going to do this or that. But, for God's sake, at least let us put the regulatory mechanism in place. We should get that right. If we want to have other debates, I will be the first one to stand here and discuss it with the Hon. Ian Gilfillan. I support the second reading.

The Hon. T. CROTHERS: I was not going to speak at all but, after listening to that load of codswallop, which really has as much semblance to genetic modification as my posterior end knows about snipe shooting, I want to make the following observations and I will be very brief. Humankind, since it gained the art of recording what it was about—the art of writing—some 20 000 years ago, from that time on and probably before then, has made records of new technologies and of changes of opinion.

Almost without exception they have been opposed on this earth. We can go back to a time when everyone thought that everything revolved around the earth; we can go back to the time when everybody thought that the earth was flat; we can go back to the time of the two great astronomers, Galileo Galilei and the other fellow, Copernicus, and so forth, who drew up the theory that, in fact, the sun is the centre of our universe and that our planets are round or ovular shaped and that they, along with the other planets in our solar system, circumnavigate the sun which is the principal star in our solar system. So, in fact, the chap I referred to, Galileo, was excommunicated by the church, in spite of being a very pious Roman Catholic. He was excommunicated from his church because he stuck to his scientific viewpoint. Copernicus, a Pole, and other people, of course, had like problems as well.

We come to the people who were probably, in the history of this earth, the greatest genetic modifiers, that is, the Incas of South America; and Gregor Mendel, the Austrian priest who lived in the 19th century, who, by experimentation with all types of the pea family, was able to show in fact that he could, by intermingling peas, grow bigger and better peas. But he did it with the same gene pool. The Incas, amongst other things, produced all of the squash, the pumpkins and the tomato. When the tomato came via the Spanish conquistadors into Italy, it was yellow, and it was not until some Italian geneticist got the idea to infuse it with red that it became a very popular fruit in respect of people wanting to eat it.

Likewise with the potato: there is an argument that it was brought back to England by Sir Walter Raleigh, or that it was brought back by a Frenchman called Parmentier and that, in fact, the name 'potato' comes from the French pomme de terre, meaning apple of the earth. At the end of the day, the potato—and the hundred variations that are still found today in the Andes—was, in fact, again the produce of those fine Mayan and Incan minds when it came to the diffusion of the same species of horticultural vegetables.

So, there is the position. But, like a lot of speakers here—and, indeed, as my interjections show—I clearly have a fear. This is not the sort of genetic manipulation which we have had where the apple genus has been mixed with another genus of the same fruit variety to produce a different variety of apple. It has been the same with citrus fruit, with different tomatoes, with different squashes and with different pumpkins. It has been the same genus. But we come to a difference today, and that is the difference that we must comprehend, that we are no longer manipulating and changing the varieties and types of fruit and vegetables that we can eat, because now, for the first time, we have gained the power to cross

tomatoes or apples, if you want them to have a longer life or whatever, with a fish gene or with a cow gene. And therein lies the risk. For the first time in human history, to our knowledge, we have crossed the borders genetically with respect to experimentation in the same genus.

The Hon. R.K. Sneath: It sounds fishy.

The Hon. T. CROTHERS: It may well sound fishy to you, but I have the view that, in this day and age, viruses and other matters show signs of the ability to mutate and transmutate and, in fact, we are finding other diseases that we have no known treatment for such as the ebola virus, the AIDS virus and several other viruses that have emanated from Africa that are absolutely deadly. We have no way of treating them because, in many cases, the viruses have transmutated. The death of a horse trainer in Queensland was just one example of transmutation of a virus of its own volition.

I say that we have to exercise caution, but I think that sooner or later—probably sooner rather than later—we will have to throw caution to the wind. As it is now, we take genetically modified drugs which are known to have certain beneficial effects on illnesses. But, I think that what will happen on this earth, sooner rather than later, is that there will be an enormous naturally occurring catastrophe and we will have to look for cures and results, and the present methods of investigating them may not be sufficient. We may well have to turn en masse to genetically compounded drugs which contain the viruses of many different species. However, at this stage, I think it is wise that we exercise caution. But I believe, as we are about to embark on space exploration, and with globalisation, that sooner or later an enormous plague will sweep this earth which will be worse than AIDS which will, whether we like it or not, force us willy-nilly into the field of genetic production of drugs.

The Hon. R.R. ROBERTS: I rise to make a short contribution to this debate. I was a little bit concerned at the Hon. Terry Cameron's contribution because he seemed to modify his arguments as he went through. But he seemed also to make an assumption that the Hon. Mr Xenophon and the Hon. Mr Gilfillan somehow take a different stance from my party with respect to this Gene Technology Bill. I think it is very clear that every person who has spoken so far has indicated that they support the second reading of this bill, and there is a good reason for that.

Genetically modified foods have started to come in and, most times, they were sneaked into areas and grown secretly alongside traditional crops. South Australia, in the past 10 years, has done a great deal of work (mainly by primary producers, but there has been some support from government) to create a clean, green food image in South Australia, and we are using it as a marketing tool, with some success. If you are going to use genetically modified crops or other materials and splice them in any way, there needs to be some regulation as to how you do it.

The Hon. Ian Gilfillan, I thought, raised a significant and important point, because there are some people who are seduced, no doubt, by Monsanto and some of the multinational companies which stand to make millions of dollars not only through the sale of the product but from licensing the technology. There is always going to be someone keen to do that. But for everyone keen to try that, in South Australia there are many more who are concerned about their traditional crops, because many of them have spent two or three generations improving their farming techniques to produce clean, green food. They are concerned that cross-contamination (canola has been mentioned, and it is the classic example that we all know) can interfere with their traditionally grown, modern-day, high yielding, good tasting, clean green crops. So, it is an important issue that we will have to look at sooner or later.

I believe that some people who have been farming in particular areas for generations and who have managed to modify their operations have an inalienable right to have their operations protected, and they should have some say in whether we grow genetically modified crops, which may or may not contaminate their crops by crosspollination. For all our technology, we still cannot stop bees going from one crop to another crop, and crosspollination is the big danger and the big issue for traditional farmers who have, in the past, had genetically modified crops grown next to theirs without their knowledge.

Regulations about what we must do if we are going to play around and experiment with gene technology are important. That is why all parties here today know that genetically modified crops are going to be around, and there needs to be some control of them. Whether this bill is definitive in controlling that I am doubtful but, for the reasons espoused by others, I think we must have this bill come in and work from that point on, because, at the end of the day, no matter what you produce, there must be a consumer, and I am extremely interested in the thoughts and fears of the people who consume food. I am not talking just about the private consumer but also about the people who make their living out of restaurants and providing food, quality food, in the hospitality industry.

All these people have a significant contribution to make and, as the Hon. Ian Gilfillan has said, I believe that we ought to be vigilant and proactive in promoting safe technologies and proper safeguards for those traditional farmers who want to continue producing the clean green food that has made us one of the preferred destinations for the consumption of the products that our farming communities, in particular, have been able to produce. Despite the long contribution by the Hon. Terry Cameron, members of the Labor Party, No Pokies, the Democrats and the Liberals so far have indicated their support for the second reading and I indicate mine.

The Hon. CAROLINE SCHAEFER: As most people know, I chaired the Social Development Committee which looked into biotechnology, which really is another name for gene technology. That committee brought down some quite comprehensive recommendations, which I do not intend to repeat at this late stage. I am wondering about the speeches that I have heard tonight, all of which support the second reading of the bill and all of which in one way or another seemed to say that we should proceed with caution. We have heard much about the risks involved with GM foods, GM crops, etc.

I remind members that this legislation merely brings us in line with legislation that has been agreed to by all states and all parties and is in line with the federal regulatory bill. I will quote a little bit from the second reading explanation, as follows:

> The application of gene technology in the area of medicine, agriculture, food production and environmental management is providing or has the potential to provide benefits to South Australians.

No-one could argue with that. It continues:

However, future benefits can only be realised if the community is confident that any associated risks are rigorously assessed and managed through regulation that is transparent and accountable.

That is the whole aim of this bill. The subheadings provide for a ministerial council to be set up, advisory committees are to be set up—these are all national bodies—for monitoring, enforcement and penalties, for preserving the identity of non-GM crops in South Australia, and so on. I think this bill addresses the concerns that people have been talking about.

I also make it very clear that there are no commercial, genetically modified crops in South Australia other than carnations at the moment and it is highly unlikely that there will be any ready for commercial release in less than three years.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for their contribution. It is clear that it is not only an important subject but one that is very intensely important at the community level. That is reflected in the number of members who have spoken and the passion with which they have addressed broad-ranging issues related to GMOs. This bill meets South Australia's requirements in terms of implementing a national scheme to regulate genetically modified organisms, and I am pleased that that has been recognised by all members in their contribution to date.

The Hon. Terry Cameron, in speaking to the second reading, mentioned that he wanted more information on how the GMO register would be organised in South Australia. My advice is that, as part of a national scheme, we would be working through the GMO regulator who has recently been appointed by the federal government. I noted in my second reading explanation that that appointment was made in June this year, or soon thereafter. The purpose of the GMO register is to enable certain dealings with GMOs to be undertaken without the requirement for a licence to be held by a named individual or organisation after a history of safe use. However, the Gene Technology Regulator, whose role is defined in the bill, can only enter a dealing with a GMO on the register: (1) after a period of licensing; and (2), after the regulator is satisfied that a dealing with a GMO is sufficiently safe that it can be undertaken by anyone without the need of oversight by a licence holder.

An example of safe use is the blue carnation. A person would apply to the regulator after some years of use, they would no longer need that licence and they would simply be on the register. The effect of entry on the register is that anyone may deal with the GMO in accordance with any conditions that may be required by the regulator and the public would have access to the information on the GMO register. It was my recollection of the debate that that was the only specific matter that was asked, and I hope that my answer has satisfied the Hon. Mr Cameron.

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

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this bill be now read a second time.

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

Leave granted.

There are three significant issues covered in this Bill:

- Amendments in relation to claims for lump sum compensation and noise induced hearing loss;
- Amendments to the size criteria for exempt employers; and
- The introduction of legislative provisions to prohibit certain conduct relating to promoting workers compensation claims for profit and business services.

With the exception of the introduction of anti-touting provisions these amendments are administrative and I will deal with each of them in turn.

Lump sum compensation and noise induced hearing loss

One of the major components of the South Australian WorkCover scheme is the provision of compensation for non-economic loss. In the past few years a number of judicial decisions have changed the way claims for lump sum compensation are calculated and the circumstances in which a worker would be entitled to compensation.

In 1999 the Supreme Court of South Australia handed down a decision in the case of *WorkCover Corporation & Anor v Perre* [1999] SASC 564. This decision invited attention to the inconsistency between s31(2) and s113 of the *Workers Rehabilitation and Compensation Act.* Section 31(2) and the Second Schedule of the Act combine to presume that the disability of noise induced hearing loss is caused by 'any work involving exposure to noise'. However, s113 of the Act provides that, subject to proof to the contrary, noise induced hearing loss is taken to have arisen out of employment in which the worker was last exposed to *noise capable of causing noise induced hearing loss*.

The conflict highlighted by the Supreme Court is that Schedule 2 of the Act, as applied by Section 31(2), specifies 'any work involving exposure to noise', while Section 113(2) specifies exposure to 'noise capable of causing noise induced hearing loss'. The Court determined in favour of the scheme under Section 31(2).

The effect of the *Perre* decision is that a worker may be compensated for noise induced hearing loss where they can demonstrate they have noise induced hearing loss and can also demonstrate an exposure to noise at work. This has the result that a worker could be compensated even where only minimal exposure to noise is demonstrated. By way of an extreme example, a worker who works in a library where some minor construction work has taken place, but plays in a rock band at night, could currently claim for noise induced hearing loss where they can prove a loss and an exposure to noise at work.

The purpose of the amendment is to allow for compensation to be paid only where there is exposure to noise capable of causing noise induced hearing loss at work. The purpose of this amendment is not to establish a threshold or a strict evidentiary requirement but to provide a reasonable test as to when a worker may be compensated for noise induced hearing loss.

Amendment is also sought to rectify a problem arising from the decision of the Workers Compensation Tribunal in the matter of *Mitchell v WorkCover Corporation and MMI Workers Comp. (SA) Pty Ltd (T.W. Ingham and Sons Pty Ltd)* [1998] SAWCT 60. The decision in *Mitchell v WorkCover Corporation* concerned the operation of section 43 of the Act and the application of Regulation 25 of the *Workers Compensation and Rehabilitation (General) Regulations 1999*.

Section 43 of the Act provides that where a worker suffers a compensable disability, the worker is entitled to compensation for non-economic loss by way of a lump sum payment. In accordance with s43(2) of the Act, the lump sum is a percentage of the prescribed sum (set annually) determined by reference to Schedule 3 of the Act. Regulation 25 provides a specified formula for the discounting of s43 lump sum payments where a worker received multiple lump sum payments for non economic loss.

Prior to the decision in *Mitchell v WorkCover Corporation*, section 43 was interpreted such that lump sum payments made in accordance with that section were only discounted by the formula in Regulation 25 where multiple injuries, and hence multiple lump sum payments, arose from the same trauma.

In *Mitchell v WorkCover Corporation*, the Workers Compensation Tribunal determined that all previous disabilities compensated in accordance with s43 of the Act should be considered when applying Regulation 25.

The effect of this judgement is that workers with entitlement to multiple lump sums for multiple injuries are receiving reduced Section 43 payments because of the application of the regulations.

The purpose of the relevant amendment is to ensure that the principles of Regulation 25 only come into effect where two or more injuries arise from the same trauma.

The decision of the *Workers Compensation Tribunal in Cedic v WorkCover Corporation /MMI Workers Compensation (SA) Ltd (Modular Furniture Pty Ltd)* [2000] SAWCT 54 highlights a further issue associated with lump sum compensation, relevant to s43(7a) of the Act. For consistency the same principle as that outlined above in regard to the *Mitchell* decision should be applied to arrangements for payments of supplementary benefits under Section 43(7a) of the Act.

Section 43(7a) provides that if the amount of compensation to which a worker is entitled under section 43(2) is greater than 55 per cent of the prescribed sum, the worker is entitled to a supplementary benefit equivalent to 1.5 times the amount by which that amount exceeds 55 per cent of the prescribed sum.

In the matter of *Cedic v WorkCover Corporation*, the Workers Compensation Tribunal interpreted s 43(7a) of the Act to mean that previous disabilities (for which the worker has received lump sum compensation under section 43 of the Act) are considered in the determination of an entitlement to a supplementary benefit.

This interpretation provides that a worker may be entitled to a supplementary benefit if previously compensated disabilities combine to exceed 55 percent of the prescribed sum. Take for example a worker who has previously sustained 3 separate injuries and has received lump sum payments in respect to those disabilities equal to 15 percent, 25 percent and 10 percent of the prescribed sum. This worker then sustains a further injury resulting in the payment of a lump sum equal to 10 percent of the prescribed sum. The interpretation of the Workers Compensation Tribunal in *Cedic v WorkCover Corporation* would result in the fourth injury being compensated by way of a section 43(2) lump sum equal to 10 percent of the prescribed sum and the payment of a section 43(7a) supplementary benefit as the total of all previous section 43 payments at 60 percent exceeds 55% of the prescribed sum.

This interpretation appears to be inconsistent with the intention of Parliament when this legislation was introduced in 1992. It was intended that a supplementary benefit would be paid to a worker severely injured in a workplace incident. These amendments were enacted at the time that common law rights were removed from the Act in order to implement a benefit structure that fairly compensated severely incapacitated workers. The current interpretation does not seem consistent with that objective.

Amendment to both Section 43(7a) and Clause 5 of the Third Schedule will be sought to ensure that only disabilities arising from the same trauma event are considered in the calculation of lump sum compensation. The requirement for these amendments arises as a result of the decisions in *Mitchell* and *Cedic*.

Amendment to Section 44 of the Act will also be sought to ensure that previously compensated disabilities that do not arise from the same trauma event are not considered in the calculation of a lump sum payment upon death. It is considered that the proposed changes are consistent with original intent of the provisions.

In respect of all these changes to lump sum compensation and hearing loss provisions, the intent of the amendment is to return the administration of the scheme to the situation that existed before each of the court decisions.

Exempt employer size criteria

The proposed amendments to Section 60 relate to the size criteria for exempt employers in the WorkCover scheme and are intended to provide a more practical and precise size test for exempt employer status. It is proposed that the test for exempt employer status be changed from one based on worker numbers to one based on remuneration. If the proposed amendments are passed the Government intends to establish a regulated formula based on the current 200-worker limit to transfer to a remuneration limit using average weekly earnings figures. By doing this, the Government will ensure that the overall effect of the size limit will not change.

With changing employment structures in today's society more workers are working either casually or on a part-time basis. This could mean that the 200-worker limit can be easily met with less than a 200 full time equivalent workforce. It has generally been accepted within the WorkCover scheme that the current limit should relate to an equivalent number of full time workers. The proposed introduction of a remuneration limit therefore will provide a more suitable measure without changing the existing structure of the exempt employer scheme.

Further to this, the proposed amendments will allow more effective monitoring of exempt employer compliance with size criteria. WorkCover Corporation regularly collects information on remuneration from South Australian employers for levy purposes however it has no need and limited ability to collect regular information on worker numbers. With these amendments the Corporation will be able to monitor and apply the size limit more effectively.

The proposed amendments also provide some clarification of the requirement for exempt employers to maintain the criteria for registration as an exempt during the course of their exempt status. This will ensure that once exempt status is granted an employer must remain at or above the minimum requirements for registration in order to remain an exempt employer.

Prohibited conduct in relation to claims

The Bill also includes the introduction of a proposed Part 4A of the Act that will prohibit certain conduct (commonly known as ‘touting') relating to workers compensation claims for noise induced hearing loss or any other kind of claim prescribed by regulation.

While this practice is believed to have subsided in South Australia there have been periods where significant touting has taken place, particularly in relation to noise induced hearing loss. While claims lodged by workers as a result of activities by these organisations are legitimate, such organisations have previously misled potential claimants with regard to entitlements and the requirements of lodging a claim. These organisations have also taken commission of up to one-third of the value of a workers compensation claim.

Similar experience in both New South Wales and Victoria has led to the introduction of legislation in those jurisdictions to combat this type of activity. The amendments drafted for South Australia have been based on provisions implemented in interstate.

This legislation is only intended to operate in the extreme circumstances similar to those that occurred during the significant increase of hearing loss claims in the mid 1990s. It has been thought prudent to pursue these amendments now as similar activity may occur again with hearing loss claims or another type of claim identified for claims promotion.

The proposal does not seek to reduce a workers access to support in lodging a claim for workers compensation, such as support from a lawyer or union official. Local legal practitioners have been specifically excluded from the operation of the proposed legislation (except where their activities relate to those of an agent) and union officials do not fall within the ambit of the definition of ‘agent' within the Bill.

The Bill prohibits two forms of conduct in relation to claims under the new Part 4A. These include the making of false or misleading statements or unsolicited personal approaches in order to encourage a person to make a claim for compensation or to use a particular service for which some form of payment would be made. It also establishes provisions to enable WorkCover Corporation to investigate and take remedial action in order to enforce the provisions proposed in the new Part 4A.

The introduction of this legislation does not reduce a worker's right to access legitimate assistance in the making of a claim for workers compensation and does not discourage the making of claims. These provisions protect workers from potentially exploitative practices that may inhibit or reduce an injured worker's access to compensation.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment of s. 6—Territorial application of this Act

This clause revises the nexus provisions relating to the application of the Act.

Clause 4: Amendment of s. 43—Lump sum compensation

This clause amends section 43(7a) so that the amount of compensation in relation to which the supplementary benefit is calculated includes all entitlements for compensable disabilities resulting from the same trauma.

Clause 5: Amendment of s. 44—Compensation payable on death

Paragraph *(a)* inserts the term "fatal disability" in section 44(1).

Paragraph *(b)* amends section 44(1)*(b)*(i) so that the lump sum received by the spouse of a deceased worker is reduced by the amounts received by the worker in respect of any related disabilities.

Paragraph *(c)* makes the same amendment to section 44(1)*(c)*(i)(A) in relation to the lump sum received by a dependent child of the deceased worker.

Paragraph *(d)* amends section 44(4a) so that the Corporation's discretion regarding the amount of the lump sum paid to an orphan child of the deceased worker is limited to a specified amount, less the amounts received by the worker in respect of any related disabilities.

Paragraph *(e)* inserts an explanatory note about section 44(4a).

Paragraph *(f)* inserts proposed new section 44(20), which states that disabilities are related if they result from the same trauma.

Clause 6: Insertion of Part 4A

This clause inserts proposed new Part 4A, comprising proposed new sections 58D to 58L. This Part sets out the prohibition against service providers ("agents") touting for business in connection with claims.

58D. Definitions

Proposed new section 58D introduces definitions of several terms used in the Part.

58E. Prohibited conduct by agents

Proposed new section 58E describes the types of conduct that an agent is prohibited from engaging in ("prohibited conduct"). Section 58E(1)*(c)* permits the types of conduct to be expanded by regulation.

58F. Offence of engaging in prohibited conduct

Proposed new section 58F states that an agent who engages in prohibited conduct is guilty of an offence, punishable by a maximum penalty of $10 000.

58G. Consequences of prohibited conduct for recovery of fees

Proposed new section 58G(1) states that an agent who engages in prohibited conduct cannot recover fees for services from clients who were induced by that conduct to use those services.

Proposed new section 58G(2) states that a client is presumed to have been induced by such conduct if it occurred, however the presumption is rebuttable.

58H. Recovery of fees by legal practitioners etc.

Proposed new section 58H states that a legal practitioner or other person who provides services cannot recover fees for those services where he or she knew or should have known that prohibited conduct induced the client.

58I. Legal practitioners and agents can be requested to certify as to prohibited conduct

Proposed new section 58I allows the Corporation to require an agent or legal practitioner to provide a certificate disclosing whether prohibited conduct was engaged in, in relation to a claim. Failure to provide a certificate carries a maximum penalty of $10 000.

58J. Power to restrict or ban agents who engage in prohibited conduct

Proposed new section 58J(1) allows the Corporation to direct that an agent is prohibited from acting for any person in relation to any claims or classes of claims.

Proposed new section 58J(2) states that an agent who is given a direction must have engaged in prohibited conduct on more than one occasion, and must be allowed a reasonable opportunity to make submissions to the Corporation.

Proposed new section 58J(3) requires the direction to be written and given to the agent and proposed new section 58J(4) states that an agent who contravenes a direction is liable to a maximum penalty of $10 000.

Proposed new section 58J(5) prohibits an agent who contravenes a direction from recovering fees for anything done in relation to that contravention.

Proposed new sections 58J(6), 58J(7) and 58J(8) create and define the right of a person aggrieved by a direction to appeal to the Tribunal.

Proposed new sections 58J(9) and 58J(10) relate to the power of the Corporation to withdraw a direction.

58K. Duty of claimants to comply with requests for information about agents and legal practitioners

Proposed new section 58K(1) allows the Corporation to require a claimant to provide it with details in relation to the services used in connection with the claim.

Proposed new section 58K(2) provides that a failure to comply with the requirement carries a maximum penalty of $5 000.

58L. Recovery of amounts paid

Proposed new section 58L states that a person who pays fees that were not able to be charged because of this Part can recover those fees as a debt from the person to whom they were paid.

Clause 7: Amendment of s 60—Exempt employers

This clause amends section 60 in the following ways:

Paragraph *(a)* substitutes sections 60(1) and (2) with proposed new sections 60(1), (2) and (2A).

Proposed new section 60(1) permits an employer or a group of employers that is eligible for registration as an exempt employer or a group of exempt employers to apply for registration as such.

Proposed new section 60(2) differs from the current section 60(2) in that it only applies to employers (not a group of employers), and it states that an employer is eligible for registration if the aggregate remuneration paid by the employer for the benefit of its workers exceeds a certain amount (the "qualifying amount").

Proposed new section 60(2A) makes the same amendment in relation to a group of employers, currently dealt with in section 60(2)*(b)*.

Paragraph *(b)* substitutes section 60(5). Proposed new section 60(5) differs from section 60(5) in that the registration of an exempt employer or group may be revoked or reduced if the employer or group ceases to be eligible for registration under section 60.

Paragraph *(c)* inserts proposed new section 60(9), which defines the terms "qualifying amount" (*see* proposed new section 60(2) and 60(2A)) and "remuneration".

Clause 8: Amendment of Sched. 2

This clause amends Schedule 2 so that the type of work that gives rise to the presumption described in section 31(2) is work involving exposure to noise that is capable of causing noise induced hearing loss.

Clause 9: Amendment of Sched. 3

This clause amends clause 5 of Schedule 3, so that the regulations may prescribe principles governing the entitlement of a worker in respect of two or more disabilities to which the Schedule applies and that arise exclusively from the same trauma.

Clause 10: Transitional provisions

This clause sets out various transitional provisions associated with the operation of this Act.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

AQUACULTURE BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 2712.)

The Hon. IAN GILFILLAN: Although supporting the second reading, I indicate that the Democrats have significant amendments on file which we will be addressing in committee. However, I speak to this with some disappointment. I am disappointed that, after so long and so much delay, during which the industry has been in a state of legal limbo, the government still has it significantly wrong. It seems that no-one in the government, nor even in the opposition, has understood the fundamental problem which has been plaguing the aquaculture industry in this state for the past six years. Perhaps they do understand and are unwilling to rock the boat in the industry at a stage when we are moving very rapidly towards an election campaign.

Whatever the accuracy of those observations, we are undoubtedly on the edge of a huge and growing industry. The problem is that what we call the aquaculture industry is not always aquaculture at all. A small proportion of it is, but more than 90 per cent of it by value actually comes from an activity in which nothing is cultured. Wild, endangered southern bluefin tuna are captured, towed to feed lots and fattened. They are then exported to Japan. They are on a par with cattle feed lots on dry land. That is the overwhelmingly large component of our burgeoning industry.

In this industry, an extremely valuable public resource—the tuna—are towed into another valuable public resource—the waters of Spencer Gulf—fed pilchards—mostly frozen, imported pilchards—while every day tonnes of waste from the process is distributed into the public resource—the waters of Spencer Gulf. These activities are in a sense like mining

or oil drilling, because they are taking a public resource from a public place. They are inevitably having an impact on the ecosystem of Spencer Gulf, just as mining or oil drilling has an environmental impact on land or at sea. The mining and oil drilling industries both pay royalties for the rights to extract public resources. The mining and oil drilling industries are also subject to environmental monitoring by the Environment Protection Authority and the Development Act, under which the rights of all land users are taken into account.

The feed lotting industry does not pay royalties. The tiny, token amounts which are paid for the rights to take one of the world's most highly prized fish do not even cover the costs of administering the fishery. A single tuna which fetches thousands of dollars in Japan is plucked from our coastal waters for the fee of 19¢ per kilo. The feed lotting industry has so far been immune from the reaches of the EPA, nor is the industry to be subject to an act in which other legitimate users of the marine environment are even represented. It is not apparent to me why tourism, water sports and recreational fishing, to name but three, should be ignored in the assessment of the impact of aquaculture on the marine environment.

This bill lists as its objects in clause 8 only those of the aquaculture industry. The fact is that a small group of people are making enormous profits by exploiting an endangered public resource in public waters without providing any explicit return to the public. There seems to be a political consensus in South Australia that this situation should continue. Indeed, apart from our reservations about returning an equitable pay-off to the wider community, the Democrats fervently hope that the industry is or one day will become sustainable.

At a minimum it should be obvious to all that an industry which relies so heavily on the use of public resources obtained from the public at a peppercorn rent ought to be bending over backwards in an effort to obtain and maintain public support. To attract and retain public support, aquaculture not only needs to be sustainable but it must also be seen to be sustainable. If it wishes to continue to receive the public's indulgence for its unprecedented access to scarce public resources, it has to be more accountable than most other industries both in the way it obtains those resources and in the way it uses those resources.

The bill does not achieve that. On the contrary, it proposes to do the opposite—make aquaculture less accountable. It proposes to do this in three ways. First, it subjects aquaculture to a regime in which its regulator is also the person in charge of promoting the industry; that is, the minister. Under this bill, the minister has an inherent conflict of interest as both the promoter and the regulator of aquaculture. Secondly, there is the severely limited role of the EPA. When it comes to land based development which is environmentally sensitive, the EPA issues authorisations and licences. The EPA has the power to unilaterally change licence conditions if it perceives a problem. Under this bill it is the minister who will set all licence conditions for marine aquaculture. Although the EPA can withhold approval, it cannot of its own accord act in response to perceived environmental threats. Why not? Why is the EPA permitted to use both its hands on land but must have one hand tied behind its back at sea?

Thirdly, there is no mechanism in this bill for civil enforcement. The conditions of aquaculture licences are to be public knowledge. All the terms and conditions of all aquaculture leases and licences will be on the public record in a public register. However, if any member of the public ascertains a breach of these conditions, they cannot do anything about it. Contrast this to the situation under the Development Act in which civil enforcement proceedings may be brought by any person. In addressing these oversights, I plan to amend the bill in a number of ways.

Objects of the bill

The bill gives wide powers to the minister. The minister, of course, cannot use these powers with unlimited discretion. Under the general doctrines of administrative law, the minister's powers are fettered by the purposes for which they are conferred. That is to say, any statutory powers must be exercised only for purposes consistent with the objects of the act under which they are conferred. Therefore, the objects of the bill are of crucial importance in defining the limits of the minister's wide powers. The objects of the bill are exclusively those of aquaculture. In clause 8, the bill's objects include 'to provide for optimum utilisation and equitable distribution of the state's aquaculture resources'. The state's 59 800 square kilometres of territorial waters are all potentially 'aquaculture resources' yet there are other uses to which they might be put.

It is not obvious why rights to water sports, marine tourism, marine conservation and offshore fishing should be subject to a statute (the Aquaculture Bill) which has as its exclusive raison d'etre the regulation of aquaculture. Even if these other uses are considered when the minister's aquaculture policies are being developed, they will nevertheless be subject to what are management plans designed for 'the efficient and effective regulation of the aquaculture industry' not any other industry or potential use of marine resources. The Democrats' amendments will alter the objectives to include the polluter pays principle that exists in the Environment Protection Act and to acknowledge other uses and values for our marine resources.

Separation of regulation and promotion

Despite the recognition last year in Primary Industry and Resources of South Australia's discussion paper 'Towards an aquaculture act' of the desirability of separating the regulation of aquaculture from the promotion of aquaculture, the bill does no such thing. I just repeat that the paper acknowledged that desirability to separate regulation from promotion, so that the role of judge is separate from the role of advocate. The bill perpetuates the present situation whereby the same minister and department have responsibility for both regulation and promotion of the industry. The bill pays lip-service to a separation of powers by giving the EPA the power to veto ministerial licence conditions or ministerial variations to licences. However, unlike all land based industries, the EPA does not set the licence conditions and cannot act to vary conditions; only the minister can initiate changes.

The Democrats would like to see the EPA take on the role of the licensing authority. My overarching aim in seeking to draft and move this set of amendments is to place aquaculture into a licensing regime which is equivalent to the regime which applies to other environmentally sensitive industries on land under the Environment Protection Act. This will have the additional effect of curtailing the minister's dual role as both the regulator and promoter of aquaculture. In my view this is important to prevent a conflict of interest for the minister. While this is our aim, I also indicate that, if we are not successful in achieving this, I would still like the EPA to have an ongoing role in the renewal of licences, and I have drafted amendments to provide for that.

Minister's power to make policies

Clause 11 gives the minister the power to make aquaculture policies (APs). Clause 12 additionally empowers the

minister to make draft APs. Draft APs must be subjected to consultation and public comment. The bill does not explicitly require the minister to follow the path of consultation and public comment. The bill should be amended to make it clear that the minister cannot make APs without first making draft APs, thus invoking the consultation process. Once again, my amendments will seek to achieve this.

Civil enforcement provisions

Section 85(1) of the Development Act 1993 permits any person to bring an action for a breach of the Development Act. Likewise, section 104(7) of the Environment Protection Act 1993 permits any person, with the leave of the court, to bring an action for a breach of the Environment Protection Act. There is no comparable provision in the Aquaculture Bill. Clause 80 requires the minister to maintain a public register of aquaculture leases and licences. Clause 81 requires this register to be available for inspection. Therefore, members of the public will be able to determine all aquaculture lease and licence conditions.

Members of the public (if they are sufficiently motivated and equipped to do so) may be able to detect breaches of lease or licence conditions. However, there is to be no public right to bring actions for breaches of the proposed aquaculture act or breaches of lease or licence conditions. The bill should be amended to provide open standing for any person to bring civil enforcement proceedings alleging a breach of the licence or the conditions.

In relation to the public register, my amendments seek to also include the following:

- the minister's reasons for decisions regarding leases and licences;
- EPA reasons for decisions regarding leases and licences;
- details of any enforcement action taken under the act; and
- details of receipts and expenditure from the aquaculture resource management fund.

Public notification, consultation and appeal

The Aquaculture Bill is not intended to alter the present process of obtaining development approval for aquaculture. The provisions of the Aquaculture Bill are intended to replace only the relevant provisions in the Fisheries Act but leave untouched the provisions of the Development Act and the development regulations. Therefore, aquaculture developers will still need approval under two acts. Instead of requiring approval under the Fisheries Act and the Development Act, proponents will require approvals under the proposed aquaculture act and the Development Act. The bill, therefore, does not restrict public comment any further than it has already been restricted.

Since December 1999, the development regulations (schedule 9, clause 9) have provided that, where marine aquaculture 'is proposed to be in place for a period not exceeding 12 months, in an aquaculture zone delineated by a management plan for aquaculture published by the minister administering the Fisheries Act', it should be deemed to be category 1. That means that there is to be no public notification and no appeal rights for such a proposal. There is nothing to prevent proponents obtaining successive 12 month approvals, thus preventing any public notification or appeal rights on an indefinite basis. The Aquaculture Bill does not address this. It does not make the situation better, but nor does it make it any worse.

The level of public notification and consultation which will apply to aquaculture will still be determined by the Development Act and the development regulations. The Aquaculture Bill is intended to replace the licensing and leasing arrangements presently undertaken under the Fisheries Act. The existing licensing and leasing do not occur with any public consultation or appeal rights, nor would they under the Aquaculture Bill. The Democrat amendments will provide for a process of public consultation and appeal rights.

Other amendments include a requirement for the minister to give reasons for his or her decisions on aquaculture leases and licences, changes the court used for appeals under the bill to the Environment, Resources and Development Court rather than the District Court, and ensures community, environmental and industry representation on the Aquaculture Policy Advisory Committee. That advisory committee, as presently constituted in the bill, is virtually what could be a cheer squad for the current minister, being almost entirely at his or her whim. It is important that a genuine advisory committee includes direct nominations from groups or organisation who this parliament believes should be involved.

In conclusion, it is important to acknowledge that the minister and the department did undertake quite extensive consultation around the state. Sadly, the meetings were very poorly attended by interested parties. That is not necessarily the government's fault. However, it does mean that many members of the public are still not aware of the details of this pending legislation. My criticism of the government in this context is not that there was inadequate consultation prior to the bill's introduction but that it provides for inadequate consultation if it passes in its present form. Aquaculture developments could creep up on communities and individuals through this process without them even knowing that such proposals were in the wind.

That is not acceptable. When we first had round table discussions chaired by Minister Kerin 18 months ago, the aim was to improve the legislation and expedite the processes of approval and the treatment of applications—all of which were desirable goals. However, they were not to be at the expense of the right of third party appeals, conservation interests and general community interests. Sadly, I feel that this bill has trampled on the right of the public to know, to be consulted and to have appeal rights. I hope that in the committee stage my amendment will be successful and that the bill in its amended form will pave the way for an enlightened, profitable and sustainable aquaculture industry in South Australia. I support the second reading.

The Hon. CARMEL ZOLLO: I know from my frequent travels to Yorke Peninsula that many constituents will be interested in this bill and welcome its introduction. I think it is important for me to place on the record the importance of this emerging industry in particular for regional South Australia. I was pleased, as were all members of parliament, to be offered the opportunity of a briefing by the General Manager of Aquaculture SA, Mr Ian Nightingale. The information provided clearly spelt out the value of the industry. I understand that in 1999-2000 the industry employed 1 100 people and that during that time it generated $193 million and employed 1 400 people in associated areas. The estimate for the industry in the year 2002-03 is in excess of $330 million.

Given this emerging industry's contribution to our economy and the importance of sustainable economic development, this legislation, whilst not perfect, is welcome if not overdue. At the moment, the industry is regulated by multiple legislation across a number of government agencies rather than the streamlining proposed in this bill. A clean environment is critical to this industry and it is imperative

that we see greater public consultation and accountability in the assessment and management of the industry.

I am pleased to see that the EPA has been given an appropriate role in the bill in terms of its involvement in licensing and monitoring aquaculture, and the granting of aquaculture licences and leases will be subject to the approval of the authority. The clean waters and unspoiled beauty of Yorke Peninsula have always attracted tourism and a fair share of recreational fishing, but I know that the peninsula is also hoping to be a significant player in this emerging industry in areas ranging from farming oysters and scallops to inland farms breeding fish such as the Murray cod. The leases at Coobowie have been producing some excellent quality oysters.

Yorke Peninsula has an increasingly diverse socioeconomic population. We have some of the traditional rural industries which are doing very well. Seasons in the last few years have certainly been kind—and that is good to see. It is also an area to which many choose to retire because it offers a good quality of life. With so many existing support services closing down, I know that emerging industries such as this one are looked at with a view to providing much needed employment and the opportunity for people to remain there rather than to leave to find work.

Given some well-publicised bad handling of aquaculture zones, I know that we all welcome the apparent transparency with which aquaculture zones will be developed and monitored in the future. Of particular importance I think is that licence conditions will be reviewed throughout the term of the licence and amended as required to manage impacts.

Like all members, I have received correspondence from the Conservation Council of Australia urging strong support for amendments that it believes will improve this legislation, and the opposition has taken some of them into consideration in the other place. We all want to see a well regulated industry that respects our environment as well as certainty for stakeholders. The Hon. Paul Holloway will take this legislation through on behalf of the opposition in his capacity as shadow minister, but I am pleased to add my support to this legislation also.

The Hon. P. HOLLOWAY: As my colleague has just pointed out, the opposition supports the second reading of the Aquaculture Bill. It is, I think, one of the more significant bills that have come before this parliament in the past four years. There was substantial debate in the House of Assembly on the bill, so I will not keep the Council too long at this time of night. There has been a significant degree of consultation on this bill. I have been critical of many of the bills that this government has put forward for rushing them in, but I must say that in relation to the Aquaculture Bill there has been substantial negotiation.

Ian Nightingale, the head of the aquaculture section of the primary industries department, has spoken individually to just about every member of parliament. Incidentally, I take this opportunity to compliment him on the role that he plays in the department. I remember Ian from before he took up that appointment when he was a member of the Eyre Regional Development Board. He was certainly an enthusiast for this industry then and, since he has been in his current position, there is no doubt that things have improved in relation to the management of the aquaculture industry.

It is important to point out some of the history behind the legislation. As the shadow minister for primary industries—a role that is now held by my colleague in another place, the Deputy Leader of the Opposition and Member for Napier, Annette Hurley—I consistently called for the introduction of a specialist bill to deal specifically with the aquaculture industry. In 1998 we sought an end to the uncertainty that we saw plaguing the aquaculture industry. In *Hansard* of 2 July 1998 (page 944) I said:

> As Shadow Minister for Primary Industries, I have received many representations in relation to aquaculture issues. It is clear to me that there is considerable dissatisfaction about the difficulties and delays facing such projects from those seeking to develop aquaculture ventures. At the same time, there is also substantial concern from many in the community about the impact of aquaculture ventures, particularly offshore ventures, on the marine environment or on competing uses for that environment. . . There are weaknesses in the current processes of assessing aquaculture development applications and they must be addressed and also more resources must be provided by the government to overcome these weaknesses.

That was back in 1998. In 1999, the issue of tuna feedlots at Louth Bay simply confirmed, in the view of the opposition, that the government had insufficient control over the industry. At about that time, the government proposed some regulations under the Fisheries Act to try to improve the management of aquaculture. Unfortunately, there were considerable flaws in those regulations. In fact, if I recall correctly, there were about three fundamental flaws. After some discussions with the government when our opposition was put—and I think a number of other people objected—the government decided to withdraw those regulations.

Subsequently, I recall having some discussions with members of the fishing industry and also, I think, Ian Nightingale was there and some people from Port Lincoln to try to advance our position. We also had a meeting at one stage with Minister Kerin (now Premier) to try to push that forward, because it was our view that our objections could have been overcome fairly easily. I think the Hon. Ian Gilfillan was also involved in those discussions.

Our objections to those regulations were fairly profound but they should not have been too difficult for the government to overcome. For example, one of the things to which we objected at that stage was the fact that regarding the appointments that the government had proposed to the advisory council under those regulations, there were really no specifications as to who those people should be—they could have been anyone and in any number. We just thought it was too loose but those matters could have been overcome. What happened was that nothing happened. The Hon. Ian Gilfillan would remember that, because we had these meetings—

The Hon. Ian Gilfillan: Nothing happened. You put that in a nutshell.

The Hon. P. HOLLOWAY: I think we made it clear that we thought that with a little bit of work we could have resolved those issues with the regulations fairly smoothly. So the government's failure to regulate the industry effectively meant that the courts had to step in and do the government's job, and I am referring particularly to the Louth Bay issue. Such a lack of certainty gives no protection to a promising, burgeoning industry and a doubtful public. At that time—and I am talking about the time of the prolonged Louth Bay issue—I again called for legislation to regulate and protect the aquaculture industry. I stated in parliament in May 1999:

> The performance of the government through the entire issue of this tuna farm fiasco at Louth Bay has been lamentable. On the one hand this government has failed to regulate this industry properly but on the other hand it has also failed to assist the industry properly. The minister [our current Premier] has blamed everybody else for the failure of the government to adequately deal with the tuna farm issue at Louth Bay. One would expect that this government would

see some obligation to try and head off these sorts of problems before they arise. The government should be adequately policing the industry and also assisting the industry.

Again in 2000, when the Environment, Resources and Development Committee brought down one of its many reports, in this case on the tuna feedlots in Louth Bay, I expressed concern about the lack of certainty in the aquaculture industry. At that time I referred to the well-regulated aquaculture industry in Tasmania. I had the opportunity several years ago to go to Tasmania to look at the Atlantic salmon farms on the Huon River and it was those farms which pioneered large scale aquaculture in this country. Indeed, I remember, when I was having a look at some of those Atlantic salmon pens, being told that the tuna farmers, when they set up their pens in the early 1990s, got a lot of their ideas from the construction of those pens in Tasmania. There is a lot of pioneering work over there.

Another thing I saw when I was in Tasmania was a device that had been developed by the local Tasmanian industry to disperse the feed within the cages, and I believe that technology was being exported to the rest of the world. The Tasmanian legislation, with its separate aquaculture act, was, in my view, the ideal model for the South Australian aquaculture act and I was certainly advocating that we should go down that track at that time.

I expressed a hope in April last year that the government was not far off developing specific legislation for the aquaculture industry. Eighteen months later and three years after I had first called for such legislation we are now dealing with the aquaculture bill and, despite the long gestation, I welcome the fact that it has finally arrived. This bill also comes after a discussion paper that was released in August last year. The aims of the discussion paper were fourfold, being to review the existing regulatory framework for aquaculture from legislative and operational perspectives; address environmental, multiple use and community issues pertinent to the development of an aquaculture act; identify options for the future content of the proposed aquaculture act; and present a possible model for the new act.

So, while the opposition is aware that the bill before us may not be perfect, I guess no bill is ever going to satisfy all the needs of the industry or the public as a whole, and we have to accept that. We are certainly mindful that in the last sitting week for the year, if not the parliament, it is more important to pass a bill which goes some way to regulating and assisting the aquaculture industry than to continue as we are. We are certainly keen to see legislation passed this week because, frankly, the sooner the aquaculture industry is subject to a proper legislative basis, the better.

My colleague in another place mentioned in her contribution just how important it is that we look at the compliance issues. Clearly, one of the issues that has dogged the aquaculture industry in this state over the past few years has been problems with compliance and I have already mentioned the Louth Bay issue, which was a classic case of that. As a result of some of the representations we have had—even allowing for the fact that there has been an enormous amount of consultation on this bill—and following questions asked by my colleague in another place, the opposition will be moving two amendments and I hope to have those on file as soon as possible. They came out of a discussion which took place in relation to the bill.

I do not think I need to say any more other than that the opposition warmly welcomes the aquaculture bill at last because it is an industry that is so important to South Australia and it has grown steadily over the past decade or so since its beginnings in the early 1990s. It deserves a proper legislative framework on which it can grow into the future.

The Hon. J.S.L. DAWKINS: I support this bill. When I entered parliament in 1997 and became a member of the Environment, Resources and Development Committee, that committee was part way through its major inquiry into aquaculture. During the remainder of that inquiry I was privileged to witness, along with other committee members, a range of aquaculture ventures in a variety of locations in regional South Australia. I am pleased that this bill reflects a number of the recommendations made by the committee in its report on aquaculture. The bill also picks up recommendations made in the committee's report on fish stocks of inland waters and I will refer, in addition and in particular, to the committee's report on tuna feedlots at Louth Bay.

Among the recommendations of the ERD Committee's report on tuna feedlots at Louth Bay was:

> A more strategic approach to the formulation of policy to manage aquaculture development, encouraging the marine managers forum and working group to work with all tiers of government in implementing the marine and estuarine strategy for South Australia.

I am pleased to note that this has been taken up, for the most part, in division 2, clauses 63 to 70 of the bill, which go a long way towards meeting the objectives suggested in our report.

The committee's second recommendation was that specific legislation be enacted to control sea based aquaculture. The bill before us is precisely what the committee urged the government to produce and I am pleased that the government has taken the recommendations of the committee seriously. Another of the committee's recommendations was:

> That sea based aquaculture should be included in schedule 1 of the Environment Protection Act to enable the Environment Protection Authority to impose and monitor licence conditions.

I note that this bill, in part 7, clauses 49 to 58, relates to the granting of leases and provides for the imposition of conditions that need to be met to retain them.

However, it is the following clause which has attracted my attention in relation to this recommendation of the committee. It provides for certain matters to be referred to the Environment Protection Agency for its consideration and comment. Clause 79 of the bill also reflects a recommendation of the committee's report, which stated:

> More research be undertaken to establish adequate environmental baseline date for aquaculture zones and also to measure the long-term environmental impact of sea based aquaculture.

Clause 79 provides for the establishment of an aquaculture resource management fund to be used for any purpose relating to the management of aquaculture resources. The committee also recommended the introduction of emergency provisions in the Development Act to ensure that a transparent and approved process can be used if emergencies such as the Boston Bay tuna deaths arise. This is another recommendation picked up by the government in clauses 40 to 44 of this bill.

We have seen in recent years enormous growth in the aquaculture industry in South Australia. I think every member of this chamber would be well aware of that. It has outstripped any of the projections of any of us, even those who have perhaps been closer to the aquaculture industry than others. My colleague the Hon. Caroline Schaefer and the member for Flinders in another place have been very close to this industry for a long period of time, and I think even

they have been astounded by the growth, development and innovation in the aquaculture industry in this state.

In the preparation for bringing this legislation to the parliament there has been a great degree of consultation. There have been some expressions of disappointment that the bill has taken a long time to get to this stage. That view has been expressed this evening by the Leader of the Opposition in this chamber. However, the level of consultation has been, as I think the honourable gentleman might have said privately to me, one of the highest he has seen in relation to legislation.

He quite rightly paid tribute to Mr Ian Nightingale, General Manager of Aquaculture in Primary Industries and Resources South Australia. Since coming to work in PIRSA, Mr Nightingale has worked very hard on the development of this bill. As indicated by the Hon. Paul Holloway, he has an excellent background in the aquaculture area, having previously been the Chief Executive of the Eyre Regional Development Board. He is also well aware of the benefits of aquaculture to regional development through his work on the Regional Development Council.

I think it should be acknowledged that this legislation will probably need to be reviewed in the future, and maybe in the near future, to keep up with this industry, because it is a sector that, as I said earlier, is innovative and one that has seen great strides and, for that reason, we will need to upgrade continually the way in which we prepare legislation that deals with that industry. Aquaculture on land, as well as sea-based ventures, has played a major role in the improved fortunes we have witnessed in many parts of regional South Australia in recent years, and that is important to me in my role as a member of the Regional Development Council and convenor of the regional development issues group.

I think that many members of regional communities have seen the benefit that this alternative source of income and development can provide to those communities. About two years ago I was pleased to host two visiting Victorian MPs on a tour of a wide range of aquaculture ventures around South Australia. These two members from country Victoria had a great interest in developing aquaculture in their areas and they were very envious of the extent and advancement of our industry. However, as I said earlier, this industry needs to be supported and I think that this legislation provides the tools for the government and the community to support it. I commend the government for introducing this legislation and commend the bill to the Council.

The Hon. CAROLINE SCHAEFER: As has been previously indicated, this bill is particularly close to my heart. I know many of the people who pioneered aquaculture in this state, particularly those who pioneered the oyster farming industry. I note with great pleasure that one of the SA Great regional awards has just been awarded to Geoff and Janet Turner of Cowell who began oyster farming in about 1983 and were true pioneers. They had to take enormous risks in order to reach the stage that they now have reached. They are two of the early and most successful of the oyster farmers, but there are many others who began the aquaculture industry in South Australia at that time. One of the great limiting factors for those people has been a very limited security of tenure. They have been, amongst other things, unable to borrow against their leases and unable to pass their leases on to their children. For all intents and purposes, these people are farmers, yet they have not had any of the security of other farmers who have, for instance, perpetual leases on land.

As has previously been mentioned, aquaculture is one of the fastest growing industries in South Australia and will reach well over $300 million by the end of the next financial year. It employs about 1 100 people directly and more than that indirectly with associated industries. More important to me, most of that industry has been developed in regional areas and, in particular, on Eyre Peninsula. Many of the people who were formerly grain farmers in the 1980s could not have remained on Eyre Peninsula without the development of the fledgling aquaculture industry. It is very exciting to see developments in kingfish, snapper and land-based abalone, to name but a few, as well as oysters and, of course, the fattening of tuna in cages.

This bill endeavours to give not only the operators of aquaculture leases some security but also those who wish to see marine based parks. It will subject aquaculture to a degree of planning which has previously not been available. There will be key planning and management tools, and those who are concerned will be placed constantly and regularly under parliamentary scrutiny. An aquaculture advisory committee will be set up and operators will not only have to have a lease but they will also have to have an operator's licence before they can carry out aquaculture.

I have one question of the minister. There has been some disquiet among operators as to their security during the transitional phase from the current leases that they hold to the licences that they will hold. There are a number of separate types of leases and separate types of licences. As I understand it, there will be the ability to have a pilot lease which may be for research and development outside of an aquaculture zone and which will be for a term of a maximum of 12 months. There will also be development leases which will, of course, have to be within an aquaculture zone, and they will be for a maximum of three years, renewable up to nine years. The leases that most people who intend to make a living will look for will be production leases. They will be granted only in an aquaculture zone and will have a maximum term of 20 years renewable which, again, is comparable with a pastoral lease.

I think that probably the closest I can get to this is a pastoral lease, whereby people can continue to work the land (or, in this case, the ocean) more or less indefinitely but under very strict governmental controls. As the Hon. Carmel Zollo has pointed out, the EPA will retain its existing powers to enforce the general environmental duty and environmental harm under the Environmental Protection Act as it relates to aquaculture, and an aquaculture resources management fund will be set up.

This is a very important piece of legislation. Much of the area that is very close to my heart would not be enjoying the economic benefits that it currently is, let alone the population stability and increase that it currently is, if it were not for the aquaculture industry, which many of those people themselves pioneered. I would like to add that I am adamantly opposed to the Hon. Ian Gilfillan's amendments, in particular his amendment relating to the right to third party appeal.

If that amendment were to be carried it would mean that any member of the public successively and over a period of time could indefinitely delay the granting of a licence or a lease to an aquaculture operator. I think that is unfair and almost indicates a view that those who have the greatest vested interests of any of us in an ecologically and environmentally sustainable future cannot be trusted. I oppose that amendment particularly.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ADJOURNMENT

At 12.03 a.m. the Council adjourned until Wednesday 28 November at 2.15 p.m.