LEGISLATIVE COUNCIL

Monday 21 October 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

[Sitting suspended from 2.15 to 3.15 p.m.]

CAULERPA TAXIFOLIA

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: I would like to update the council on the latest moves in the battle against Caulerpa taxifolia—the invasive seaweed which poses a major threat to South Australia's $500 million fishing and aquaculture industries. As members will recall, researchers from the South Australian Research and Development Institute identified Caulerpa taxifolia for the first time in South Australia on 18 March this year after a specimen was discovered in West Lakes. Caulerpa taxifolia is found throughout much of the world, is characterised by its rapid growth rate and dense bed formation, and is distasteful to fish. It displaces native seaweeds and therefore has a devastating impact on fish and other species.

Research by SARDI scientists revealed that Caulerpa taxifolia had spread throughout West Lakes, covering as much as 70 per cent of the lake. The noxious pest was also found in the upper reaches of the Port River. I can report to the council today that the operation to physically remove the weed from the Port River is proceeding successfully. A hand-operated suction dredge is being used, and an assessment of the dredged areas indicates that between 95 and 98 per cent of the Caulerpa taxifolia has been removed through the first phase of the operation.

More than 4 500 square metres of the seaweed has so far been removed and is being disposed of in landfill. The dredging operation will continue in the Port River until all areas of infestation have been located and removed. A detailed follow-up operation is planned to remove any remaining weed from the river. Scientific trials of chemical and biological options for the eradication of Caulerpa taxifolia from West Lakes are continuing to ensure that the effects of any treatment are well understood. The short and long-term impact on the environment of the copper sulphate treatment and the possible downstream effects in the Port River system need further scientific work.

The fate of copper in fresh-water environments is well known, but further tests are needed to understand the chemical reactions and activity levels in sea water. I am now advised that the scientific work cannot be completed before summer because of the experimental time frames required for the analysis. SARDI's work in this area is being assisted by eminent interstate and overseas scientists, which will give the government additional confidence when deciding on a final treatment strategy for West Lakes. A permanent screen for the West Lakes outlet at Bower Road also needs to be designed, manufactured and installed. An initial design was developed many years ago, but it was never progressed with.

The screen will allow for the removal of rubbish as the water flows through to the Port River. It will also provide the river with greater protection during the treatment of the lake. Treating West Lakes during summer is not a favoured option due to the higher water temperatures which may worsen any potential odours resulting from the treatment. This could have significant economic and social impacts on the residents and businesses of the West Lakes region. For these reasons, the treatment of West Lakes will be postponed until after the summer months to allow further scientific assessment and to lessen the impact of the reduced access to the lake that is likely to occur during the treatment process.

The current restrictions on water activities will be reviewed under the development risk assessment to weigh up the risks associated with the recommencement of swimming and sailing in the lake. If swimming is to resume, it may be restricted to certain parts of the lake rather than allowed in the entire lake. However, the current restrictions on motor boats and fishing will continue. The greatest risk of spreading this invasive and noxious seaweed comes from the Port River side and as these areas are being successfully treated there is time to ensure that the action taken to eradicate Caulerpa taxifolia from West Lakes is the best available strategy.

At all times since the initial discovery of Caulerpa taxifolia last March the government has been open and honest with West Lakes residents and businesses in particular and South Australians generally about the potential dangers of the seaweed and the likely treatments. A series of public meetings has been held, including two more last week. Information has been regularly delivered to approximately 10 000 letterboxes in the West Lakes region, while aquarium and pet shops have been contacted about the correct procedures for safely removing Caulerpa taxifolia from their fish tanks. The education department has also conducted a campaign in schools to make sure that any samples of the seaweed in school fish tanks have been removed safely.

The West Lakes eradication program is likely to extend over the next 12 months and, due to the nature of the plant, it will not be a one-off event. The government has a dedicated program on invasive marine pests managed within Primary Industries and Resources SA, and this program is being reviewed to determine the necessary additional resources to pursue the Caulerpa taxifolia eradication program to completion. This is not the last time that South Australia will have to deal with Caulerpa taxifolia or other invasive marine pests. There are many other marine pests causing environmental problems in other states and the Northern Territory, such as the Japanese seastar invasion in Victoria and Tasmania, to name one of the worst. We need to maintain our community vigilance for exotic animals and plants in our marine environments, as early detection is vital for successful eradication.

TOBIN, Dr M.J.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the death of Dr Margaret Tobin made earlier today in another place by my colleague the Minister for Health.

NATIONAL WATER WEEK

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to Water Week made earlier

today in another place by my colleague the Minister for Environment and Conservation.

HINDMARSH ISLAND FERRY

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to make a ministerial statement about the Hindmarsh Island ferry.

Leave granted.

The Hon. T.G. ROBERTS: In recent weeks there have been a number of very positive and collaborative actions in the Goolwa and Hindmarsh Island area. The Alexandrina Council and representatives of the Ngarrindjeri community have signed a groundbreaking document called the Sorrow Document and put protocols in place that herald a new era of trust and cooperation. I have already congratulated those involved, including Tom and George Treovrrow, Matt Rigney and other Ngarrindjeri people, Alexandrina Mayor Kym McKew, the councillors and CEO John Coombe.

In my capacity as Minister for Aboriginal Affairs and Reconciliation I have met with the Ngarrindjeri leaders, their representatives and community members about a range of issues this year. One issue that has been brought to my attention is the idea of reinstating a ferry service to Hindmarsh Island. The reasons put forward include cultural sensitivities in relation to the bridge from Goolwa to Hindmarsh Island and promoting indigenous tourism. There will be no state funding for such a project. The proponents, however, are free to approach the private sector and other potential funding sources. I know that ATSIC has shown some interest in this issue, and representatives of the Ngarrindjeri community may choose to liaise with ATSIC and the Alexandrina council in relation to this matter.

The Hon. DIANA LAIDLAW: As a point of order, sir, will the minister indicate whether that is an answer to the question I asked last week or a separate statement?

The PRESIDENT: That is not a point of order.

QUESTION TIME

MOUNT GAMBIER PRISON

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Minister for Correctional Services a question on the subject of public-private partnerships.

Leave granted.

The Hon. R.I. LUCAS: I understand that the contract for the private management of the Mount Gambier prison includes provisions that require the preparation of regular performance reports by the contractor, which are to be audited by the minister's department. I am also advised that the provision of satisfactory performance reports is linked to the payment of invoices, and that termination clauses are provided in the contract in the event of poor performance. My questions are:

1. Has the minister read the regular performance reports by the contractor of the Mount Gambier prison?

2. Is he satisfied that the quality of performance that is being provided by the operators of the Mount Gambier prison is equal to or better than the operation of other prisons within South Australia?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I have not read the performance evaluation reports provided by the administrators of the prison. I have visited the prison on a number of occasions and spoken to the prison administration, and I have certainly spoken to some of those people who were putting programs in place to satisfy myself in opposition that the prison administrative programs that were being run were equal to those in the public sector.

The Hon. R.I. Lucas: Have you satisfied yourself?

The Hon. T.G. ROBERTS: I was satisfied that some of the programs that were being provided by the private sector in relation to education programming, in partnership with the public sector, were of a standard that I thought was necessary to assist in rehabilitation. As to the other part of the question in relation to the performance reports, I will get a report and bring a response back to parliament.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the Minister for Correctional Services has been the minister in charge of the Mount Gambier prison and other correctional service institutions since March this year, why has he not deemed it important enough to read even one performance report of the operation of the Mount Gambier prison?

The Hon. T.G. ROBERTS: I will give the same reply to that question as I gave to the other one: I will familiarise myself with the reports and bring back a reply.

BUCKSKIN, Mr P.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before the Minister for Aboriginal Affairs and Reconciliation a question on the subject of Mr Peter Buckskin.

Leave granted.

The Hon. R.D. LAWSON: Mr Buckskin was recently appointed to head the South Australian Department of Aboriginal Affairs at the same time as Mr David Rathman was moved sideways to the department of education. In answer to a question I asked of the minister on 8 May, the minister indicated that at that stage he was keen to see the use of Mr Buckskin's services in this state. My questions to the minister are:

1. Was the appointment of Mr Buckskin preceded by any advertisement or other public call for applications?

2. Was Mr Buckskin asked to apply for the position and, if so, by whom?

3. Was any process of assessment or evaluation undertaken of any applications for this position, including Mr Buckskin's—if he, in fact, made one—and, if there was such a process of assessment or evaluation, by whom was it undertaken?

4. When was Mr Buckskin formally appointed, for what term of years and at what salary?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Some of those questions I will have to take on notice. The general position was advertised through the Public Service Board, and it matched all the criteria set down by the public service when it calls for applications and makes appointments. The minister has no role to play in that. It is a Public Service Board operation, and it met all the standards required by the Public Service Board.

The Hon. R.D. LAWSON: As a supplementary question, did you as minister ask Mr Buckskin to apply?

The Hon. T.G. ROBERTS: It was not down for me to ask anybody to put up positions that led them to believe that they did not have to go through anything else but a process that would put them in competition with all other applicants.

FOOD SA

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about Food SA.

Leave granted.

The Hon. CAROLINE SCHAEFER: The former Food for the Future (now Food SA) scorecard has recently been published and the results are startling, to say the least. Amongst other things, there has been a 21 per cent growth in processed food value over the past 12 months in South Australia, and that is a 5 per cent greater growth per annum than that of any of the other states. Mr President, as you are well aware this is a strategy of which I and several other people in this place are very proud.

The South Australian food strategy was used as a template for the development of the national food strategy. In fact, an officer from Food for the Future (now Food SA) was seconded to assist with the writing of that strategy. As part of that strategy, there has been the announcement of the food innovation grants program. It is a program of some $34.7 million, and it is aimed at securing the future viability of Australia's food industry in the face of increased global market pressure. Grants from $50 000 to $1.5 million are available to businesses on a dollar for dollar basis to address scientific and technical issues associated with innovation and projects and must provide economic benefits to Australia through commercialisation. In my view, South Australia is in the box seat to obtain the lion's share of this funding. Therefore, my questions to the minister are:

1. What measures is this government taking to inform South Australian food companies of this offer?

2. What encouragement have they been offered?

3. Has an officer been appointed to assist with applications?

4. What efforts have been made to include and involve companies from regional areas in applying for these generous grants?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her important questions. Yes, the results of the Food SA ScoreCard were released recently, and they certainly are very good results. The state is well ahead of the target in the State Food Plan, that is, a $15 billion food industry by the year 2010.

However, I think there were cautionary notes sounded when those ScoreCard results were released suggesting that, of course, much of the significant increase last year was because of the very good crops that we had last season. Of course, we can expect that, unfortunately this year with the drought, in relation to the current crops, it is unlikely that, in relation to unprocessed food, exports will be anywhere near that amount.

In fact, unfortunately, the grain target for this state has been downgraded. I think the latest figure was 4.7 million tonnes, down from the 9.6 million tonnes of last year—it is less than half of what we had last year—so, clearly, that will have some impact. But, of course, because we are ahead of target, even though we may not meet the targets in the coming 12 months in relation to unprocessed foods, that is, our commodity exports, at least in the processed sector we can look forward to some growth.

But, I am digressing from the subject. One of the changes that the government has implemented under the Food SA program is to promote regional areas and, indeed, the state is doing a lot at the moment to encourage regional centres to promote brands and so on—the branding of local areas, as was achieved under the honourable member when she was, if not the minister, certainly the chair of the issues group in Food for the Future.

There was a successful program in the Barossa, and that is essentially being mirrored in other areas of the state. This state has fared fairly well in relation to commonwealth grants and, indeed, the commonwealth officials that are responsible for those programs have been highly complimentary of the programs that are run in this state; I think we can expect to do well in relation to those. I will get the actual details of the specifics of the promotion, how the availability of those grants is being promoted, and get back to the honourable member on those.

CHALLENGER GOLDMINE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding the Challenger Goldmine.

Leave granted.

The Hon. R.K. SNEATH: There has been recent media coverage surrounding the opening of the Challenger Goldmine. My question is: can the minister give an outline of this important development?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The Challenger Goldmine is an important development for this state. It has recently started operations and will be officially opened later this year. The Challenger Goldmine is located on Mobella Station, which is 740 kilometres north of Adelaide within the northwestern margin of the Gawler Craton.

Current access to the project area is via the Stuart Highway from a turn-off 110 kilometres north of Glendambo, leading also to Bulgunnia Homestead, which is an unsealed road that runs due west for a distance of 170 kilometres to the project site. This access is generally impassable following heavy rains.

There are no other mining facilities in the immediate project area, and there is no previous gold mining history in the project area. In 1991, a 500-drillhole program was undertaken in the northwestern Gawler Craton by the Mineral Resources Group. Anomalous gold was intersected in several shallow drillholes south and west of the yet undiscovered Challenger Mine.

In 1992-93 detailed aeromagnetic data were collected over the greater part of the northwestern Gawler Craton, attracting significant exploration interest in the region as a whole. Dominion began exploring the Gawler Craton in 1993. Exploration drilling programs commenced that same year with initial discovery and drilling of the Challenger deposit in 1995. Ongoing drilling of the Challenger deposit and nearby anomalies has continued to the present day.

Total exploration expenditure between 1993 and 2000 by the Gawler joint venture, which is Resolute Ltd and Dominion Mining Ltd, was $19 million. On-site construction and development to the commissioning stage has taken nine months, as planned. Work completed includes access road upgrade, camp construction, an airstrip, construction of a water supply and reverse osmosis plant, the mine itself pre-stripping and excavation to 13 metres, the production of a run-of-mine stockpile of 25 000 tonnes of 3.6 grams per tonne gold, mill and plant foundation work and construction and commissioning of the mill and refurbished carbon in pulp plant.

Mine development, which will disturb less than 100 hectares, comprises construction of an open pit and underground mine with associated ore and waste stockpiles, a gravity and carbon in pulp ore processing plant of 250 000 tonnes per annum nominal capacity, a 2 megawatt on-site diesel-fired power generation facility and a tailings disposal facility for the processing plant. The open pit will use conventional mining techniques, with the selective mining of ore and waste. A 100 tonne excavator and a fleet of dump trucks will be used to mine and haul waste to the surface. The ore and waste will require conventional drilling and blasting prior to excavation. Excess groundwater will be pumped to the surface for use in the processing plant. When completed, the pit will be approximately 120 metres deep and 400 metres in diameter at the surface. A waste landform will be constructed near the open pit mine to contain all the barren rock excavated from the open pit.

An initial two year open pit development should be followed by a further four years of underground development. The underground mine will involve construction of a decline or tunnel from the wall of the open pit to access the ore extending below the base of the open pit. Underground ore will be drilled and blasted before being loaded into dump trucks for transport to the surface. There is a strong probability of the underground development extending for a considerable period. This does not take into account further discoveries in highly prospective surrounding areas, which have the potential either to extend the project life or allow an upgrading of the proposed facilities to treat the higher throughput of ore.

On closure of the open pit a low grade stockpile will remain that should be capable of treatment. The lower cut off used was 1.75 grams per tonne gold at a gold price of $A500 per ounce and, given the current gold price, some of this low grade material will be economic to treat. Following the completion of a conceptual underground study of inferred/indicated resources, the underground mine would produce 50 000 ounces per year at a head grade of 10 grams per tonne of gold. This very important development will be officially opened later this year. Work at the mine has already begun.

DISABILITY DISCRIMINATION ACT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the Disability Discrimination Act.

Leave granted.

The Hon. SANDRA KANCK: In a pre-election public meeting with disabled people and disability sector advocates, the now Minister for Health was asked about the plans Labor had to deal with exemptions to the Disability Discrimination Act. The then shadow minister said that it was Labor's intention to remove the Disability Discrimination Act exemptions that relate to the mainstreaming of education services to children with a disability and which the former Liberal government had put in place. In order to ensure that there had been no mishearing of the then shadow minister's intention, she was asked to restate the position, which she did. It is now more than eight months since that promise was made. My questions to the minister are:

1. Is the removal of the exemptions to the Disability Discrimination Act still the policy of Labor now it is in government?

2. If so, when will the exemptions be removed?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health in another place and bring back a reply.

PROHIBITIVE EMPLOYMENT REGISTER

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Justice, a question concerning a prohibitive employment register.

Leave granted.

The Hon. A.L. EVANS: Currently, states such as New South Wales and Victoria have prohibitive employment registers in operation, the purpose of which is to assist all employers in relation to the selection of all new employees. The register holds information of offences of which a person has been convicted within the particular state. Access to the information must be acquired through written permission. My questions are:

1. Does South Australia have a system in place through which employers are able to screen potential employees in relation to police records?

2. If not, has the government investigated the possibility of implementing such a register in South Australia and, if so, what were the outcomes of the investigation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Justice in another place and bring back a reply.

GOVERNMENT ADVERTISING

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the leader in this place, the Minister for Agriculture, Food and Fisheries (Hon. Paul Holloway), representing the Premier, a question about government advertising.

Leave granted.

The Hon. A.J. REDFORD: Last year, the Hon. Nick Xenophon introduced the Government Advertising (Objectivity, Fairness and Accountability) Bill 2001. At the time of its introduction, he held a joint press conference with the then Leader of the Opposition and now Premier (Hon. Mike Rann) endorsing the bill. At the same time, on 3 June, the now Premier and former Leader of the Opposition issued a press release pledging an immediate review of all state government advertising promotional spending if Labor won the next election. The then Leader of the Opposition is quoted as saying:

> If Labor wins the next state election, people will see a dramatic and immediate shift in spending priorities. . . Labor believes in different priorities; I'm quite happy to take a knife to the spin doctors if it frees up more money for real doctors to cut the hospital waiting lists.

Labor in opposition was quite vocal on this issue. On another day—6 June 2001—the then Leader of the Opposition, in his budget reply, lambasted the Liberal government's:

> . . . outrageous approach to using taxpayer dollars for advertising. . .

On 11 September 2001, the then shadow treasurer and Deputy Leader (Kevin Foley) said:

> We find again that, instead of money going into teachers, hospitals, nurses and police, money is being wasted on blatant party political advertising by this Liberal government. A desperate,

unnecessary and totally inappropriate use of taxpayers' money. . . Party political advertising by any other description.

Indeed, on Wednesday 4 July 2001, the leader in this place, the Hon. Paul Holloway, revealed that he supported:

. . . proposed new laws to cover financial 'kickbacks' and 'cash for comment' in a range of areas including the media. . . But he says the laws must include the government as well.

Notwithstanding this apparent pre-election determination to overhaul government advertising upon winning office, I note that the policy on the Premier's web site entitled 'Advertising procedures manual for campaign and non-campaign government advertising services 1997' remains the same as it was back in 1997.

I recently sent a freedom of information application to the Premier seeking copies of any documents or any other papers or conventions issued to the public sector providing guidance on government advertising issued since 6 March 2002, the day after this government was sworn in. The response to that application is that no guidelines or any other document have been issued to any government agency in any way altering or changing the previous policy on government advertising. In light of that, my questions are:

1. Does the government acknowledge that its failure to make any changes to the previous government's policy is a clear breach of its election promises?

2. What changes has the government implemented in relation to government advertising consistent with its pre-election rhetoric?

3. Has the government spent money on advertising since 6 March 2002 and, in relation to each set of advertising, who has been the recipient of the government funding, what has been the purchase of each advertising campaign, and is there likely ever to be any changes to the 1997 guidelines, given the government's pre-election rhetoric?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Certainly, this government, before the last election, promised that there would be a shift in spending priorities in this state and, indeed, there has been. Need I remind the council that the priorities of the previous government were things such as the Hindmarsh Soccer Stadium and the National Wine Centre which, unfortunately, are still costing this state considerable amounts of money? So, there has been a very significant shift in spending priorities. In relation to advertising specifically, the honourable member asked a number of questions and, obviously, I do not have those details. I am not the minister responsible for such expenditure.

I will refer the question on because I am sure that the Premier would be delighted to explain, for example, how much was spent on advertising the budget this year (which is a traditional activity) compared to the spending of previous governments. I am sure that members of this council will find it very interesting indeed when that information is provided to the council. I wish that I did have the information with me. As to the other details and the specifics of the honourable member's question, I will get those but, clearly, there has been a shift in the spending priorities of this government. We are no longer spending money on sports stadiums or wine centres. Health and education are the priorities of this government.

The Hon. A.J. REDFORD: As a supplementary question, should the Hon. Nick Xenophon choose to reintroduce his bill, the Government Advertising (Objectivity, Fairness and Accountability) Bill, can he be assured of government support as he did receive prior to the election?

The PRESIDENT: That is speculation.

The Hon. P. HOLLOWAY: That is a hypothetical question that we will review if and when the situation arises.

The Hon. J.F. STEFANI: As a supplementary question, will the minister provide this council with the individual amounts of money spent so far by each government agency?

The Hon. P. HOLLOWAY: I assume that the honourable member is talking about individual amounts on advertising. I guess that one would need to try to put some definition on that. Obviously, one thing that governments do in relation to advertising, for example, is tenders. I noticed in this morning's newspaper that there is advertising calling for government tenders. Now, whether or not that should be classified as advertising—

Members interjecting:

The Hon. P. HOLLOWAY: Obviously, it is clearly appropriate that the government should advertise and make available to the businesses of this state the availability of contracts. I guess that they are the sorts of definitions that one would need to know. Similarly, this parliament, for example, advertises for submissions to select committees, and so on, as one would expect. If I recall the Hon. Nick Xenophon's bill, which was the subject of the earlier question, it was very specifically—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Yes, and it was referring specifically, if I recall, to advertising in relation to the sale of ETSA. In fact, if I recall the debate at the time, I believe that it was being promoted prior to the bill even being passed through parliament. Certainly one of the issues that has been put here is whether or not governments should pay for advertising to promote a policy that has not even been passed by this parliament, as indeed the previous government was doing. The previous government spent a fortune trying to promote the sale of ETSA without that bill even being put through parliament. If I recall, that was certainly the subject of one of the bills the Hon. Nick Xenophon originally put before this place and, clearly, it was quite a different situation.

In relation to the Hon. Julian Stefani's recent question, I will see whether we can get some compilation of the amounts that departments spend on all forms of advertising. I guess they will have to be categorised.

The Hon. R.D. LAWSON: As a supplementary question: will the minister acknowledge that the government's failure to alter the previous government's policy relating to advertising is recognition of the appropriateness of that earlier policy?

The Hon. P. HOLLOWAY: I am sure that many guidelines continue until they are reviewed. I will refer that question to the minister. Unfortunately, since we have been in government we could not have reviewed overnight every single policy that the previous government would have implemented, but I guess that one will be on the list sooner or later. The important thing is that the government has changed its application of it. As I indicated earlier, I am sure that, when the Premier provides an answer specifically in relation to the expenditure on the budget, we will see that there have been some changes in how that policy is applied by this government.

POLICE STATION, GOLDEN GROVE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question about the proposed police station at Golden Grove.

Leave granted.

The Hon. J.S.L. DAWKINS: Currently the nearest police stations to Golden Grove are at St Agnes, Para Hills, Salisbury and Holden Hill. There have been community moves over several years to establish a new station in Golden Grove itself in light of the continued development and growth of the area. In January this year the former Liberal government pledged to open a shop front station, placed initially among other shops, to develop a rapport with the local community. The member for Wright had previously presented numerous petitions in another place calling on the then government to establish a police station in the area. In the House of Assembly on 5 June 2001 the member said of the proposed station:

> We all know what has happened—nothing. There have been nothing but excuses and delaying tactics in the hope that people would forget.

The promised police presence has failed to materialise under the new Labor government, despite its priding itself on being tough on crime and despite the member for Wright's proudly announcing it in election material and even claiming credit for it. My questions to the minister are:

1. Will the government agree to honour the previous government's pledge to establish a police presence in Golden Grove, strongly supported by the member for Wright before and during the 2002 election?

2. If so, when will action be taken to create such a police presence at Golden Grove?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer the question to the Minister for Police but, in general terms, this government has certainly increased the resources available to police as well as introducing a number of measures for dealing with some of the law and order problems within this state, and some more will be coming. In fact, during the remainder of this year we will be debating significant amounts of legislation that will all improve this state's attack on the criminal element within our society. This government has nothing to hide from at all in relation to its law and order policies. In relation to the specifics at Golden Grove, I will get a response from the minister.

The Hon. R.I. LUCAS (Leader of the Opposition): As a supplementary question: how many extra police will be employed by the new Labor government in the forward estimates as a result of decisions taken in the last budget?

The Hon. P. HOLLOWAY: I will get that information from the Minister for Police and bring back a reply.

REGIONAL DEVELOPMENT

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about reviews into the performance of regional development boards.

Leave granted.

The Hon. J. GAZZOLA: Our state's 14 regional development boards have the role of working with local communities and all levels of government to assist in the development of economic opportunities in our regions. I understand that a number of these boards have recently been the subject of a regular review of their activities. Will the minister outline the results of these reviews?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for his very important question in relation to regional development board performance reviews. It was a hot topic at the start of our governance. There was a lot of speculation about what the future of the regional development boards would be in relation to the restructuring of—

Members interjecting:

The Hon. T.G. ROBERTS: I tried to put out some fires and—

Members interjecting:

The Hon. T.G. ROBERTS: One of the ways that you start debate and get your information is to start discussion amongst the community about what the future role and function of regional development boards might be. A whole range of issues was discussed on how we would put together our regional development program and what form the structure would take in relation to administration. There was an emergency meeting with the Premier very early in the government's life to make sure that the point of view of the regional development boards was going to be heard.

It is quite clear that, as members on the other side of the chamber and the Hon. Mr Gilfillan would recognise, in the evolutionary process of regional development boards and regional development programs, changes have been requested from time to time by individuals in various organisations and at local government level in order to better manage our resources and to consider how we are able to integrate the activities of people working at a regional level to tap into government resourcing. A program was put together for all regional development boards that operate under a five-year resource agreement between the state government, relevant local government authorities and the board itself. These arrangements define the terms and conditions of funding and the obligations of the boards. That has been operating, and some of those contracts have run out.

The resource agreements expire for six regional development boards in 2002, namely, the Fleurieu Regional Development Corporation, Mid North Regional Development Board, Northern Regional Development Board, Port Pirie Regional Development Board, Limestone Coast Economic Development Board and Whyalla Economic Development Board. As required under the agreement, an independent external review has been conducted by Economic Research Consultants Pty Ltd to assess the effectiveness of the board in respect of achieving its purpose and outcomes and the extent to which it met the needs of its stakeholders. That inquiry was the first review that was done on regional development boards.

We had to find out what their compliance was to good corporate governance, how it was integrating into state government resources, and the economic environment or context in which they operate. A summary of the reports found that the boards reviewed were compliant with the intent of the resource agreements and other requirements on them, and operated with strong support from local communities and stakeholders. Relationships with local government were seen by the consultants as critical to the boards receiving community support. Boards with the best outcomes in community recognition of their role were boards that were embraced by local government, and that stands. I am aware of meetings in the South-East today and tomorrow with the

intention of building better relationships between local government and the Limestone Coast board.

The reviews involved not only assessment of reports and job and investment outcomes but also surveys and interviews with stakeholders, local business and board members and their staff, so the review was comprehensive. Overall, the boards were seen to achieve not only direct outcomes in jobs and investment (the network for 14 boards facilitated 1 872 jobs and $67.5 million in investment in 2001-02) but they also played an important role in issues such as infrastructure audits, capacity building in terms of coordinating business development skills training, export development, and regional promotion and branding. They also leveraged an extensive range of commonwealth government assistance through programs such as Networking the Nation, Regional Solutions and the Regional Assistance Program. Some of those commonwealth networking programs work better than others. Some were not very successful at all, but the main thing is that where programs are seen to be successful they are continued and where they are not succeeding they should take a directional change or slight alteration.

The review has also identified the need for boards to be given higher 'political' recognition by a range of state government departments. While the boards presently interact well with agencies such as the Office of Economic Development, the Office of Regional Affairs and the Office of Employment and Youth, substantial potential exists for other agencies to use the boards as a regional intelligence gathering and delivery mechanism. Consultants concluded that no single 'model' applies across all the regional development boards. There are significant differences in regional economies, in personalities and in the system, as members opposite would have found themselves. Different regions face different challenges and different opportunities. Regional communities need to ensure that they have input on and guide the activities of their board and, while a high level of discretion must therefore be applied to the operations of the board, this is done within a framework of good governance and good practice.

The government will also be negotiating resource agreements with the six boards which expire in 2002 and the relevant local government authorities over the next few months. In the meantime, the Treasurer has written to these boards advising approval of ongoing core funding during the period of negotiation. A recent study tour by CEOs of several boards also confirmed that the South Australian Regional Development Model, while substantially smaller in scale, is comparable in structure to those in the UK, Scotland and Ireland. It does not require wholesale changes. In fact, some work is being done in other states that mirrors the boards of South Australia.

Finetuning of the South Australian structure through the ORA, however, will result in increased recognition of the interrelationship between economic development and the community and social development. Therein lies the emphasis on the change we have made. In building economic development you really must have your social development structures operating in tandem or ahead of economic development in a lot of cases. There has to be an improvement in the whole of government approach to the framework, and that has been recognised.

The Regional Development Board framework has enjoyed bipartisan support. Regional development boards have provided a valuable platform for local community involvement in driving the economic direction of regions for over a decade now. Over this time the framework has not only generated good returns but has provided a major focal point for local leadership, advocacy on economic development issues and information dissemination. It also does not mean that we stand still—there will be fine- tuning of the integration of ideas, of investment strategies and delivery programs—and we will be trying to work with the communities who are indicating changed direction (and some changes are minor) to bring about the best possible cooperation between those people who live in the regions and those people who act on behalf of the regions in paid professional positions and their ability to integrate their enthusiasm back into the state's infrastructure.

The Hon. CAROLINE SCHAEFER: As a supplementary question, how much did the review, which proved that there was no need to hold a review, cost the taxpayer?

The Hon. T.G. ROBERTS: I will bring the answer to that question back to parliament. Having said that, the reviews themselves are not needed. Reviews will be done from time to time, particularly when you go into new funding regimes and new contracting periods. I suspect that down the track further reviews will be conducted to measure progress. One of the things that governments need to know is how successful, difficult or how hard the economic climate is, as well as how easy the investment strategies are to put in place. Those questions need to be worked out in conjunction with economic development boards, but reviews are necessary from time to time.

The Hon. J.S.L. DAWKINS: As a supplementary question, will the minister reconstitute the Regional Development Issues Group as a means of attaining his stated aim of improving the relationship between regional development boards and state government agencies?

The Hon. T.G. ROBERTS: I will have to take that question on notice. There are some changes being considered, but there is nothing concrete at the moment. So the formulation of change, as I said, will be ongoing in relation to how we best knit together the intentions of those driving economic directions within regional areas and those people who will be affected by change. So, we will be monitoring that as we go. But I will speak to the director of ORA and bring back a reply.

The Hon. T.J. STEPHENS: As a supplementary question, can the minister inform the council of the credentials of those who conducted the review, and who they actually were?

The Hon. T.G. ROBERTS: As with the previous question asked by the Hon. Caroline Schaefer in relation to cost, I will bring those details back to parliament and give a reply.

The Hon. T.J. STEPHENS: As a further supplementary question, can the minister give an indication as to how the Whyalla Economic Development Board was rated in that review?

The Hon. T.G. ROBERTS: I will bring back what information I can in relation to the performance indicators of the review, if that review has been made public. I am not sure whether it was or whether it is an internal review, but I will follow that up for the honourable member.

TERRORISM

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a statement on counter-terrorism plans made by the Premier in another place.

TOBIN, Dr M.J.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a statement on a memorial to the late Dr Margaret Tobin made by the Premier in another place.

DNA TESTING

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question relating to DNA sampling.

Leave granted.

The Hon. IAN GILFILLAN: DNA is often hailed as the fingerprint of the 21st century. However, it is in fact much more than just a fingerprint. Each of us has DNA. It exists in the nucleus of our cells and contains a complete genetic profile of who we are. Information about a person can be garnered from their DNA that cannot be drawn from their fingerprint. DNA can be used to clone a human being; a fingerprint cannot.

A recent Australian Institute of Criminology paper on DNA identification explains the potential benefits of DNA sampling as follows:

> The most obvious benefit of the use of DNA identification in criminal investigations arises when the technique generates a link between a suspect and a crime that ultimately leads to the conviction.

It also suggests that it would assist in preventing miscarriages of justice where DNA identification cannot link a suspect to a crime.

My office has received numerous calls from people concerned about the extension of police powers to authorise the taking of DNA samples of any suspect accused of an indictable offence and, incidentally, of some summary offences, on the authority of the police themselves. Mr Terry O'Gorman, President of the Australian Council of Civil Liberties, has recently, on radio, claimed that the proposed legislation to force South Australians suspected of summary offences to provide DNA samples will give police too much power.

He makes the comment that DNA contains very private information about people's health status, about their genetic make up, about family and historical matters that people, for very good reason, want to keep to themselves. In fact, it is conceivable that DNA samples could yield important information to police if analysed beyond simply linking a suspect to crimes.

However, that information, as a database, invades personal privacy in a totally unprecedented way. Such databases, if extensive, would be of value to other entities such as employers, insurers and marketing firms. In the Premier's ministerial statement of 17 October this year on DNA testing, he outlined the requirements on state DNA sampling to comply with the commonwealth CrimTrac database. The Premier stated:

> It follows that this government, so long as the commonwealth maintains its restrictions on access to the CrimTrac database, will not expand the law further and legislate for the blanket testing of all offenders.

My questions are:

1. Does the minister agree that DNA sampling is the most personally invasive and intrusive search that can be performed on a person?

2. Is it the opinion of this government that all suspected offenders should be DNA tested?

3. What measures will be in place to ensure that DNA data collected cannot be used to profile genetic traits of suspected offenders for improper use?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The questions asked by the Hon. Ian Gilfillan are very important. There is soon to be a bill before the House of Assembly to cover this very issue. Under the previous government, when the Hon. Trevor Griffin was Attorney-General, legislation was introduced that related to DNA sampling. Last week the Premier announced the outcome of some agreements with the Commissioner of Police and the Attorney-General in relation to who ought to be tested under the proposed new legislation. I believe the appropriate person to answer those questions, particularly the first part of that question as to whether it is personally intrusive, would be the Attorney-General and I will refer the question to him.

In relation to the other specifics, many ought to be contained in the bill when debated before this council over the coming weeks. I am sure there will be plenty of opportunity during that debate to raise those questions when the government advisers are here. I will ascertain in the meantime whether the Attorney-General can provide any information to the honourable member in the short-term.

The Hon. IAN GILFILLAN: Does the minister agree, from the statement by the Premier, that one of the summary offences liable for DNA sampling was 'create false belief'? If that is the case, does he believe that some members of parliament would be liable for DNA testing?

The Hon. P. HOLLOWAY: I am sure that, if any members of parliament were convicted of the offence of creating a false belief, that may be the case. I am sure that would not happen, particularly with any members in this council.

The Hon. R.D. LAWSON: As a further supplementary question, will the minister have the Attorney confirm that the DNA used for forensic purposes is in fact the nucleonic DNA, which does not contain any information about the genetic make-up, health status or any other information about the person from whom the sample is taken?

The Hon. P. HOLLOWAY: I believe that was the undertaking, but I will get the Attorney-General to confirm that.

SEWERAGE RATES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, some questions about sewerage rates.

Leave granted.

The Hon. J.F. STEFANI: The Minister for Administrative Services has been quoted in the press as requiring councils to be more accountable, and his request was part of a package of measures to explore the tools councils have before the state government considers making any changes to their rating system. Members would be well aware that there has been a large increase in the valuation of all proper-

ties. It is also well known that sewerage rates are based on property valuations. Unfortunately, housing properties with a large area of vacant land around them pay a heavy penalty because of the present rating system. I declare an interest in this matter because I am one of many householders living in a home with my wife and no other occupants and, because our home is surrounded by a large area of vacant land, we are penalised through the present rating system, strictly geared to the valuation of the property, which includes the vacant land and which has no bearing on the sewerage system servicing our property. My questions are:

1. Will the minister give an undertaking that the government will review the present sewerage rating system in order to achieve a more equitable way of levying rates?

2. Does the minister acknowledge that there are many self-funded retirees who, because of increased government charges such as sewer rates, are finding it difficult to keep their homes and are forced to sell their properties because of higher state government and local government charges?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It is refreshing to hear a question calling for a review that recognises that, from time to time, governments do have to review the status of policy development after it takes over from a former government. I will take those important questions on notice and refer them to my colleague in another place and bring back a reply.

ADELAIDE FESTIVAL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for the Arts, a question about Adelaide Festival funding.

Leave granted.

The Hon. DIANA LAIDLAW: I refer to an article by Tim Lloyd in the *Advertiser* of Tuesday 15 October regarding the Adelaide Festival. In particular, I refer to the statement made in the eighth paragraph, as follows:

> The festival has a regular state government vote of about $4.5 million every two years, but there is a further $3 million to $4 million available should the 2004 festival work out which buttons to push before it's too late.

I can see that ministers opposite are as interested as I was about the available funding for the festival.

The Hon. T.G. Roberts: Whose buttons do you have to push?

The Hon. DIANA LAIDLAW: That is what I am very keen to understand—whether it is coming from regional development or whether it is already in your budget or wherever. My questions are:

1. Will the minister confirm whether or not this statement is an accurate reflection of the state government's funding commitment to the Adelaide Festival for this and for next financial year?

2. If so, how has the government made provision for the 'further $3 million to $4 million' in terms of dollar amounts in agency budgets?

3. If not, what amount has the state government budgeted for allocation to the 2004 festival?

In addition, I ask the following three related questions:

1. Will the minister make public all funding and organisational matters proposed by the board of the Adelaide Festival Corporation to the minister, including the challenge funding formula as outlined in a letter to the minister earlier this month and, if not, why not?

2. When will the board be advised of the government's response, considering that the board meets in December to consider the first draft of Artistic Director Stephen Page's program and will need to know at that time what government funds are available to the board in considering that first draft program?

3. Will the minister make public his response to the board's proposition and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The money is certainly not in the Primary Industries budget. I will refer those important questions to the Premier and bring back a reply.

CORNISH FESTIVAL

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question regarding the state government's decision to withdraw funding for the Cornish Festival.

Leave granted.

The Hon. T.J. STEPHENS: The minister would be aware of the enormous economic and social benefits to small country towns from staging rural events such as the Cornish Festival. Festivals such as this one on Yorke Peninsula and the Oyster Festival in Ceduna are very large in the scheme of tourism for our smaller communities. They do get people to those country regions for a weekend who spend money, and there is a flow to those districts of about $5 for every $1 spent.

This year, with the rural communities in the grip of the worst drought in decades, this withdrawal of funding comes as a double blow and sends a message to country folk yet again that this Labor government does not care about country people. This was a decision that really needed a regional voice to point out the economic ramifications on the smaller rural communities.

I acknowledge that the Minister for Regional Affairs does not have responsibility for budgetary decisions in any portfolios, including tourism. In fact, during estimates on 7 August in answer to a question about budget cuts in South Australia's regions, the Minister for Regional Affairs repeatedly made this particular point. However, he also said:

> As Minister for Regional Affairs, I must explain to constituents how the decision will impact on regional areas. I have to explain and try to find alternatives to the funding programs or regimes to which the previous government had committed.

Why did the minister allow the decision to withdraw the $25 000 in funding to the Cornish festival, what input did the minister have on this decision, was there a regional impact statement, will he explain to those people in those communities why the funding was cut, and what will he do to assist them to find alternative funding?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): In reply to all those questions, I can only say that I was not aware that the funding had been cut. No correspondence to that effect from organisers has crossed my desk of which I am aware, but I will give an undertaking to the honourable member to make inquiries through the Minister for Tourism through whom, I suspect, the grants may have been made and, once I get a reply, I will determine a course of action, which will include continuing correspondence with the honourable member and I will bring back a reply.

REPLIES TO QUESTIONS

SUICIDE KITS

In reply to **Hon Sandra Kanck** (28 August).

The Hon. T.G. ROBERTS: The Attorney-General has provided this advice:

It is not an offence in South Australia to commit suicide. It is an offence to aid, abet or counsel the suicide or attempted suicide of another. It is not against the law to sell someone a plastic bag with a fabric gusset and drawstring. In some circumstances, the sale of a device that is marketed as a 'suicide kit', accompanied by directions as to how to commit suicide, may amount to aiding, abetting or counselling suicide and therefore be an offence.

The powers of the commonwealth parliament to legislate are defined by the enumerated heads of commonwealth legislative power in the constitution. Whether the federal government has the authority to prevent items being manufactured in South Australia that are not illegal in South Australia depends on whether the legislation can be characterised as being with respect to, or incidental to, the exercise of a particular head of power.

Most generally, the commonwealth's power to legislate with respect to trade and commerce with other countries and among the states does not extend to the ability to legislate with respect to the manufacture of articles, unless the legislation is incidental to the exercise of the trade and commerce power. On the other hand, the power does extend to the ability to legislate with respect to the importation of such articles.

So the commonwealth certainly has the power to legislate to prohibit the importation of suicide kits. As to the manufacture of suicide kits within South Australia, the power of the commonwealth may depend in part on where the kits are destined to be sold. If the kits are manufactured within South Australia for use in South Australia, then the commonwealth would not be able to prohibit their manufacture. If they are manufactured for export either internationally or interstate, then the commonwealth may have power to prohibit their manufacture.

The commonwealth would also, at least in theory, be able to impose an Australia-wide tax on the production of suicide kits, in the exercise of its exclusive power of excise. It is hard to see how this could be done practically at a rate to tax them effectively out of existence, but the possibility should at least be noted to give a full answer to the honourable member's question.

I do not intend to write to any commonwealth ministers in the terms suggested by the honourable member's final question

STRATHMONT CENTRE

In response to **Hon A.L. EVANS** (17 July).

The Hon. T.G. ROBERTS: The Minister for Social Justice has advised the following:

1. What assessment is currently undertaken to ensure that a mentally handicapped person is ready to leave the security of Strathmont and be accommodated within the community?

All clients who move into the community from Strathmont Centre are subject to independent living skills assessments, conducted by psychologists, developmental educators or staff with a skills assessment background.

This assessment is done in consultation with the client, family members and others with a legitimate interest in the future well-being of the client.

Based on the outcome of these assessments, the wishes of the client and the client's family, and the ongoing nature and level of care that is required, a determination is made which aims to support the individual to live in the community in the safest, least restrictive environment possible.

Based on those assessed needs, individuals who move into the community receive support and care relative to those needs. This may range from limited tenancy support through to full-time 24 hour supported accommodation with relevant nursing care.

2. Is there currently a shortage of accommodation at Strathmont? If so, what does the government propose to do to rectify this situation? What is the current waiting period for accommodation?

With the ongoing and optional transition to community-based care and accommodation, Strathmont Centre's population has reduced from 456 residents in 1993 to 307 in July 2002.

With the completion of the Northgate Aged Care facility, Strathmont Centre will further reduce to 257 residents by November 2002.

A significant number of current clients of Strathmont Centre and their families have indicated that they would prefer, or would consider, a move to community-based accommodation. Others residents have indicated that they would accept alternative accommodation options as long as they were at, or close to, the Strathmont Centre. People with an intellectual disability and their families who are living in the community usually prefer for that family member not to live in institutional settings.

Strathmont Centre operates under the aegis of the Intellectual Disability Services Council (IDSC), which has 75 people with a critical need for personal care support and domestic assistance on its waiting list, with a further 100 people who will require assistance within the next twelve months. While there is a waiting list for accommodation services, these are not for institutional settings such as those being offered at Strathmont Centre.

The government has announced funding to support an additional 40 people on the IDSC urgent waiting list. These will all be community-based accommodation arrangements.

3. Does the government have any plans to close institutions such as Strathmont and, if so, why, and what alternatives will be provided?

Whilst Strathmont Centre was seen as a world class facility when it was constructed in the 1970s, current best practice indicates that the rights and care of people with a disability are best served through the provision of more individualised community-based supports. The redevelopment of institutions, both within the South Australia and nationally, is part of an international trend away from institutional or congregate care models.

Providing responsive community-based supports and accommodation options is now recognised as best serving the rights and development needs of people with a disability.

The Department of Human Services (DHS) has committed, through it's 'Disability Services Planning and Funding Framework 2000-03', to assist clients who wish to move out of institutional care into community living options. The standard of this accommodation, however, must be such that it enhances the quality of life of those moving out of institutional care.

The number of residents in institutions within South Australia has declined by 125 over the past 2 years as indicated in the table below:

Institution	May 1999	May 2000	May 2001	May 2002
Strathmont	375	343	310	309
Minda	347	345	343	343
Julia Farr Services	250	250	225	190
Balyana	72	80	77	78
Orana	21	21	21	20
Total	1065	1060	976	940

Although having a smaller total population, South Australia's population of people with a disability living in institutions on a per capita basis is higher than those in all other states.

DHS is committed to creating more community-based accommodation places, whilst simultaneously reducing the number of residential places in institutions.

DHS promotes alternatives to residential institutions by offering residents the opportunity to relocate to places in smaller community-based settings.

DHS is currently considering a plan for the future redevelopment of Strathmont Centre. The plan has been endorsed by the IDSC Board and encapsulates a vision for the future of Strathmont Centre with all of these philosophies in mind.

PAROLE POLICY

In reply to **Hon. A.J. REDFORD** (28 August).

The Hon. T.G. ROBERTS: The Attorney-General has advised:

1. Who is the responsible minister in so far as parole decisions are concerned?

The Minister for Correctional Services.

2. Is there a policy in relation to dealing with Parole Board recommendations formulated by cabinet and, if so, what is that policy?

No.

3. Will the government, as it approaches its sixth month anniversary of being in office, release that policy so that we in opposition and the general public can see precisely what that policy will be?

Not applicable

ENVIRONMENT PROTECTION AUTHORITY

In reply to **Hon. M.J. ELLIOTT** (28 August).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. The EPA was allocated an additional $578 000 in this years budget. $378 000 of this will provide funding for an additional 3 FTE to strengthen and expand the EPA water quality monitoring capability. $200 000 will provide for an additional 3 FTE to undertake pollution load assessments, which will assist the EPA to develop a load based licensing structure. In addition to these amounts the EPA will recoup $160 000 from Primary Industries & Resources SA (PIRSA), to pay for 2 FTE. These resources will be undertaking development assessments on behalf of the authority for aquaculture developments.

2. The $578 000 is effectively available from 1 July 2002. The $160 000 from PIRSA will be available as soon as an MOU between the two agencies is signed off. This is expected in September 2002.

In addition to this recurrent funding, the EPA has set aside moneys from the environment protection fund for the next two years to provide for three additional investigators, $285 000 for container deposit legislation administration and $68 000 for additional development assessment support. These and some one-off initiatives are funded from the 5 per cent of EPA license fees and waste levies which is set by the Environment Protection Act.

3. N/a

CROWN LAND

In reply to **Hon. CAROLINE SCHAEFER** (15 July).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

On Monday 15 July 2002 the Minister for Environment and Conservation introduced the Crown Lands (Miscellaneous) Amendment Bill 2002 to the house of assembly. That bill provides for the minister to be empowered to set a minimum rent of $300, or another amount prescribed by regulation, to apply to all leases issued under the Crown Lands Act 1929 or other Act dealing with the disposal of crown Lands. Once the bill becomes legislation it will have the effect of amending the rent clause on all leases except those excluded by regulation. It is intended that leases issued under the War Service Land Settlement Agreement Act 1945 and the Pastoral Land Management and Conservation Act 1989 will be excluded.

The proposed amendment will not vary the 'in perpetuity' term of 15 406 perpetual leases or the rights of the 8 257 lessees. The minimum rent will be applied to all leases as their rents fall due each month after 1 January 2003. The minimum rent proposal is intended to rectify an historical shortcoming of crown lease administration that has permitted lessees of the Crown to occupy land in perpetuity for, in some cases, minuscule rents.

SELF-FUNDED RETIREES

In reply to **Hon. R.D. LAWSON** (15 July).

The Hon. T.G. ROBERTS: The Minister for Social Justice has advised:

1. This government has decided not to proceed with the former government's decision to provide various state concessions to commonwealth seniors health card holders from 1 July 2002. This is identified as a savings strategy in chapter 3 of the budget statement. As stated in the budget papers, the government has invited the commonwealth to either fully fund its policy objective of extending these concessions to commonwealth seniors health card holders or alternatively for it to use the commonwealth funds already identified for this initiative to provide part concessions to commonwealth seniors health card holders. This government will also investigate a possible scheme for seniors card holders to be able to defer local government rates against the value of the property.

2. The commonwealth offer provided for 60 per cent of the total cost of delivering these particular concessions.

3. The Labor Party did not promise to provide these particular concessions during the election campaign. These concessions were announced by the Liberal Party in their election campaign.

4. See above answer.

FLINDERS MEDICAL CENTRE

In reply to **Hon. SANDRA KANCK** (27 August).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The Flinders Medical Centre (FMC) provides reasonably good patient access to telephones in many areas of the hospital for patient communication to and from family and friends.

As with most public hospitals built at the time, telephone lines were not provided by each bedside when the FMC was constructed. Instead, jack plug sockets were provided to various points in each ward to allow a portable pay telephone to be transported to a patient's bedside. However, pay phones cannot be used to receive incoming calls.

The FMC has never had a 'cordless telephone system' as such. Some years ago, through voluntary effort, a number of cordless telephones were purchased for various wards to enable patients in bed to receive telephone calls directed to the ward. These cordless phones are connected to the usual ward telephone line, and so are not dedicated for patient use.

Unfortunately, the FMC is constructed with a large number of masonry and concrete walls, which reduces the efficiency of the cordless phones in some areas of the hospital as they operate on a radio frequency transmission.

The medical wards, oncology ward and the surgical floor all have cordless phones available and in September 2002 the surgical division purchased several newer cordless phones that provide better reception.

In addition to the cordless phones and the portable telephones, the obstetric wards and the labour and delivery suites all have dedicated telephones within each room for patient use. These can make and receive calls.

A wall telephone is also available for parents in the paediatric ward.

2. The cordless phones were never part of a 'system' but were purchased through voluntary effort over a number of years. It is not known exactly when the first cordless phones were purchased by volunteers.

Cordless phones were purchased at the request of staff to supplement the portable pay telephones, as these cannot receive incoming calls. With the cordless phones, when a relative contacts the ward, he/she can speak directly to the patient.

The FMC is very aware of the need for patients to be able to communicate with their family and others whilst in hospital, especially in the case of patients admitted from rural and remote areas. The above arrangements, although not optimal in that not every patient has a telephone by their bed, do enable patients to keep in touch.

3. The provision of cordless phones was never part of a coordinated system. The efficiency of each handset varies according to local reception conditions and the quality and age of the handset. Some handsets were purchased a number of years ago and will be replaced over time through funds raised by volunteers.

4. Significant re-wiring of the FMC and an upgrade of the hospital's PABX system would be required to enable all patients to have access to a telephone beside their bed. This issue remains on the hospital's agenda for consideration in the future, but will be very costly and is not a high priority at this time.

ATTENTION DEFICIT HYPERACTIVITY DISORDER

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

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

A working party has been established to investigate each of the recommendations arising out of the Social Development Committee inquiry into attention deficit hyperactivity disorder report. The membership of the working party is diverse, representing the full range of interest groups that presented to the Social Development Committee investigation. The recommendations from the inquiry are being considered individually and collectively so that an overall strategy addressing Attention Deficit Hyperactivity Disorder (ADHD) can be developed.

The process is both time consuming and complex, as input is being sought from government and non-government sources in the development of a comprehensive strategy. It is anticipated that the working party, after full deliberations and consultation, will present a report with action plan to the Minister for Health by 30 November 2002.

Until the deliberations and findings of the working party are complete and an action plan released, the minister is unable to respond more fully to the families of children with ADHD regarding management of this complex condition.

There has been no designated funding set aside this financial year for the Social Development Committee's recommendation to provide a grant for ADHD support groups. It is anticipated that access to one-off grant funding may become available in the 2003-04 financial year.

The ADHD working party is currently investigating the feasibility of multi-modal approach for diagnosis, therapy and treatment for ADHD. Until such time as the working party has fully explored the complexities of the multi-modal philosophy to develop best practice treatment protocols for ADHD, it is premature to discuss monitoring mechanisms.

However, it is normal practice for innovative treatments to be monitored and this will be the case in the development of ADHD treatment protocols.

MULTICULTURAL AFFAIRS

In reply to **Hon. J.F. STEFANI** (15 July).

The Hon. T.G. ROBERTS: The Attorney-General has provided this advice:

1. The Attorney-General has not relinquished any of his ministerial responsibilities. He holds the following portfolios: Attorney-General, Minister for Justice, Minister for Consumer Affairs and Minister for Multicultural Affairs.

2. The portfolio of Multicultural Affairs is in the 2002-03 state budget, however it is reported under the Department of Premier and Cabinet. For the presentation of the 2002-03 portfolio statements the government has in the main elected not to change the previous output structure. This approach has meant that only a small number of the outputs and measures presented in the 2001-02 Portfolio Statements have been merged or redefined to accommodate portfolio restructures.

As of July 2002, the Office of Multicultural Affairs, the South Australian Ethnic Affairs Commission and the Interpreting and Translating Centre lie within the Justice Portfolio.

3. The role of multicultural affairs has been enhanced under this government. One example is the increase to the multicultural grants scheme. It has been increased for the first time since 1994. Over $80 000 has been added to the scheme, more than doubling the available funds to $150 000. The grants scheme is pivotal to ensuring the success of multiculturalism in South Australia, and ensuring that cultural diversity programs are inclusive.

The government also recognises the role of Multicultural Communities Council Inc. as a peak organisation representing ethnic community interests in South Australia by increasing the annual core funding in the 2002-03 state budget by one-third, to $100 000.

The budget continued government support to the Centre for Intercultural Studies and Multicultural Education, and the Ethnic Broadcasters Inc.

These tangible commitments promote cultural diversity in South Australia and reflect the government's staunch support of our state's multicultural communities. The government is committed to promoting multiculturalism and supporting culturally and linguistically diverse organisations in South Australia.

There are occasions when ministers should make public apologies, indeed, abject apologies, to the public or a community. This is not one of them.

LOWER MURRAY IRRIGATION ADVISORY BOARD

In reply to **Hon. CAROLINE SCHAEFER** (21 August).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. The Lower Murray Irrigation Advisory Board has been funded under a two year agreement that commenced in January 2001 and will conclude in December 2002. The board was appointed to represent the irrigators in negotiations regarding rehabilitation of the irrigation infrastructure in the Lower Murray and to also facilitate the devolution of responsibility to irrigators for the management of the government irrigation districts.

The board has played a valuable role in a range of issues associated with the reform of current irrigation practices extending to advice on water allocation and licensing proposals. It was envisaged that the board would hand over to an irrigator-controlled entity by the end of 2002 and that the new entity would be fully funded by irrigators. This is unlikely to occur as intended. The issues associated with the reform program are complex. Nevertheless there has been very significant progress on key issues and there is a continuing role for an entity that can represent the views of irrigators.

Accordingly, I wrote to the chairman of the board on 11 September seeking the board's views on a range of options for funding of the board post-December 2002. I am advised that the board is considering the establishment of a new entity that would evolve from its merger with the Lower Murray Irrigation Action Group (LMIAG). I have invited the board to provide me with advice as to its intentions and have sought also a proposal for further funding that sets out the board's plans for the ensuing 18 months, together with a budget. When I have received that information I will be in a position to determine an appropriate response

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CO-OPERATIVES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 817.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their contributions. I understand there is general agreement that this bill proceed. I do not think there are any outstanding answers to questions asked by members in their second reading contributions. I thank members for their support.

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

PUBLIC FINANCE AND AUDIT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October. Page 1078.)

The Hon. A.J. REDFORD: This bill is part of the government's so-called 10-point plan for honesty and accountability. I must say that, as time passes, this so-called 10-point plan is looking increasingly creaky. Indeed, one need look only at the answer to the question asked earlier today about what the government said in opposition concerning government advertising and what it is now doing to get some understanding about the veracity of this government in relation to its election promises, particularly when contrasted with the rhetoric that was so often used in the period leading up to the last election.

This bill, in so far as this so-called 10-point plan is concerned, does three things: first, it requires the Treasurer, from time to time, to prepare a charter of budget honesty in accordance with the bill; secondly, it sets out the basis upon which the charter is to be prepared; and, thirdly, it requires the Under-Treasurer to prepare and publicly release a pre-election budget update report within 14 days after the issue of writs for a general election. With respect to the first issue (the requirement for a charter of budget honesty), the bill provides that the Treasurer must, within six sitting days after preparing the charter, lay the same before both houses of parliament.

The bill also provides that the Treasurer can amend a charter or replace a charter, but it is not specifically clear as to when the charter is prepared. In that respect, clause 4A(1) provides:

The Treasurer must from time to time—

and that could mean anything. In that sense, I would be most interested to hear from the Leader of the Government in this

place (and a former shadow minister for finance) when he would expect a charter of budget honesty to be prepared. One might think that it would be appropriate for the Treasurer to prepare this charter of budget honesty at least on an annual basis, although, albeit in my view, the first ought to be prepared very quickly after the passage of the legislation. Also, clause 4C provides a number of principles to which the Treasurer must ascribe.

Those principles include transparency and accountability, the government's fiscal objectives, consideration of a range of government activities (including through persons or bodies outside the public sector) and short and long-term objectives to be taken into account in order to ensure equity between present and future generations—I must say, very lofty sentiments, indeed; and one awaits with some degree of interest as to how the Treasurer will prepare that. I allude to just one particular clause, clause 4C(d), which provides that one of the principles for which the Treasurer must have regard in preparing the charter is:

> both short and long term objectives must be taken into account in order to ensure equity between present and future generations.

I know that is code for what is an appropriate level of debt that might exist in relation to a fiscal position of this state and, in particular, whether or not it is appropriate for a government to go into debt to provide infrastructure that might extend over many years. I will be looking at that with a great deal of interest, because I do not have a great deal of confidence in this Treasurer or this government, given the sort of rhetoric that we have heard from time to time about private-public partnerships and how they are to be contrasted with their often stated policy of no more privatisations. I will leave the shadow treasurer to capably put that to this place and, in his clinical way over the coming days, weeks and months, expose the fundamental hypocrisy that this government continually displays, especially when one looks at some of its pre-election rhetoric.

It goes on to state that the charter must include the government's financial objectives and a statement of how this will be translated into measures and targets. Finally, it must include arrangements to provide regular reports to the community about the government's progress and outcomes. I hope that this government will not use clause 4D(c) as an excuse to justify advertising expenditure. I know that it states that the government is to provide regular reports to the community—

The Hon. R.K. Sneath: We don't have to advertise if we're honest; they all know.

The Hon. A.J. REDFORD: That is not what the clause provides; presumably the honourable member has not read it. It is hard to believe that this Premier would bother to buy advertising, when he runs talkback radio and rings the soapbox on his way to the airport. He rings around journalists on Sunday mornings, looking to get stories in. It often occurs to me that they may not need advertising, because he has one ear permanently glued to a radio station and his eye firmly glued to a television station. We in opposition and I am sure that over the ensuing months and years the media and the public will wake up to the fact that he is not developing much policy and is not doing much running of the state other than making speeches and listening to and participating in media programs. I was unfairly diverted from what I originally had to say by a rather inane interjection from the Hon. Bob Sneath. I will not take up the easy option of following his rather inane interjections in future.

I am concerned that these arrangements to provide regular reports to the community about the government's progress are not code for this government's participating in an advertising campaign of a political nature. We know that, based upon the questions and answers earlier today, this government's rhetoric is far different from the way in which it behaves. It says one thing and does another, in simple terms. I would be very keen to know what these proposed arrangements are, as I am sure the Hon. Nick Xenophon, the Australian Democrats and the Hon. Andrew Evans will be very keen to know. In those terms I will be very interested to know what the Treasurer has budgeted for the arrangements to provide regular reports.

An honourable member interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and asks whether I am opposed to this. No, I am not: I am just asking a question, as is my responsibility. Particularly given the sorts of dishonest statements made by the now government while it was in opposition, I am entitled to ask some of these questions and put them on the record. We know from the short time that this mob have been in government that we simply cannot trust what they say unless we pin them right down.

The second issue that I am concerned about is in relation to clause 4E, which provides that the Treasurer may amend a charter or replace a charter with a new charter, but it does not set out the circumstances or the basis upon which the Treasurer may amend or replace a charter. I would be most interested to know in some detail what circumstances might lead the Treasurer to amend a charter or replace a charter with a new charter. When governments set economic and finance policy it is very important that there be some degree of certainty so that all stakeholders, whether they be in the public or the private sector, have some understanding of where the government is coming from. The arbitrary amending or replacing of charters could have an adverse effect on the economy of this state and economic confidence generally, so in that respect I will be most interested to hear what the Treasurer has in mind.

The most important clause in this bill is clause 6, which inserts the requirement on the part of the Under Treasurer to prepare a pre-election budget update report. We know that a lot of rhetoric goes on during the course of election campaigns, and the last election campaign, based on the previous government's performance since it was elected, was probably one of the highlights of rhetoric, saying one thing and doing completely another. I congratulate the government on introducing this clause; however, I think there is an omission in this requirement.

The Hon. T.G. Roberts: Nobody's perfect.

The Hon. A.J. REDFORD: In the case of this government, that is probably one of the more understated comments the honourable member has made since he has become a minister.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member said he would not be diverted, too.

The Hon. A.J. REDFORD: Sometimes, Mr Acting President, the opportunity for an easy hit is too tempting to ignore. I could never bat a full toss slowly back to the bowler; I always had to hit it hard and straight to the boundary. In any event, a number of issues arise from time to time during the course of an electoral cycle that may not be anticipated at the beginning of that cycle, particularly by the opposition or by the public at large. It seems to me that some scope ought to be given to the Under Treasurer to report on other financial

matters that may arise from time to time in relation to the electoral process.

It would be unfair and unwise for this parliament to put the Under Treasurer in a position where he might have to make judgments about what may or may not be reported in a political context, particularly in the context of a state election. So, in my view it would be inappropriate to add an extra paragraph (d) to require the Under Treasurer to include 'any other information the Under Treasurer sees fit'. It seems to me that it would be appropriate for an amendment to be moved. My party has not come to a final conclusion on this, but it seems to me it would be appropriate to move an amendment to clause 41B(3) to the effect that a pre-election budget update report must contain the following information: (d) any other information or explanation that is required by the Economic and Finance Committee.

In that sense, it seems to me that, if issues arise from time to time during the course of an electoral cycle, if or when the Economic and Finance Committee believes it is of such importance and such note that the Under Treasurer should provide a report from a financial perspective on that issue in the pre-election budget update, that provision would enable him to do so. For argument's sake (and I will try as best I can to be politically neutral), it would have enabled him to provide a report from a financial perspective on the impact on the budget of the Hindmarsh Soccer Stadium or the National Wine Centre to be tabled for the public during an election campaign. We know that figures, budgets and papers can be presented in ways that hide things, and in a very short time this government has become masterful at that process.

The Hon. T.G. Roberts: We had good teachers.

The Hon. A.J. REDFORD: No, we got nowhere close to what this government has done. I will give the chamber an example of how masterful this government is, and it has got away with it in every quarter, except for among the opposition because we are awake to this government; we know what it is about. I will give the chamber the specific example of the Social Inclusion Unit. We know that the previous opposition, the short-lived, one-term current government, promised over and over again throughout its period in opposition to establish a social inclusion unit. I am not putting too high a standard on this, but it went to the people during the course of the election campaign and openly and candidly said, 'We are creating a social inclusion unit.'

The interesting thing is that the Social Inclusion Unit has been mentioned on many occasions by various ministers and the Premier since the election date. We know that Mr Cappo is its chair and we know that he is out there working very hard on a number of issues pertaining to this Social Inclusion Unit. We also know that the Social Inclusion Unit has no statutory or other basis. It is simply a line of expenditure by this government for purposes that are not legislatively prescribed. We also know that, following the Drugs Summit, a series of recommendations were made, a lot of which were rejected out of hand by the Premier, and most of the recommendations were referred to the Social Inclusion Unit. The Drugs Summit was held in the last financial year, and we know that the Social Inclusion Unit was in place before the commencement of this financial year. I know that one of the rare actual press releases I have seen in relation to the Social Inclusion Unit stated that it is on the hunt for a logo, surprise, surprise!

However, when one looks at the budget papers that were presented to this parliament, one cannot find any reference whatsoever to the Social Inclusion Unit. So, if I want to find out what the Social Inclusion Unit is budgeted to cost the South Australian taxpayer this year, I cannot because there is nowhere in the documents that were presented to parliament that outlines what is to be spent this year. Far be it from me to call this government dishonest; far be it from me to suggest that it is trying to hide what it is spending on this so-called Social Inclusion Unit; and far be it from me to suggest that the papers that were presented to parliament in support of the budget bill were not honest.

However, it seems to me that there are ways in which issues can be hidden within financial figures, and an amendment that would enable the Economic and Finance Committee to direct the Under Treasurer, during the course of an election campaign, to set out a full statement on income and expenditure of the Social Inclusion Unit would be of assistance to the voters and the taxpayers. In finishing with this example of the Social Inclusion Unit, it is interesting to note that I cannot find mention of that unit anywhere in the Auditor-General's Report in terms of expenditure. So, at this time, from a financial perspective, it is one of the great mysteries of this government. But the opposition is active, and to coin a term out of a well-known publication from the 1970s, the *National Times*, it is lean and nosy like a ferret, and we will be lean and nosy and we will smell out the expenditure of the Social Inclusion Unit and where the money is going and what it is actually doing, notwithstanding the fact that this document, which I understand the Treasurer said was an honest document, does not make one reference to the Social Inclusion Unit.

In that sense, to enable the Economic and Finance Committee to direct the Under Treasurer to report on any specific aspect relating to income and expenditure of this government would ensure that the government's 10-point plan was not just a number of words, was not just a statement of intent, which could easily be gotten around at that time. I know that, if this government is genuine about honesty in so far as its 10-point plan is concerned, it will support an amendment to that effect. I know that I will receive an early assurance of support in relation to that amendment. With those few words, I look forward to further second reading debate on this bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

GAMING MACHINES (GAMING TAX) AMENDMENT BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I take this opportunity to place on record answers to some of the questions that were asked by the Leader of the Opposition on the Stamp Duties (Gaming Machine Surcharge) Amendment Bill, but they refer to this matter because the bills are related. First, the Leader of the Opposition asked about the estimated revenue from the surcharge in each of the next four financial years. Beginning in the year 2002-03, the answer is $3 million; next year, $5.1 million; the following year, 2004-05, $5.4 million; and 2005-06, $5.7 million. There is a note here that the $3 million estimated for 2002-03 is a part year effect. Actual collections will depend on the date of commencement of provisions. An estimate of $3 million assumes commencement provisions from November 2002.

The next question was in relation to growth rates. A number of questions were asked in relation to growth rates. Given the context of the questions, we interpret these questions to relate to growth in net gambling revenue, which is player loss and the tax base for gaming machine tax. The following is the growth rate in NGR for the past four financial years: 1998-99, 12 per cent; 1999-2000, 10 per cent; 2000-01, 12 per cent; and 2001-02, 12 per cent. With regard to growth forecasts, growth rates used in the forward estimates at budget time were as follows: 2002-03, 6.94 per cent; 2003-04, 5 per cent; 2004-05, 3.42 per cent; and 2005-06, 3.42 per cent. These estimates were subsequently revised by Treasury and Finance.

Treasury and Finance advised that its estimates were too conservative, both with respect to estimates of bracket creep—that is, the tendency for the average rate of tax to rise over time as NGR levels increase—and given historical growth trend estimates. This was also supplemented by advice from the gaming industry on its expectations of future activity levels. The Treasury and Finance revised NGR growth estimates used in the forward estimates are as follows: 2002-03, 6.94 per cent; 2003-04, 6 per cent; 2004-05, 5.75 per cent; and 2005-06, 5.5 per cent. All these estimates are prepared on a financial year basis. Treasury and Finance does not produce forward estimate growth rates on a calendar year basis.

With regard to the timing of available information for forward estimates, the amount of gaming tax revenue collected depends on the distribution of NGR by venue, as well as the aggregate NGR level. The estimates of the impact of the gaming machine measure included in the budget forward estimate were based on venue distribution information related to eight months of 2001-02.

The underlying base revenue estimate based on aggregate NGR and tax collected was based on 11 months' data. Because the budget estimates included the impact of the revenue measure, they were dependent on the NGR venue distribution data for eight months. Also, the estimates did not provide for an updating of the full effects of bracket creep of the more progressive tax structure as a result of the tax measures in the out years. This was done only after the full financial year venue distribution data set was analysed.

The final point asked by the leader involved provision for anti-gambling measures. I am advised that no provision was made in the forward estimates of gaming machine tax receipts at budget time for any anti-gambling sentiment that may result in initiatives over the forward estimate period. Gambling related measures in 2001-02 are effectively built into the base estimates. That was the information sought by the leader, and I understand that the opposition wishes to table some amendments on this matter, so we will have to defer our debate to another day.

Progress reported; committee to sit again.

STAMP DUTIES (GAMING MACHINE SURCHARGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October. Page 1086.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I understand that all members who wish to speak have done so. I thank honourable members for their contributions to the debate. I would like to place on record some questions that were asked by the Leader of the Opposition. First, Revenue SA has further considered comments from the legal council to the AHA—a Mr Shurgott—in relation to the bill. The following matters were raised by the Leader of the Opposition. Mr Shurgott has concerns that the bill, as tabled, does not adequately confirm the government's policy intent that the surcharge is payable only where stamp duty is payable.

To reflect the government's policy position, the bill as currently drafted contains an exemption from the surcharge where there is an exemption from ad valorem duty under the Stamp Duties Act 1923. Having considered the issue further, it is the view of both parliamentary counsel and Revenue SA that the amendment that I believe has now been filed in my name will put beyond doubt that the surcharge will be payable only where ad valorem stamp duty is payable, and if necessary I will explain that further during the committee stage.

I would now like to address the issue of the transfer of potential beneficial interest in property subject to a discretionary trust. The issue of the addition of two or more beneficiaries to a discretionary trust is a very complex area of law. In Mr Shurgott's initial letter of 22 August 2002, it was stated that stamp duty would be payable twice on the net value of the trust. In a letter dated 15 October 2002 he refers to two lots of stamp duty on the gross value of the trust. Revenue SA offers further clarification and a more detailed view as follows: whatever the duty payable, it is payable on the net value and not the gross value. Where there are two or more beneficiaries added to a discretionary trust by two or more separate instruments, Revenue SA agrees with Mr Shurgott that stamp duty would be payable on each instrument and consequently the surcharge would be payable in respect of each instrument. Stamp duty applies to the instrument or instruments—not the transactions. However, where two or more beneficiaries are added to a trust by the one instrument, Revenue SA does not agree with Mr Shurgott's interpretation that two or more lots of stamp duty would be payable.

Further, Revenue SA's practice is consistent with this interpretation that there is only one lot of duty payable in this instance and, as a result, only one lot of surcharge will be payable. Revenue SA has advised that it rarely sees documents of the type raised in these scenarios, and it is not anticipated that these situations are likely to arise in practice. The commissioner has also advised that, in the unlikely event that the circumstances in the AHA's example did occur, I understand that a single instrument rather than two or more instruments would ordinarily affect such transactions. Therefore, only one assessment of stamp duty and one surcharge would apply. I trust that those answers address the matters raised by the Leader of the Opposition. If there are any more issues in relation to that, they can be pursued during the committee stage of the bill. I again thank members for their contributions.

Bill read a second time.

OMBUDSMAN (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 1040.)

The Hon. A.J. REDFORD: This bill is another part of the government's so-called 10 point plan for honesty and accountability in government. The bill seeks to amend the

Ombudsman Act and, in particular, seeks to expand the definition of 'administrative act' in relation to outsourced operations, and it gives the Ombudsman power to investigate acts in relation to functions conferred under a contract for services with the crown or an agency.

It also gives the Ombudsman jurisdiction to conduct a review of administrative practices and procedures of an agency. The bill confers the jurisdiction on the Statutory Officers Committee to consider matters relating to the general operation of the Ombudsman Act and provide an annual report to the parliament. Finally, there is a provision ensuring that the use of the word 'Ombudsman' is not devalued in order to avoid unnecessary confusion, and also avoid misleading consumers.

Before I embark on some of the issues that this bill raises, I go on record as saying that this state has been extraordinarily well served by the current Ombudsman, Mr Eugene Biganovsky, who has served this state to the standard that previous ombudsmen have. I enjoy a very good personal relationship with him as do, I would think, all members of parliament. He makes himself available for discussions and for meetings at short notice.

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

The Hon. A.J. REDFORD: The honourable member interjects that he moves around the country and, indeed, he has his finger on the pulse. He does not engage in party political cross fire and has successfully kept himself out of the political arena. In terms of his position, he has acted in a model fashion. He is one of three or four officers who does not have responsibility to an individual minister but directly to this parliament; and that is evidenced by the fact that his annual report is tabled through you, sir, to this parliament.

As such, in my view, in terms of both his personal status and the status of his office, he perhaps enjoys a closer relationship with individual members of parliament than might be expected from a government department. And, in that sense, he has provided an exemplary model for the engagement of parliament and individual members of parliament in terms of the enjoyment of good relationships, both from the opposition's perspective, in which I am now—albeit for a short time—and from a government perspective. I know that he, as a long-serving Ombudsman, is also held in very high regard by his interstate compatriots.

He is legally trained and has a good understanding of what the role of an Ombudsman is in our democratic society. Indeed, in his annual report tabled late last year, he says this in its introduction—and I think the words are important enough to be included in this contribution:

> To live in a society which pursues good governance practices is considered by the conference today to be a basic human right. The quality of an individual citizen's life is materially affected by both the decisions taken by government and the manner in which those decisions are implemented. A just and civil society requires a system of government which, whilst operating within the rule of law, provides for a wider recognition of the need for accountability to citizens on whose behalf government undertakes its responsibilities. The institution of Ombudsman provides an effective accountability mechanism which is now in place in more than 100 countries.

The Ombudsman provides extraordinary assistance to members of parliament, particularly those who serve in the lower house, as there are many occasions where we have difficult constituents with extraordinarily difficult, complex and sometimes intractable complaints. On many occasions they are referred to the Ombudsman and, in the case of this current Ombudsman, they are dealt with diligently and fairly. My comment is not just in relation to the current Ombudsman, Mr Biganovsky, but also to his staff who work extraordinarily hard for the benefit of all members of parliament.

The Labor government, in relation to strengthening the powers of the Ombudsman, has said the following:

> The office of the Ombudsman was established in 1972 with the proclamation of the Ombudsman Act SA. The extensive contracting out and privatisation of government functions and services by the Liberal government over the last few years, however, has significantly limited the ability of the Ombudsman to investigate complaints especially in the areas of government now privatised or outsourced.
>
> The government established an electricity industry Ombudsman in October 1999 following the privatisation of the electricity industry in South Australia. Labor will investigate how complaints against areas of government which have been privatised or contracted out can be better handled. A Labor government will review the Ombudsman Act and broaden the powers of the Ombudsman to ensure that he can fully investigate claims made by the public against government agencies.

Under the current law, the act empowers the Ombudsman to investigate any administrative act of any agency, i.e. a government department, statutory authority or other authority declared by proclamation.

He only has power to make recommendations and report to parliament if the recommendations are not complied with. And, indeed, one of the great features of the Ombudsman in this state is that he does have limited power, other than direct access to this parliament, to highlight and enforce proper administrative procedures through publicity. He has used that power sparingly, wisely and appropriately from time to time, and I know that he has not been subject to any valid criticism in that regard.

What is disappointing about the contribution made by the Leader of the Government in this place when introducing the bill and, indeed, the Premier in another place, is that they failed to make any reference to the report of the Legislative Review Committee, which was tabled in this place last year, on the Ombudsman privatised or corporatised community service providers amendment bill. That bill was introduced by the now Minister for the Environment (Hon. John Hill) some time ago.

The Legislative Review Committee considered in some detail the issues that bill raised, which are exactly the same as the issues that this bill seeks to address. In that report—and I will quote extensively from the report because of the failure of the government to acknowledge the existence of this parliamentary report—it states:

> Given that in some cases the privatisation of services may deliver a market monopoly to a corporation, it is critical that accountability measures apply that would help prevent any abuse of market powers to the disadvantage of consumers. The review of this bill involves an assessment of whether accountability should be maintained by extending the state Ombudsman's jurisdiction (as proposed by the bill) or by other measures such as an industry specific ombudsman. In making this assessment the committee recognised that community services that have been corporatised should be subject to the same high levels of accountability that applied before corporatisation.

A number of events occurred between the introduction of the Hon. John Hill's bill being introduced into another place and the provision of this report. The report acknowledges that. They include a number of initiatives by the former government, including the establishment of the electricity industry Ombudsman and the gas technical regulator. The committee made the following recommendations: first, it recommended that the parliament continue to monitor the initiatives and seek where appropriate further legislation. In that respect I acknowledge that the government in this case endeavoured to do that. Secondly, it noted that the independence of an Ombudsman is critical to the success of any Ombudsman

scheme. Accordingly, the appointment and dismissal of the Ombudsman should be transparent and subject to published guidelines. This bill does not seek to do anything in relation to that. Thirdly, the committee noted the events which overtook that.

Some of the intervening events are set out in the report and I do not propose to go through them, except to refer members and avid followers of the Ombudsman's bill to pages 8, 9 and 10 of that report. Other accountability measures are available to parliaments in relation to the consideration of those functions which were formerly administered by government bodies that have subsequently been sold, privatised or contracted out. In that respect the report at page 17 deals with some of those issues. In that respect the state Ombudsman gave evidence to the committee and commented about the role of other consumer advisory bodies. One might give the example of consumer affairs in addressing these type of complaints. His comments were made in response to a question put by me and I will read them into *Hansard*. In asking a question of the Ombudsman I said:

> The proposition I put to you is that it may be suggested in the delivery of some services (I am not saying for every service) that the existing set up of the Fair Trading Office, which currently deals with consumer complaints and a whole range of goods and services provisions to the public, would be sufficient. Do you have any comment about that?

Mr Biganovsky answered:

> [That] is a distinctly different sort of role to that of the Ombudsman. It is very much like the debates we come across with all sorts of agencies where they say we provide certain remedies. For instance, the private health area is an analogy. The choice is for the aggrieved person to go to the medical board where it is really very much a disciplinary process and quite frankly the complaints I have in that area are not satisfied with that process generally or the law courts. The Ombudsman's Office has a more flexible, I believe, and wide range of remedies. If another body were to have that ability and the legal capacity to do it, then that would be okay.

I think that was a considered response on the part of the Ombudsman. I acknowledge that the current government made a firm statement on this issue prior to the election and, as a parliament, we have a responsibility to implement government policy in this case. It certainly was not the subject of any major public discourse during the course of the election campaign that I can recall.

The report also talks about industry schemes. I know that is not directly relevant to this bill, but it will be relevant when we deal with the establishment of a health ombudsman, which was announced by the current health minister recently. There was some concern from a number of quarters about the creation of a plethora of ombudsman's offices thereby devaluing the use of the term 'ombudsman' which has some peculiar and particular features that some of these other bodies do not have. I will enlarge on that in more detail later in this contribution.

There is one thing to which I should refer in relation to this issue. The committee heard evidence that the proliferation of industry based ombudsman schemes has the potential to confuse the public. Mr Finn, a well respected law academic at Adelaide University, gave the following evidence to the committee (10 February 1999):

> I do not think you want dozens of different bodies floating around the place. That will probably be more expensive and confusing for people. They will not know which body to go to much of the time. At the ombudsman level I would definitely favour a single body.

I urge the current health minister (or the Labor Party caucus) when considering the legislation that is about to be brought into the parliament concerning the health complaints procedure to be mindful of the comments made by Mr Finn, who is an internationally respected commentator in this area. Mr Hakov, the Electricity Ombudsman, said:

> Some concern was expressed in the previous evidence about the explosion of the number of complaints that occurred in Victoria, for example, when a private industry ombudsman was established and also in New South Wales. From my discussion with that person it has arisen primarily because the scheme has had the resources to advertise its services and it has made itself well known throughout the community. . . This is the reason why there have been more complaints, namely, people are aware that they can go somewhere and have their complaints looked at and resolved in a timely and free fashion.

What I think I have outlined is that there are debates on both sides. I hope that, during the process of dealing with the other health complaints legislation and other issues which will arise from time to time, we keep those two alternatives in mind. We received evidence from Mr Finn about accountability measures adopted in the United Kingdom in relation to privatised services. On that topic, he said:

> Preserving levels of accountability or even increasing them when you privatise something, corporatise it or contract it out is one of the ways of making the whole thing a politically acceptable, palatable process. Certainly that is the experience of the United Kingdom where electricity, telecommunications, gas and water were all moved into the private sector and independent regulators were set up. A National Consumer Council relates to the gas industry, and other bodies of similar description relate to the other industries. Each consumer body undertakes an ombudsman function to resolve low-level consumer complaints about billing, delays in connecting service or something of that order.

Indeed, in that respect, some of these measures have been adopted in this state, both by the previous government and anticipated, based on statements made in the media, by this government.

I wish to raise a number of issues in relation to this bill. First, there is provision for an improved reporting mechanism in so far as this parliament is concerned. Proposed section 6 repeals existing section 31 of the act and confers certain functions on a Statutory Officers Committee. Proposed section 31 provides:

> (1) The Statutory Officers Committee has, in addition to its other functions, the following functions:
>
> (a) to consider matters relating to the general operation of this act;
>
> (b) to provide, on or before 31 December in each year, an annual report to parliament on the work of the committee relating to this act during the preceding financial year.
>
> (2) In considering matters relating to the general operation of this act, the committee must not engage in a review of any particular decision by the Ombudsman.

I congratulate the government on thinking about and working on the issue of some more formal process of accountability by the Ombudsman to the parliament. Indeed, I think there are some other parliamentary offices which should be the subject of a similar considered regime. However, with the greatest respect to the government, it is my view that it has picked the wrong committee.

I do not wish to engage in criticism of any committee other than to say that the Statutory Officers Committee only ever meets in so far as the appointment of parliamentary officers is concerned, in particular the Ombudsman and/or the Auditor-General. The committee does not have any staff or any resources, and those members of parliament who serve on it do not receive any additional remuneration.

The Occupational Safety, Rehabilitation and Compensation Committee has the same characteristics, in terms of remuneration at least. That committee, in spite of the good intentions on the part of the Hon. Michael Elliot, who moved

for its creation back in 1995—and I think you, Mr President, as the then shadow minister, had a lot to do with it—has not fulfilled the expectations that one might have expected from such a committee. I think there are two reasons for that.

First, unless and until the executive is prepared to give parliament sufficient resources to enable the parliamentary committees to function they tend not to function and, in some respects, they tend to bring the whole committee process of this parliament into disrepute. Secondly, there is a reluctance on the part of some members. I hesitate to say this, but it is a fact, from my observation, that they tend to be less diligent (if I can use that term) in relation to their functions where there is no remuneration.

Indeed, one only has to look at the number of times some of these committees meet. I invite members to consider the performance of the occupational health and safety committee to look at the performance of a committee with unpaid members and, indeed, no permanent or formal secretariat to constantly agitate these things.

In that respect, it is my view, in terms of such an important task that this parliament is seeking to assume and in terms of the supervision of the function of the Ombudsman's office, that we should ensure that it is given an appropriate level of attention and an appropriate level of resources. The Statutory Officers Committee has never met—not once. The appropriate committee, in my view, would be the Legislative Review Committee, a committee on which you, Mr President, served with some distinction over many years and a committee of which I am currently a member, and indeed a former chairperson.

The Legislative Review Committee has a number of features that the Statutory Officers Committee does not have. First, it meets and reports to parliament on a regular basis; secondly, it has experience in monitoring executive and government decisions, particularly through the regulation making process; and, thirdly, the Employee Ombudsman reports to the Legislative Review Committee under the Industrial and Employee Relations Act 1994. Therefore, the committee has experience in undertaking the role of representing the parliament in relation to an ombudsman type function. In that respect, that was the decision of the Hon. Michael Elliott when he moved to establish the function of the Employee Ombudsman and, if I can say, quite wisely so, too.

Other jurisdictions have tasked a standing committee that meets regularly with similar monitoring responsibilities and, in particular, I refer members to the Queensland position. Under the Ombudsman Act 2001 in Queensland, the Legal, Constitutional and Administrative Review Committee has a range of functions including monitoring and reviewing the performance by the Ombudsman of the Ombudsman's functions under the act; reporting on any matter of the Ombudsman and his or her functions; and the examination of each annual report tabled by the Ombudsman. I have been told that since that has occurred there has been little or no criticism about that function.

New South Wales took a different tack and they did go to an existing committee in terms of establishing a monitoring function, but what the New South Wales legislation did was refer it to the Police Integrity Commission, which meets regularly. It is an existing committee and it has an existing function. In that respect, there is ample precedent for it to be referred to the Legislative Review Committee. For those members who are confused by the reference to the New South Wales legislation, I point out that the Police Integrity Commission is set up under section 31A of the New South Wales Ombudsman Act, which provides:

> As soon as practicable after the commencement of the first session of each parliament a joint committee of members of parliament to be known as the Committee on the Office of the Ombudsman and the Police Integrity Commission is to be appointed.

It is known as the Police Integrity Commission, so there is no reference to the Ombudsman in that piece of legislation. The other significant issue to which I wish to draw members' attention is clause 32 of the bill, which provides:

> An agency to which this act applies must not use the word 'Ombudsman' in describing a process or procedure by which the agency investigates and resolves complaints against the agency, or in describing a person responsible for carrying out such a process or procedure.

In introducing the bill, the Leader of the Government in this place and the Premier in another place said:

> The Ombudsman has noted that, in recent times, some agencies within the jurisdiction of the Ombudsman have expressed the desire to attach the title 'Ombudsman' to their internal complaint handling system operation. This could create unnecessary confusion and could be misleading to a consumer. Therefore, new section 32 has been inserted to prohibit the use of the word 'Ombudsman' in relation to internal complaints handling systems within agencies of the Ombudsman's jurisdiction.

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

The Hon. A.J. REDFORD: The honourable member refers to the Australian Banking Industry Ombudsman, and I think that is a classic example of the devaluing of the currency and, whilst that office was established pursuant to, I think, federal legislation, it is certainly nothing to do—

The Hon. J.S.L. Dawkins: I think it is just the banking industry, from my understanding. I do not think it has anything to do with government.

The Hon. A.J. REDFORD: The honourable member interjects and says that it might not be established by federal legislation. I must say that I am at a disadvantage in that I do not know precisely the position, but it is another example of the devaluation of the currency. It seems to me that proposed new section 32 ought to be considered as a pretty basic principle in relation to other areas. It seems to me that it is important that, if we are to establish other administrative review mechanisms, such as in the health complaints area, there should be only one ombudsman in town.

The current Ombudsman should be the person charged with that responsibility because he has the resources and the experience, there is a corporate culture and, importantly, there is an understanding within the community that if you have a complaint about a government agency or a government function there is one person to call, and that is the Ombudsman. In my experience, if there is one thing that annoys the public it is constantly being shifted around from person to person and from agency to agency. Indeed, as members of parliament, when a member of the public finally contacts you and you say, 'Well, I think you should go to that agency or to that person', it is almost inevitable that your constituent will say, 'Why didn't someone tell me that earlier?'

Alternatively, the person will say, 'Well, I've been shopped around from A to B to C to D to E to F', and I believe it is important that we do not allow that to occur. The second and equally important consideration is that no government agency should seek to pretend that it is 'The Ombudsman' and feed off the Ombudsman's very good name. When the public contacts the Ombudsman they need to know and be assured that they are dealing with an independent body that is not part of the government in the sense

of being accountable to a minister; that they receive independent advice and that they have confidence in that process. In that respect, I think the government is to be congratulated in relation to the proposed new section 32.

I would hope that, particularly in relation to other areas such as health complaints, it takes a leaf out of its own book and follows that proposal. Indeed, I think it would be unfortunate for us to duplicate responsibilities. We live in a state of 1.4 million people, and we simply do not have the resources to have lots of different ombudsmen or other people running around using that terminology. It is interesting to note that the United Kingdom, which has approximately 50 times our population, has one ombudsman who deals with a whole range of complaints. I think we are being indulgent when we set up separate offices which serve purposes which are either currently being conducted, or which can be conducted, by the Ombudsman. I look forward to other contributions in relation to this legislation, and I certainly look forward to the committee stage of this debate.

The Hon. R.K. SNEATH secured the adjournment of the debate.

STATUTES AMENDMENT (STAMP DUTIES AND OTHER MEASURES) BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 1107.)

The Hon. R.I. LUCAS (Leader of the Opposition): Last week I spoke on most of the provisions covered by the amending bill, but I sought leave to conclude my remarks so that I could further consider the provisions in relation to Pay-roll Tax Act amendments, and I want to make some comments in relation to that matter.

Two particular provisions are to be amended in this bill as it relates to pay-roll tax. One relates to a superannuation area and comes as a result of a recent Supreme Court decision. The second relates to the employment agents area. I was advised that this amendment does not result from a court decision but that government officers considering these issues in relation to another matter had taken advice and believed that they needed to confirm what they understood to be the case with respect to the Pay-roll Tax Act provisions as they related to employment agents.

When one seeks to do this (and on a number of occasions the parliament has been asked to do so), there is the age-old debate about retrospectivity. In the last two years of the former government, there was a major amendment to the stamp duties legislation, I think it was, which came about as a result of what was known as the MSP Nominees Pty Ltd case. To refresh the memory of members, a number of companies were proceeding through appeal processes based on their understanding of the law at the time. The then government's position had been to try to cater for the fact that those that had commenced an appeal and objection process under the law as they understood it at the time were not disadvantaged by the changes but that, on the other hand, with respect to those that had not commenced actions, the floodgates were not opened for everyone to revisit previous decisions of Revenue SA to take advantage of the particular potential loopholes that have been identified by recent court decisions.

Again, allied with that was what had been the intentions of the legislation at the time of the introduction of the changes and how the tax office or Revenue SA had been implementing the tax law for a number of years. Questions in relation to these two changes must obviously be put. My colleague the member for Davenport put a series of questions to the Treasurer. I note that in the second reading response the Treasurer has stated that the government had been advised by the Commissioner of State Taxation that they had conducted a thorough search of their databases and, based on that search and on further questioning of senior officers, the Commissioner was satisfied that to the best of his knowledge there were no current objections or appeals which would be affected by the retrospective operation of the proposed superannuation and employment agent amendments. I think it is important that that has been placed on the record by the Treasurer, because past examples have indicated where the parliament has sought at least to make separate provision—in some cases, but not always, I might say.

We had a recent debate, not on tax law but in relation to gaming machine legislation, where this was a matter of some moment, but on most occasions parliament has sought to make allowance for those people who have already exercised their right under an existing law for an appeal or objection to state tax law. Again, I hasten to say that that is not a hard and fast rule on these issues. I know that I and I am sure all other members will reserve the right to make a judgment on a case by case basis. If, for example, some particular loophole were to be found that in essence would decimate a state tax base literally overnight both prospectively and potentially retrospectively, I am sure all members would view that with much greater concern than they would a potential loophole that might mean that a relatively small number of taxpayers would successfully win a case with the Taxation Commissioner without necessarily placing the state Treasury's coffers at significant risk of revenue shortfall.

For those reasons the Liberal Party is sympathetic to the provisions that have been introduced into this legislation on the basis that, whilst we have accepted submissions from some in the community that this is retrospective, the advice provided by the Commissioner is that no-one has exercised an appeal or objection right at the moment, that this is the way the legislation has been implemented for a number of years by the Commissioner for State Taxation, and that this was broadly in accordance with the intentions of parliament at the time.

I leave one question with the minister for the government to respond to at the end of the second reading. Whilst on the basis of advice we have received in relation to the superannuation case I accept that this is the way the tax law has been implemented, I ask the government to place some greater detail on the public record about what the Commissioner for State Taxation and the government believe to be the reason that payments were made in relation to a recent Supreme Court decision.

I will summarise it as simply as I can: payments were made from an actuarially determined surplus in the superannuation fund and for a period of three years a particular employer was given a contribution holiday. That is, it was a defined benefit superannuation scheme, the entitlements of the employees were protected and, for a variety of reasons, whether it be the impressive investment potential of the fund over recent years or the fact that the number of employees who had left without taking benefits because they had not qualified for them was greater than might have been estimated, or for a number of other reasons, there was this surplus

in the fund, and the employer was given a three year contribution holiday.

So, as I understand it, the argument of the appellant in this case was that, while no actual—that might not be the correct legal phrase, having struggled through the judgment, I hasten to say—normal payment was being made in terms of the employer's contribution, nevertheless a notional allocation from surplus to the member's account had been provided for by the trustees, and there appeared to be an argument whether the actions of the trustees and the actions of the employer were one and the same as part of the Payroll Tax Act interpretation.

So, they are the broad circumstances of the problem as I understand it. As I said, whilst I understand that it is the legal advice available to the government—and this is how the Commissioner for State Taxation has been interpreting the law for quite some time—I seek from the commissioner and the government an explanation as to why they believe that that is the way the Payroll Tax Act ought to operate and, if it were to be interpreted differently, what potential problems the Commissioner for State Taxation might see, either in this area or, indeed, other areas, should it be interpreted in a different way. With those comments, I indicate that the opposition supports the second reading.

The Hon. R.K. SNEATH secured the adjournment of the debate.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 16 October. Page 1074.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition supports the second reading of this bill. It makes amendments to 12 different acts of parliament and is similar to a bill which was introduced by the previous Liberal government and which passed through the Legislative Council during the last session but was not debated in the House of Assembly. The various amendments are, in some respects, technical, although some have more substance than others. However, because this bill is not identical to the previous bill and omits two previous sections and includes three new sections, I want to spend a little of the council's time examining those changes.

The previous bill contained two amendments to the Criminal Law Consolidation Act: first, the power to make regulations; and, secondly, a power clarifying mental impairment provisions. However, both those amendments to the Criminal Law Consolidation Act have been omitted and I seek from the minister in his summing up a clarification of the reason for that omission.

Another omission arises because the previous bill moved from the Chief Secretary to the Minister for Justice certain powers which the Public Assemblies Act confers on the Chief Secretary. However, that amendment to the Public Assemblies Act has been removed from this bill and, once again, I seek clarification from the minister as to why that has been done.

The bill includes a couple of new sections: first, an amendment to section 14BA of the Acts Interpretation Act consequent upon certain judicial determinations, and I will come to that matter when I briefly run through the bill in a moment. Another new section relates to the definition of a member of a defendant's family in the Domestic Violence Act, a clarification which we certainly support and which again I will mention when I run through the 12 acts in a moment.

Yet another new section relates to the Expiation of Offences Act. It is an amendment to section 14 of that act to make it clear that a person under an enforcement order may seek either a review of the enforcement order or an appeal against the conviction, but cannot do both. In other words, the person cannot both seek a review of the enforcement order and then, not liking the decision, decide to appeal against the conviction or vice versa.

The amendment to section 14BA of the Acts Interpretation Act arises by reason of the decision of the full court of the Supreme Court in the Police against Siviour, reported in 2000 South Australian State Cases at page 246, a road traffic case, in which the meaning of the existing provision in the Acts Interpretation Act came under review. The existing provision, which is subsection (2), provides that (and I am omitting unnecessary words) a reference in an act to a part or provision of that act or some other act, includes, unless the contrary intention appears, reference to statutory instruments made or in force under that act or another act in so far as they are relevant. The words 'in so far as they are relevant' are important because they are now omitted.

In Siviour's case, Mr Siviour was stopped after being observed exceeding the speed limit, and he was travelling at 138 km/h on a road where the speed limit was 100 km/h. After being stopped, he refused to submit to an alcotest after being so requested by the police. He was subsequently charged with two offences, one exceeding the limit and, secondly, failing to submit to an alcotest. He was found guilty of the speeding charge. However, the magistrate held that there was no case to answer because the non-compliance with the requirement to take an alcotest arose under the Australian road rules, and two members of the full court held that the Australian road rules could be incorporated under the section. However, one of the judges held that the Acts Interpretation Act was not sufficiently wide to include the Australian road rules. That particular judge would have dismissed the police appeal. However, the majority judges upheld the police appeal and sent the matter back to the magistrate.

In the circumstances where there is some doubt about the effect of a provision as important as one in the Acts Interpretation Act, it is appropriate that this parliament act to remove the ambiguity. That is done in this bill by substituting the words 'connected to' rather than 'relevant to', which is the existing provision. I am happy to accept the government's legal advice and that of parliamentary counsel on the effect of this particular change.

The next amendment to which I refer is an amendment to the Administration and Probate Act, and it will relieve an executor or administrator of the necessity to fully list the assets of a person who is not domiciled in Australia. At the present time, there is an obligation under section 121A of the Administration and Probate Act for the executor, administrator or trustee of the estate to disclose to the court, and any assets or liabilities of the deceased which come to the knowledge of the executor (and so on) whilst acting in that capacity. There are cases where someone whose association with the state of South Australia might be relatively slight, they might only have small assets in this state and it is considered that the obligation to list not only South Australian assets but all the assets is unduly onerous, and accordingly this amendment is proposed. I must say that I

have a little unease about this because it is my view that executors and administrators should fully list in this state all assets of which they are aware, wherever they might be located. However, notwithstanding that reservation, I am prepared to support the government amendment.

Part 4 of the bill deals with an amendment to the Criminal Law (Sentencing) Act and, in particular, section 71 of that act. That section relates to community service orders and, in particular, it deals with the situation where there is non-compliance with a community service order. The section provides that an order of the court requiring performance for community service is enforceable by imprisonment if the person does not comply. Subsection (2) provides that the term of imprisonment will be one day for each eight hours of community service remaining to be performed, or six months imprisonment, whichever is the lesser.

The section is quite detailed. It goes on in subsection (4) to provide that, if a person fails to appear before the court, as required by a notice issued under the section, the court may issue a warrant for the arrest of that person. Subsection (5) provides that, if the court is satisfied that the person failed to comply with the order, it may issue a warrant of commitment for the appropriate term of imprisonment.

However, subsection (7) provides that, if the court is satisfied that the failure of the person to comply with an order requiring performance of a community service order was trivial, or that there are proper grounds upon which it might be excused, the court may refrain from issuing a warrant of commitment and extend the term. Subsection (8) provides that, if the court is satisfied that the person's failure to comply with the order is excusable on the ground that the person's obligations to remunerated employment gained since the making of the order, and that the person now has the means to pay a fine without the person or his dependants suffering hardship, the court can revoke the community service order and impose a fine.

The maximum fine is presently stipulated in subsection (8)(b), which it is now proposed to amend by limiting the fine not to the offence which attracts the highest fine but to insert the words 'the total of the maximum fine that may be imposed for the offences for which the person was originally convicted'. The example given in the second reading explanation of a situation in which an anomaly arises under the existing section is entirely appropriate and we certainly support this amendment which will ensure that our community corrections system works efficiently.

The amendment to the Domestic Violence Act is a new amendment, and it will expand the definition of the expression 'member of the defendant's family' to include a child of whom the defendant has custody as a parent or guardian and also a child who normally or regularly resides with the defendant. Many domestic arrangements now are such that the relationship between the adults in the household and the children there are not blood relationships, and it is appropriate that the children who normally or regularly reside with the defendant are entitled to the protection of the Domestic Violence Act.

In part 6 of the bill, there is an amendment to the Evidence Act, dealing with the administration of affirmations and in particular the response required of a person taking an affirmation. As is noted, section 6 of the Evidence Act deals not only with the taking of oaths to which the response may be simply the words 'I swear' but also the rather more complex words in response to the administration of an affirmation. It is now proposed that a person to whom an affirmation is administered may respond simply by saying, 'I do solemnly and truly affirm,' which is entirely appropriate and overcomes what is an unnecessary complication in the current practice.

In view of the time, I will not deal with all the amendments, some of which are technical. However, I should mention the amendment to the Partnership Act which deals with responsibility for wrongs, because it seems to me that this is a quite significant alteration to the substantive law. Currently under the Partnership Act—and in particular section 10 thereof—where a partner acting in the ordinary course of the business of the partnership or with the authority of the partner's co-partners incurs loss or causes damage, the firm is liable for the whole of the loss, injury or penalty to the same extent as the partner himself or herself is.

The second reading explanation points out that apparently the Law Society is concerned that some partners in legal firms may also be acting as directors of companies and that their acts or omissions as directors of the companies may result in the members of the firm being personally liable for the damages incurred or caused by their legal partner acting in his capacity as a company director. It is proposed that the legal partners—or the co-partners, as they are called in the amendment—will not be liable simply because of one of the following factors: firstly, in the example given, the fact that the legal partners agreed to the appointment of one of their partners as a director; secondly, merely because the remuneration that the partner receives for acting as a member of the body corporate forms part of the income of the firm (and I can indicate to the council that it is common for legal practitioners who act as directors of companies in the course of their legal duties to have their remuneration paid into the firm and treated as part of the income of the firm); and, thirdly, the co-partners are not liable solely because their co-partner is a member of the governing body of some body corporate.

We certainly support this amendment in principle, although I query how it can be included in a portfolio bill because, in my view, it is a significant amendment to the substantive law. There are amendments to the Real Property Act—in particular giving the District Court, as well as the Supreme Court, jurisdiction in relation to matters such as the lifting of caveats or matters of ejectment (that is an entirely sensible amendment). The matter of obsolete references to the Chief Secretary and substitution of the Attorney-General in that context is important, as are the provisions to simplify the rules relating to the granting of easements for service purposes or electricity.

The amendment to the Expiation of Offences Act means that a person does not have the right to both seek a review of an enforcement order and to appeal against the conviction that gives rise to the enforcement order. A person must now either exercise a right to have the order reviewed or appeal against the conviction. In order to avoid unnecessary duplication and administration, it is appropriate that there be only one avenue under the Expiation of Offences Act.

There is an amendment in part 10D of the Summary Offences Act, and the example given in the second reading explanation does not inspire much confidence. The second reading explanation states:

> The Summary Offences (Searches) Amendment Act amends the Summary Offences Act to regulate the procedures for intimate and intrusive searches of detainees by police, including the videotaping of such procedures.

It is obvious that the videotaping of intimate search procedures is a considerable invasion of privacy and it should be controlled strictly. The act imposes a heavy penalty for the unauthorised playing of a videotape, and the second reading explanation states that it is desirable that there be the ability to prescribe a penalty for breaching the prohibition that is contained in the regulation against copying a videotape. I would have hoped that the penalty for copying a videotape of an intimate procedure would be as severe as the penalty for the unauthorised playing of such a videotape, because it is difficult to conceive of a legitimate reason for the unauthorised copying of such a videotape.

However, notwithstanding that the example given is inapt and notwithstanding that the penalty is a fine not exceeding $2 500 for noncompliance with a regulation, this is a matter that most appropriately ought be dealt with when the regulation itself comes before the parliament for scrutiny. The remaining provisions of this bill are procedural and are supported.

The Hon. J. GAZZOLA secured the adjournment of the debate.

STATUTES AMENDMENT (CORPORATIONS—FINANCIAL SERVICES REFORM) BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 1109.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will be supporting the second reading of this bill. The bill is ancillary to the national scheme for the regulation of corporations and financial institutions. Since 2001, corporations have been regulated nationally under a scheme which was made possible by all states referring to the commonwealth parliament certain powers which the states had retained up to that time.

Three acts of importance in this regard, passed by the South Australian parliament in 2001, are the Corporations (Commonwealth Powers) Act; the Corporations (Administrative Actions) Act; and the Corporations (Ancillary Provisions) Act. In consequence of those referrals of power by each state, the commonwealth parliament was able to enact the Corporations Act and the Australian Securities and Investment Commission Act—the ASIC Act, as it is called.

Although these acts only commenced on 15 July 2001, they have already been amended by the commonwealth parliament and, in particular, by the Financial Services Reform Act 2001. That act, called the FSR Act, provides for a single licensing, disclosure and conduct framework for all financial service providers, and it establishes a consistent and comparable financial product disclosure regime which applies to financial investment, financial risk and non-cash payment products. The act was part of the commonwealth's response to the recommendations of the Wallace committee, which examined the financial system.

The FSR Act amendments have necessitated consequential amendments to a number of state acts. The effect of this bill is that the amendments contained in it will ensure the use of comparable terminology in a number of state acts. One significant additional amendment is designed to facilitate ongoing amendments to the national scheme. Such amend-ments often necessitate consequential amendments to state legislation but, owing to state parliamentary constraints, it is not always possible to enact the necessary consequential amendments before the commencement of the relevant commonwealth amendments. This can result in inconsistencies between related state and commonwealth provisions and may even render inoperative state provisions that refer to or rely upon concepts or terminology made redundant by commonwealth amendments.

To address this problem the bill will empower the governor of this state to make regulations to amend provisions in state legislation that refer to or rely upon the provisions of commonwealth acts, or the ASIC Act itself.

To ensure that this regulation-making power is not used to circumvent the proper parliamentary processes, it is subject to the following limitations. First, an amendment to a state act to be effected by a regulation must be necessary as a consequence of amendments to the Corporations Act or the ASIC Act. Secondly, an amending regulation may not deal with any other matter except matters of a transitional nature, consequent upon the amendment to the Corporations Act or the ASIC Act. Thirdly, an amending regulation will automatically expire after 12 months unless revoked or specified to expire at an earlier time. These limitations are important, because what is being authorised is the amendment of legislation by regulation, which is an exceptional matter and one which requires close scrutiny and limitation.

The three limitations to which I have referred will ensure that necessary amendments to state legislation can be made on an interim basis without the need for parliament to enact amending legislation. However, a bill will in due course be necessary, to ensure that the consequential amendments are given permanent effect when the state parliament has had an opportunity to pass the necessary legislation. It is also worth mentioning that regulations made under the proposed provision will be subject to the usual provisions of the Subordinate Legislation Act and, in particular, section 10 of that act. In other words, it will be possible for either house of this parliament to disallow such a regulation. We are informed by the government that similar amendments are being made or have already been made in other jurisdictions.

Although the concept of amending legislation by regulation is unusual and, many would argue, contrary to principle, we do support it, principally because the regulations in question will be open to disallowance and will have to be replaced in due course by an act of the state parliament within 12 months. It is probably paradoxical that this proposal will probably provide greater parliamentary scrutiny, because to date the practice in these schemes has been almost invariable, of coming to the parliament and saying that we must in the interests of national uniformity immediately pass legislation that this parliament has very little opportunity to scrutinise.

This has been an unseemly process in the past, but it will be avoided in the future by allowing the government to pass the regulation and the parliament in due course to consider and, if appropriate, pass legislation. The second reading of this bill will be supported.

The Hon. J. GAZZOLA secured the adjournment of the debate.

ADJOURNMENT

At 6.24 p.m. the council adjourned until Tuesday 22 October at 2.15 p.m.