LEGISLATIVE COUNCIL

Wednesday 20 November 2002

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. CARMEL ZOLLO: I bring up the 13th report of the committee.

Report received and read.

The Hon. CARMEL ZOLLO: I bring up the 14th report of the committee.

Report received.

ANTI-TERRORISM LEGISLATION

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

CEMETERIES

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on a review of cemetery provisions made by the Hon. J. Weatherill in another place.

WOMEN'S STATEMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on a women's statement made by the Hon. Stephanie Key in another place.

QUESTION TIME

MINISTERIAL RESHUFFLE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about the government's ministerial reshuffle.

Leave granted.

The Hon. CAROLINE SCHAEFER: Yesterday Premier Mike Rann announced the following:

> We have invited Rory McEwen to join our government as a minister, not as a junior minister but as a cabinet minister, a minister who brings the country and who brings the regions to the cabinet table. I mean, this just reinforces and strengthens the government. It makes the government, as I say, truly inclusive, and we have been trying to do it in a whole range of ways, through boards, and also the way we do business is different.

Today the Premier went further. He said on talkback radio this morning:

> Here is, for the first time—

The Hon. A.J. Redford: The first time?

The Hon. CAROLINE SCHAEFER: —yes, the first time—

> an opportunity to bring the regions and also the country to the cabinet table.

Further, the minister in waiting (for regional development as it is now) said this morning:

> I accept the challenge on behalf of regional South Australia to bolster up the regional voice in cabinet.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: The current minister has in fact confirmed this, because he did say in estimates in August:

> Responsibility for policy development is not within my portfolio. I had no input into policy and for the funding regime.

As a result, we all know that regional South Australia has indeed suffered massive budget cuts under the Labor government—cuts to regional road funding, regional crime prevention programs and regional school infrastructures to name a few. My questions are:

1. Was this minister in fact a junior minister? If so, why was he collecting a cabinet minister's pay?

2. Is this an admission by the Rann government that regional South Australia has not had a voice to date and has been neglected?

3. More particularly, does this indicate that the current minister has neglected his ministerial portfolio, and, if so, will he apologise to the people of regional South Australia and resign before he is sacked?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): Thank you, Mr President.

The Hon. R.I. Lucas: 'For the first time'—what have you been doing for eight months?

The Hon. T.G. ROBERTS: Well, it is the lead question.

The PRESIDENT: Order! This could be the last time.

Members interjecting:

The Hon. T.G. ROBERTS: Well, it was; I have just taken it out.

Members interjecting:

The Hon. T.G. ROBERTS: No. I should have brought the correspondence—

The Hon. P. Holloway: Since when were there previously two ministers from the South-East in the cabinet?

The Hon. T.G. ROBERTS: That is right. I should have brought the correspondence from organisations—

Members interjecting:

The PRESIDENT: Order! This will be the last time, not the first time.

The Hon. T.G. ROBERTS: I should have brought the correspondence that was indicating the disappointment of my leaving the portfolio of regional affairs so I could have read that into the *Hansard*. But, being the modest person that I am, I did not bring that with me. It is true that a new ministerial responsibility is being proposed for regional affairs—

The Hon. R.I. Lucas: 'For the first time' we are going to have someone there.

The Hon. T.G. ROBERTS: That is not strictly correct.

Members interjecting:

The Hon. T.G. ROBERTS: I think the word 'bolster' is the one I would use.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: No, it is the word you used.

The PRESIDENT: Order! I am having trouble hearing the defence.

The Hon. T.G. ROBERTS: The word 'bolster' was used by the honourable member in relation to her description at one stage, and that is how I would describe the changes. We all welcome the introduction of Rory McEwen into the cabinet, and it will be a support for the Rann Labor government. We live in times in which the consensus

required by communities now to solve their own problems does not allow for the divisions that, historically, over the years, have been created between the two major parties. If members opposite talk to their constituents in regional areas, they will know that they have problems that need fixing. They do not care which side of the political divide fixes them. They want consensus, and they do not want the bickering that goes on within the parliamentary process, and they would like—

The Hon. J.S.L. Dawkins: They want action.

The Hon. T.G. ROBERTS: That's right. The Hon. Mr Dawkins says, 'They want action', and that is exactly what this government will do. By having as many people with as many skills as possible in cabinet we will be able to put together programs that regional people—

The Hon. R.I. Lucas: For the first time!

The Hon. T.G. ROBERTS: Well, it will be the first time that we will have an advocate from a—

The Hon. R.I. Lucas: It will be the first time that it has happened.

The Hon. T.G. ROBERTS: No, it will be the first time that we will have an advocate from the Independent group in the other place. It has not been done before—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The position is that Rory McEwen and the skills that he will bring to the cabinet table will be welcomed by this government. He will be able to add a voice, and not just one voice but another voice to the issues associated with regional problems—

Members interjecting:

The PRESIDENT: Order! There are too many interjections.

The Hon. T.G. ROBERTS: I will certainly be keeping in touch with the portfolio of regional affairs, because my other portfolio is Aboriginal affairs, and many of them live in the regions and remote areas. I will be keeping in contact with and certainly hope to work with the new minister; and I will be working with the communities to try to bring about change within those communities for Aboriginal people. The position is not a junior ministry: it is a senior minister's position and we will show the respect due to the portfolio areas that the honourable member will have. His portfolios will include state trade, liaison between commonwealth and state responsibilities, regional affairs and local government—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I can understand why members on the other side would be put out by our drawing in of one of their former members who was defeated in a preselection ballot in Mount Gambier, ran as an Independent and won that seat that the Liberal Party was expecting to win following the retirement of the sitting member, Harold Allison, who held the seat very comfortably. I hope that the position Rory McEwen brings to the cabinet allows him to service his electorate as well as the state in a responsible way.

The Hon. CAROLINE SCHAEFER: I have a supplementary question.

The PRESIDENT: Order! The minister has not finished yet. I understand the enthusiasm of members from the South-East at having a cabinet minister, but I remind them about standing orders and order, for the last time, that they cease interjecting.

The Hon. Diana Laidlaw: Were you warning me?

The PRESIDENT: I am warning all members who consistently interject while the minister is responding.

The Hon. CAROLINE SCHAEFER: Given his obvious love for his soon to be previous portfolio, will the minister outline some of his achievements in his position as Minister for Regional Affairs over the past seven months?

The Hon. T.G. ROBERTS: I would love to respond to that question, but I am afraid that question time is not long enough. I am extremely sorry but I will have to refer the question to the new minister and bring back a reply.

The Hon. D.W. RIDGWAY: I have a supplementary question. Can the minister enlighten us as to what skills the new minister will bring to the portfolio that the previous minister did not have?

The Hon. T.G. ROBERTS: I think the new minister will supplement the contributions that have been made by the previous minister.

MINISTERIAL RESPONSIBILITY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question on the subject of ministerial responsibility.

Leave granted.

The Hon. A.J. REDFORD: Yesterday the Premier announced the creation of a new cabinet position for the member for Mount Gambier, Rory McEwen, and indicated that he will have responsibility for local government, trade, regional development and as minister assisting federal-state relations. Having been stripped of the portfolio of regional affairs, the Hon. Terry Roberts was given the title of minister assisting the minister for environment and conservation. As Brad Selway says in his book *The Constitution of South Australia*, a minister has a public duty to answer a question concerning his or her portfolio. It states:

> Ministers are responsible to the parliament for the administration of acts for which they are responsible and for the actions of departments and public servants under their control.

The ministerial code of conduct in relation to relationships with public servants states:

> Ministers should establish with their senior departmental and agency managers a mutual understanding of their respective roles and relationships, agree on priorities, directions, targets and expected levels of performance, and evaluation of performance.

It is important that parliament has a clear understanding of which minister is responsible for what. The recent Auditor-General's Report puts the EPA, national parks, botanic gardens, environmental and geographical information, business development and environment policy all under the one banner of Environment. The budget papers put the Department of Environment and Heritage, the Department of Water, Land and Biodiversity and the catchment water management boards, including the South-East board, under the Minister for Environment and Conservation.

Page 8.2 of the budget papers sets out the ministerial responsibilities and the acts for which the minister is responsible, including the Animal and Plant Control Commission, the soil boards, the Dog Fence Board, Coast Protection Fund, Pastoral Board, Water Resources Levy Fund, and the like. I note that the Minister for Environment and Conservation also has responsibility for the southern suburbs. The Hon. Terry Roberts appears in the order of precedence of

ministers at No. 6 whereas the Hon. John Hill is at No. 9, so we have No. 6 assisting No. 9.

In the Westminster system where ministers are accountable to parliament, we must know who is to be held accountable, which minister should resign when we inevitably uncover hopeless administration, and whom a public servant or a member of the public should contact in order to get a decision. In light of this, my questions are:

1. How will we determine who is responsible for what?

2. Will the ministerial code of conduct be amended so it sets out what is to happen where ministers assisting are appointed? For example, will they both resign if there is maladministration in the Department of Environment and Heritage?

3. In matters that do not go to cabinet, who will be responsible for decisions, the management of funds and signing documents?

4. Will the minister refer all his answers to questions on the environment to his superior, or will there be a clear delineation so we know who is responsible for what?

5. Will the minister ask the Premier to change the order of precedence so that the Hon. John Hill is at No. 6 and the honourable minister is at No. 9?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thought a fellow south-easterner might have been a bit more sympathetic than that.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! We all want to know the answer.

The Hon. T.G. ROBERTS: I will have to refer some of those questions to another place for an answer, but a bill will be in front of us in both houses which will clarify some of those issues. We have—

The Hon. A.J. Redford: No, it won't.

The Hon. T.G. ROBERTS: It will clarify some of the issues in relation to what role and function—

The Hon. A.J. Redford: Will the bill set out what you are responsible for?

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The minister will concentrate on the answer and will not debate.

The Hon. T.G. ROBERTS: The honourable member will have an opportunity to discuss and debate the bill, but the bill will include the role and function of the incoming minister. The honourable member will have an opportunity to ask questions in relation to that as the bill goes through all stages before it is passed. Shared portfolio responsibilities exist at the moment yet similar questions are not asked of, for example, the Premier in relation to how he deals with the Hon. John Hill as Minister Assisting the Premier in the Arts.

The Hon. A.J. Redford: They should be asked in that sense, too. That is no excuse to duck them.

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I am not ducking them; I have a responsibility. The question has been asked—

The PRESIDENT: Order! The minister will address the chair and he will not debate across the chamber.

The Hon. T.G. ROBERTS: I can refer the question and bring back a reply, which I will do, because the—

The Hon. Diana Laidlaw: Who are you asking? The Premier?

The Hon. T.G. ROBERTS: I will refer the question to the Premier and bring back a reply.

The Hon. A.J. Redford: When? This is urgent.

The Hon. T.G. ROBERTS: The honourable member can ask those questions as the bill goes through this place and he will have an opportunity to support it or vote it down in regard to his own—

The Hon. A.J. Redford: We are entitled to know for what you are responsible.

The Hon. T.G. ROBERTS: I will refer the question and I will bring back a reply to parliament. I will not duck that responsibility. I have a responsibility to the parliament, as we all do, and I will carry out that responsibility.

The Hon. A.J. REDFORD: As a supplementary question, will the minister clearly set out the acts of parliament for which he will be responsible and which acts of parliament minister Hill will be responsible for, and, indeed, which acts of parliament both ministers will be responsible for, so that if we catch one we can get two?

The Hon. T.G. ROBERTS: I think that the question is a little churlish, but I will answer it. We will clearly set out the roles and responsibilities of each minister. There will be a swearing-in process in which—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: That will follow due process. I am not in control of those—

The Hon. A.J. Redford: We want to know who is responsible for what.

The Hon. T.G. ROBERTS: The time frame will be far less than six weeks. Going to the Governor will be a part of the normal process. I am sure that I will be able to answer the honourable member when those questions have been decided.

The Hon. DIANA LAIDLAW: As a supplementary question, and further to the matters the minister proposes to refer to the Premier, will he also ask the Premier to explain why it is necessary for his government to establish a new position of acting minister for environment and conservation? Why is such a position necessary, considering that the Hon. Mr Hill assists the Premier in the arts. If he were not doing that task he would probably be able to do the whole portfolio himself rather than have a minister assisting in the arts and now a minister assisting the minister assisting the Minister for the Arts in his other responsibilities.

The Hon. T.G. ROBERTS: It is good to see the opposition concerned about the way in which the government determines its ministerial formation.

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. T.G. ROBERTS: Members opposite have very short memories. I think that, when they were in government, there was an inner ministry and an outer ministry—sometimes in, sometimes out. The inner ministry was sometimes on the outer and, in relation to ministers' own portfolios, there was by-passing of cabinet in relation to many decisions that were being made. Some ministers were not game to take their portfolio problems to cabinet in case they were picked up by the Premier's office and either vetoed or forgotten. I will refer that extra question to the Premier and bring back a reply.

The Hon. A.J. REDFORD: I ask a supplementary question. Have Premier Rann and Minister Hill established with their senior departmental and agency managers in the arts a mutual understanding of their respective roles and relationships, their priorities, directions and targets and

expected levels of performance in accordance with the ministerial code of conduct?

The PRESIDENT: Order! I rule that that is a separate question; it has nothing to do with the original question on the arts. The Hon. Mr Ridgway has the call.

The Hon. A.J. Redford interjecting:

The PRESIDENT: It was not a supplementary question to the question which was directed at the arts.

MURRAY-MALLEE STRATEGIC TASK FORCE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question about the Murray-Mallee Strategic Task Force.

Leave granted.

The Hon. D.W. RIDGWAY: on 27 August this year I asked the minister for an indication of when a chairman of the Murray-Mallee Strategic Task Force would be appointed. The minister advised the council that the discussions and the decision to appoint a chair were still being held and that the question of whether members of parliament should chair those meetings or attend and report back was still being discussed. In accordance with the wishes of the task force to have a member of parliament as chair, the minister was then asked when this appointment would take place. The minister indicated his preference to appoint a local person to chair the meetings rather than a member of parliament. Again he confirmed that, if it was the wish of the task force to have a member of parliament as chair, the government would comply and the decision on which member is to be appointed would be discussed at the earliest opportunity. My questions to the minister are:

1. Has a decision been made on whether to appoint a chair of the task force; and, if not, when is that decision likely to be made?

2. If a member of parliament is to be appointed to the chair, who is that member likely to be?

3. Will the minister guarantee that the government will honour the commitments made to the task force—if they have already been made—given his recent dumping from the portfolio of regional affairs?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I will have responsibility for the portfolio for the foreseeable future until the swearing-in of the ministers takes place, so issues relating to the Murray-Mallee Regional Task Force are my responsibility. I will bring back replies to these questions as they refer to matters that are still being dealt with.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE

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

Leave granted.

The Hon. CARMEL ZOLLO: On Friday 25 October 2002, the South Australian Research and Development Institute (SARDI) celebrated its 10th anniversary. Will the minister inform the council of the contribution that SARDI has made to the state's economy over the past 10 years?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): SARDI is—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Carmel Zollo is extremely well briefed in matters of agriculture, and I am sure that, like me, she wishes to have this very important information shared with not just this council but the wider South Australian community.

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. If that is the case, why does the minister not make a ministerial statement?

The PRESIDENT: Order! That is not a point of order; it is an opinion.

The Hon. P. HOLLOWAY: The South Australian Research and Development Institute (SARDI) celebrated its 10th anniversary at the end of October, and a function was held to mark the event. The Hon. John Dawkins attended on behalf of the opposition and a number of former ministers and heads of SARDI were also present—

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

The Hon. P. HOLLOWAY: —that's right, yes—to recognise and celebrate the 10th anniversary of SARDI, because it has grown over those 10 years to be an extremely important organisation for this state. Some figures were calculated using economic forecasting models to indicate just how important SARDI has been for the South Australian economy over this decade under a number of governments.

It has been calculated that the South Australian economy has benefited by more than $8 billion as a direct result of work that has been carried out by SARDI over the past 10 years. That figure represents SARDI generated growth in gross state product during the institute's first 10 years of operation. What I think is even better news is that economic forecasting models conservatively predict that this growth could be worth at least a further $10 billion between now and 2020 and that that figure could possibly go much higher. Those figures indicate that SARDI is a world-class research and development body.

I congratulate all governments and ministers that have been involved in the development of the Waite Campus over the past 10 or 15 years. The Waite Campus has developed into one of the most impressive agricultural research centres in the world. I have little doubt that it would be the finest in the southern hemisphere, and it is certainly of world class standard. Its scientific successes have so often equated to huge industry benefits in terms of production, marketing, delivery and profitability.

The breakdown of the figures relating to SARDI's contribution to gross state product during the past 10 years by the institute research groups is as follows: grains, $3.019 billion; livestock, $3.686 billion; viticulture, $409 million; horticulture, $567 million; and aquatic sciences, $768 million. The forecasted figure to 2020 uses a standardised ecometric formula to subtract the total amount of projected public-private sector investment in SARDI from the total related generation in economic growth. The resultant figure of $10 billion takes into account possible future downturns, money market fluctuations and other possible negative factors. It is conservative and has the potential to be as much as 50 per cent higher.

The South Australian Research and Development Institute has played a very significant role in this state's development over the past decade and, given the importance of the primary industry sector to this state, I am sure it will continue to have an increasingly significant role in the future.

PILCHARDS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question about the South Australian pilchard fishery.

Leave granted.

The Hon. IAN GILFILLAN: Pilchards have made the headlines quite spectacularly in recent years as a result of the 1996 and 1998 die-offs, the causes of which were subject to quite extensive review, including a parliamentary inquiry. Five years later, I note that the total allowable catch for the 2003 year has been set at 36 000 tonnes. This represents a doubling on this year's total allowable catch of 17 700 tonnes which, in turn, was a substantial increase on the 2001 level.

Honourable members will know that the principal use of pilchards is in tuna feedlots on the West Coast, and it is of great interest, I believe, to this place that there has been some questioning of the use of pilchards in feedlots for tuna. I quote from a letter from the Australian Marine Conservation Society addressed to the minister. I am not sure whether it has yet reached the minister's hands, but the quotes are relevant whether or not he has them. The first is from Marcus Stehr, a tuna farmer at Port Lincoln. On 15 March last year on *Landline* on the ABC, he stated:

> We've commercially fed two of our cages this year and next year we will be feeding basically all of our cages a pelletised food. When you consider as far as a tuna feed goes the. . . (food conversion ratio) could be as high as 15 to 20 to 1—

that is, for the pilchards—

> whereas a pelletised food is 7 or 8 to 1, so that's actually going to cut down our feeding levels to half to get the same weight gain on the product. A pellet is a lot environmentally, it's a lot more user friendly and we can control the feed rates and the feed patterns. So far as an environmental basis that will be a very big plus for industry.

Further in the same letter is a quote from Mr Colin Freeman of Australian Bight Seafood, who stated:

> The Japanese always seem to be able to find some variation on how the fish should or could be. For instance, some of the Japanese used to say that the farm fed tuna started to taste more of the bait than the fish so it was a criticism of the pilchard-fed fish.

So, it is quite clear that there is substantial argument now being put forward that pilchards are not the desired feed for the tuna feedlots.

These increases on the total allowable catch are based on assessments of the stock levels of pilchards in the South Australian fishery. The total allowable catch is divided amongst those licensed to fish pilchards in South Australia. However, concern has been raised with my office that the assessments do not adequately consider the effects that such an increased harvest of pilchards will have on the general ecosystem and other fisheries.

Both salmon and snook feed upon pilchards, as do a variety of other fish and birdlife. Pilchards have been found to be particularly important in the diet of sub-adult salmon. Any effect that increased pilchard catches have on salmon and other fin fish would be a considerable concern to commercial fishers. My questions to the minister are:

1. What are the current and estimated future stock levels of pilchards in the South Australian fishery?

2. What will be the impact of the increased total allowable catch for pilchards on other species dependent on the pilchard fishery? If that has not been assessed, why not?

3. To what extent will the increased total allowable catch achieve a reduction in the importation of pilchards?

4. Does he agree that it is preferable to replace pilchards with pellets for tuna feedlots?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member asks a number of important questions in relation to the pilchard fishery. Pilchards may be very small fish, but it is interesting that, with an allocation this year of 36 000 tonnes, the pilchard fishery will be, by weight, by far the largest fishery in South Australia. In that sense, it is an extremely significant fishery. If one allows a price of, say, $2 to $3 per kilogram for pilchards and multiplies that by 36 000 tonnes, that comes to something approaching $100 million. So, one can see that it is by no means an insignificant fishery. Of course, that raises a number of issues.

The honourable member would be well aware that some years ago we had a significant fish kill amongst pilchards, when a herpes virus almost wiped out those stocks. At the time, there was some concern that that wipe-out would have a significant effect on the ecosystem. However, pilchard numbers have grown, as these figures indicate, to a very large and significant extent.

The fishing quota that is set for the pilchard fishery is based upon 15 per cent of the biomass, which is fairly conservative. I believe that, in other fisheries in the world, figures of 20 per cent, or perhaps higher, are set for fishing targets. Given that we have a very well-controlled fishery in this state and given that the fishery is subject to such large fluctuations, I would not have thought that 15 per cent of the biomass is likely to have any long-term significant effect on other species, particularly since the numbers this year are likely to be much greater than they were some years ago following the fish kill. This species is subject to a large fluctuation in numbers. The quota for the fishery is based on SARDI research and is set at a fairly conservative figure.

The honourable member covered a number of other issues in his question, particularly the use of pilchards as tuna feed. There is some argument in the tuna industry as to whether the Japanese market prefers tuna that have been fattened by pilchards (perhaps the oil makes them more attractive), or whether other feed can be used. I guess that argument needs to be sorted out in the marketplace. If the pilchard fishery is by far the largest by weight in South Australia, then the tuna fishery is, by a big margin, the most valuable in terms of its economic return to this state, given that it is worth somewhere between $250 million and $300 million to this state.

So, there is an argument about whether pilchards are the best feed or not, but certainly a lot of work has been undertaken in the past, including by SARDI, to find alternative feed for tuna. At the same time, I am aware of some pilchard fishers who have been looking at using pilchards for value adding, because I believe that in some markets pilchards are considered to be very attractive fish and even a delicacy. Some pilchard fishermen have indeed been seeking to develop those value-adding opportunities. From the state's point of view, we encourage that, because that again means more wealth created for the state.

Of course, in relation to tuna feeding I think it would be fair to say, bearing in mind the problems they had several years ago with the pilchard kill, that the tuna fishers themselves are also looking at alternative sources of feed to ensure that their very valuable industry can continue. There are a number of forces at work here. One would hope that, in this current season, using local pilchards as tuna feed will reduce the risk of importing disease into this country. It does have that significant advantage; the more local fish that are used

the less likely it is that an exotic disease will be introduced from overseas. It does have that important benefit.

There are a number of issues involved in the pilchard industry which are of some significance, and it is an important fishery for this state. I believe I have answered most of the questions asked by the honourable member. If there is anything I have not answered properly, I suggest he ask me a supplementary question.

McEWEN, Mr R.

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question concerning the member for Mount Gambier.

Leave granted.

The Hon. A.L. EVANS: Following an agreement signed yesterday by the Premier and the member for Mount Gambier, the member has been appointed a minister and a member of cabinet in the Rann government, subject to various conditions being met. The Premier has announced that the member for Mount Gambier will have responsibility for trade, regional development and local government and will assist the minister for federal and state relations. My questions are:

1. What will be the additional cost to the taxpayer of another minister in cabinet?

2. Can the minister explain how the government proposes to fund this additional cabinet position?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will get the estimates of that cost and bring back a response to the honourable member.

WOMEN'S SAFETY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question on the safety of women in the city.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday the *Advertiser* highlighted police statistics regarding serious assaults against women in the city. I highlight that, in the period 18 December 2001 to November 11 last, there were 27 such assaults. These figures are a big increase over the corresponding period in the previous year. I highlight to all honourable members that this relates to physical assault; it does not include sexual assault against women in the city. I suspect that all honourable members share my alarm about any assault let alone this increase in serious assaults, and sexual assault in general.

The safety of women in the city was the subject of a report undertaken when I was minister and released some two and a half years ago. I can say with pride that there was a strong effort made at that time to implement the recommendations, and it is pleasing to see that, while there are too many assaults, there were only 18 serious assaults, compared with the increase to 27 in more recent times. It would seem to me that the momentum of implementing the recommendations of that report has stalled, and this is confirmed by a statement by Adelaide City Councillor, Anne Moran, that 'we really need to dust this report off'. Clearly little has been happening in recent times with regard to the safety of women in the city.

I therefore ask the Premier, as he jointly chairs the Capital City Committee with the Lord Mayor, first, whether they, as leaders in our community, will adopt the report as a matter referred to and taken charge of by this top level committee, and whether this committee will adopt and implement these recommendations as a matter of urgency? If not, why not? If not, what other arrangements will be made to progress the recommendations?

Secondly, it is disturbing that there appears to be a relationship between areas of Adelaide where there are 24-hour licensed premises and high levels of serious assault against women. Therefore, will this capital city committee or some other minister investigate the relationship between serious assaults on women and the operation of 24-hour licensed premises in our city?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will certainly refer the question to the Premier for his response. The honourable member did refer to dusting off the report. I am not quite sure who actually put it on the shelf or how long ago it was put on the shelf. I am certainly not aware of it. I will refer that question to the Premier and bring back a reply.

EQUAL OPPORTUNITY

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question about equal opportunity.

Leave granted.

The Hon. R.D. LAWSON: Yesterday in an extraordinary development the Attorney-General made ministerial statements both before and after question time on the subject of equal opportunity. He mentioned the fact that in June this year a discussion paper on racial and religious vilification was released, and it sought comment by 31 July. The government indicated that, after considering those comments, it would be introducing legislation.

However, at the Mitchell oration given by Mary Robinson recently, the Attorney-General indicated that the review would have to await the result of yet another review. In his first ministerial statement yesterday, the minister announced to the parliament that he and the Minister for Social Justice have now agreed to collaborate on a process that will identify effective legislative and operational arrangements. He said in that statement:

> The Labor Party policy supports a comprehensive review of all state legislation to remove discrimination against homosexual, lesbian, bisexual and transgender people. The platform promises to ensure that homosexual relationships are recognised in the Equal Opportunity Act [in the same way] as heterosexual relationships.

However, in a subsequent ministerial statement given after question time, he again referred to the topic of the government's commitment to the removal of discrimination against homosexual people and homosexual couples. He acknowledged, albeit somewhat grudgingly, the work of the members for Mitchell and Florey in this area.

The minister also announced that there is to be a separate review and a discussion paper on proposed legislative changes to remove discrimination against homosexual relationships. Public comment will be sought before a bill is introduced because the matter is neither simple nor without controversy. He hopes to be in a position to bring a bill on this topic before the house next year. My questions are:

1. Why has the Attorney-General chosen to conduct two reviews into this matter, both of which relate to the Equal Opportunity Act?

2. Why has he chosen to ignore the fact that a bill, which was introduced and passed in this council in 2001, contained amendments to the Equal Opportunity Act which accommodated many of the recommendations of the report of Mr Martin in 1994?

3. When will people in the community who believe Labor's claims about the recognition of homosexual relationships be acknowledged by legislative action by the government rather than by private members?

My next question relates to a comment made in the first of these ministerial statements to the effect that:

As a first step, the government will ask the Commissioner for Equal Opportunity to report on processing times within that commission.

4. Will the Attorney confirm that the government has not yet obtained from the Commissioner for Equal Opportunity information about processing times, which they promised in their policy to remedy, and if they have not yet sought this information from the Commissioner for Equal Opportunity, why have they been so slow in doing it?

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

IGA WARTA

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about a successful indigenous tourism venture in the northern Flinders Ranges.

Leave granted.

The Hon. J. GAZZOLA: I understand that the Iga Warta community has recently been recognised for its efforts in the development of an exciting ecotourism venture. Will the minister tell us about this positive development and its implications for the community involved?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his continuing interest in Aboriginal affairs, and certainly the work that he is doing on the select committee. I pay tribute to the winners of the award, that is, the Iga Warta community and the people responsible for administering the project at Iga Warta; and also Louis O'Brien who won a gong at the same time, but not in the same category. Recently, the Iga Warta community received the Aboriginal and Torres Strait Islander tourism award at the Yellow Pages 2002 South Australian Tourism Awards. It is well deserved recognition of the hard work and the vision of the proprietors and the local community working together; and it is a good example of where a divided community was able to be united around a project that would benefit a wide range of people within that geographical area.

Although there were some hiccups from time to time in the development of an agreed position, finally agreement was reached between stakeholders within the community and a worthy project, which was well supported with funding, has won this award. This will be a great confidence booster for the people involved and it will help put this important part of our state on the map. The Iga Warta community is situated on the Copley to Arkaroola road close to the township of Nepabunna. It combines a homeland for some members of the Adnyamathanha community with an ecotourism enterprise. The camp sites and facilities at Iga Warta include a range of accommodation options for tourists and cater very well for backpackers and casual tourists.

The operators also organise tours and cultural awareness programs to offer visitors a real understanding of local indigenous values, history and culture; and I hope that it serves as a model for other programs for the future. The knowledge of local Aboriginal people makes this a unique experience for tourists, and I understand that many international travellers have found their way to Iga Warta, despite the public transport problems that are encountered in the northern Flinders Ranges by backpackers, which is another problem with which we will have to deal, that is, transport in regional and remote areas. A number of courses and conferences have been held at Iga Warta, including the recent successful Yarns Across Cultures conference hosted by Interpretation Australia.

Once we were able to iron out the differences within the communities, I was very happy to support the event by way of sponsorship from within my portfolios. The Iga Warta community has worked hard since 1995 to develop the infrastructure and has received significant support from the state government. Recently, Iga Warta received a grant to build new toilet and shower facilities, and fixed tents. Recent problems between local communities have provided an opportunity for people in the northern Flinders Ranges to focus on how businesses and communities can work together to enhance the economies of the entire region.

Current work in the Northern Regional Development Board in developing a strategic plan for the northern Flinders Ranges will be important to the continuing success of the Iga Warta and other indigenous communities in the area, and I hope that it can be a template for models for developing strategic plans and working with local government and economic development boards throughout other parts of the state.

I welcome this tourism award and look forward to other indigenous enterprises in the Flinders Ranges and other parts of the state, which will provide opportunities for employment, community development and jobs for young people. Such jobs are highly sought after within the communities because they help to hold communities together and ensure that the presentation of opportunities and choice is the same in the Aboriginal communities as it is in other parts of this state.

POLICE, SPECIAL INVESTIGATIONS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, and possibly also the Premier, a question on special investigations by police.

Leave granted.

The Hon. M.J. ELLIOTT: In light of recent concerns about terrorism and the need for anti-terrorism measures, there is a possibility that South Australia Police will be involved in some sort of cooperative arrangements with federal police. We can all remember back to the early 1970s when the police Special Branch was very active collecting information about South Australian citizens, much of which at that time was more politically motivated than concerned the security of the state. Can the minister confirm whether or not South Australia Police are involved in anti-terrorism intelligence gathering and, if so, are any special instructions in place to ensure that we do not have a repeat of the way the Special Branch operated in the 1970s and earlier?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member has asked a very important question and I will refer it to the Minister for Police for a response. In relation to intelligence-gathering activities, one would appreciate the need for some discretion concerning that information. As the Premier pointed out in his ministerial statement today, we will have before the parliament very shortly—hopefully we will get it through both houses in this term—the anti-terrorism legislation that will refer state powers to the commonwealth to enable it to deal with the situation that we face. Given the announcement that was made recently, which I note the federal Leader of the Opposition has been fully briefed on and has endorsed, I think that we can safely assume that our intelligence authorities have determined that there is a genuine threat from terrorism in this country, and all of us will need to take that seriously. I will refer the question to the Premier and bring back a reply.

HOUSING TRUST

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Housing, a question on Housing Trust rent increases.

Leave granted.

The Hon. T.J. STEPHENS: Under the commonwealth government's pension scheme, pension rates are increased in March and September each year in line with increases in the consumer price index. It is also the federal government's policy to check the single pension rate to ensure that it always remains above 25 per cent of the total average weekly earnings figure. That most recent quarterly CPI adjustment to aged pensions occurred in September, and the average increase to aged pensions is of the order of $7 a fortnight. A constituent in Whyalla wrote to me on 28 October regarding this increase and the subsequent increase in her Housing Trust rent, stating:

> On receiving the $7.60 quarterly rise in my aged pension, I was dismayed to see the Housing Trust had taken $7 out of that total in increased rent.
>
> I contacted the member for Giles's office but she was in parliament and was told by her secretary my inquiry would be placed in her folder.

That was in early October, and I understand that there has been no response from the member for Giles or an appointment made to see her. The constituent then wrote to me to see whether I could do anything. Her letter further states:

> . . . does the Premier of South Australia have the right to leave me with 60¢ increase until next April to cover increased costs of food, phone, electricity and other living expenses? There are many others to whom I have spoken who have had high rental increases, in fact, some even more than their CPI increase, taken.

My questions to the minister are:

1. Is it true that there has been a Housing Trust hike, which takes almost all the CPI increase away from aged pensioners?

2. If so, given Labor's much trumpeted concern for those on low incomes, how is this increase in Housing Trust rental justified?

3. Has the member for Giles approached the minister on behalf of her Whyalla constituent on this issue and, if so, what has been explained to the constituent about why she is left with 60¢ per fortnight to cover all increases in the cost of living?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the minister and bring back a reply.

RURAL URBAN FORUMS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about rural urban forums.

Leave granted.

The Hon. J.S.L. DAWKINS: Many members of this chamber would understand the pressures on people who run primary industries, particularly intensive activities in what are described as the peri-urban areas of the state. These people are residents of electorates such as Taylor, Light, Napier, Schubert, Kavel, Heysen, Davenport, Finniss, Hammond and Mawson. There are hundreds of successful primary production enterprises in this zone, otherwise known as the fringe of metropolitan Adelaide. However, a range of issues and responsibilities are involved in farming close to urban areas.

It is my understanding that the ALP 2002 election policy included a promise to conduct a series of rural urban forums to discuss issues affecting all residents of these areas, both primary producers and urban householders. Key issues listed to be discussed at the forums include noise nuisance, chemical drift, water usage, bird management, transport and planning. The policy also states that the forums would find ways to resolve these issues, and agreements would be revisited in 12 months. Will the minister indicate whether the series of rural urban forums has commenced and, if so, will he indicate where these forums are being held and how they have been publicised to the local communities?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Peri-urban development is a very vexed issue. It has been around for some time, and I am sure that the Hon. Diana Laidlaw would be well aware of it, being a former planning minister. Of course, I think that it was during her time as minister that the previous government established a peri-urban round table—following a conference that was initiated by the South Australian Farmers Federation—to look at some of the issues involved in peri-urban areas. As the honourable member who asked the question said, peri-urban areas are particularly important in an economic sense.

I saw some figures recently that indicated that, just in that very small region (around the fringes of the metropolitan area that represent something like, I think, 2 per cent of the state), almost 25 per cent of the economic value is added in that region. One can see why it is important because it is a region where much intensive agricultural production takes place. Of course, being close to the city it is a source of labour and transport. The region is favoured in relation to those issues. It needs the proximity to the city but, at the same time, it needs to be out of the city because of the nature of the activities involved. So, it is very important.

Of course, this gives rise to serious issues which the honourable member outlined in his question, such as noise from bird scarers and so on. Several things are happening in relation to this. I chair a subcommittee of cabinet which is looking at some of these issues and establishing its own advisory committee. The previous government's committee, I believe, concentrated largely on the Adelaide Hills region, which is an important region. I live in that region, so I understand its importance; economically, it is an extremely important region, but this is not the only peri-urban region in

the state where there are problems. There are also the southern regions in the Willunga Basin and the northern regions, and the honourable member has raised those areas in previous questions about the Adelaide Plains.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Yes. So, the government is currently in the process of setting up its own advisory group in relation to these issues. I am also aware that my colleague in another place the Hon. Jay Weatherill, through Planning SA, has organised a review of what is called the inner region. In the past, planning has been conducted in relation to the metropolitan and non-metropolitan areas, but Planning SA is now preparing a report for the first time on what it calls the inner region, this peri-urban area around Adelaide that we are talking about.

It is my understanding that, as a result of this planning process, a series of fora will be conducted around the region. As I am not the minister responsible, I will speak to my colleague and bring back some information. In summary, the government is certainly aware of the importance of this region to the economy of the state and the many complex planning issues that arise. We are taking a number of initiatives in this area, and I will provide the honourable member with more details.

REPLIES TO QUESTIONS

FOXES

In reply to **Hon. J.S.L. DAWKINS** (28 August).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has provided the following:

1. The government has responded to the South East Local Government Association (SELGA) outlining that the Animal and Plant Control Commission, does not support the use of bounties as a pest management strategy.

There is strong evidence that bounty schemes consistently fail to achieve sustained control of pests because:

- They focus control in areas where foxes are plentiful rather than in areas where they cause economic or environmental damage.
- The requirement to present evidence of destruction limits management to those methods that allow recovery of the body (ground shooting and trapping). Such financial incentives impede the implementation of strategic programs using more efficient control tools, such as poisoning and harbour destruction.
- The combined effects of using inefficient control methods and the rapid reproduction rates of the targeted pest quickly diminish the benefits of bounty schemes.
- The bounty payment is often considered by scheme participants as an ongoing source of income rather than an incentive to increase control activity.

Where all the benefits of pest control are captured by landholders, then the principle of beneficiary pays suggests that costs of reducing this impact should be covered by the affected land managers rather than the local or national community through the establishment of a third party financed/administered system.

On the other hand, if the wider community wants to maintain conservation values, it should be prepared to support the management and protection of those values. However, this is more likely to be achieved through funding of government-coordinated regional management programs than through bounty schemes, which are a poor use of limited pest control resources.

2. After two months of the fox bounty scheme running in Victoria, a total number of 47 843 foxtails were surrendered by approximately 2 000 applicants. As a result, the initial $500 000 fund for the trial was almost fully allocated after two months. On 27 August 2002, the Victorian government announced a further the allocation of an extra $1 million to extend the bounty trial. In making this announcement the Victorian premier Steve Bracks provided the following statements:

> 'We believe two months is an insufficient period of time to monitor the effectiveness of the trial and it is therefore clear it should be extended to allow for a more comprehensive assessment.'
>
> 'The trial period to date has seen some fluctuations in fox tail numbers, particularly in the early part of the trial where tails that have stockpiled could have distorted the figures.'
>
> 'By extending the trial, we will have a clearer idea of the impact the trial is having on current fox populations.'

While claims in the media that the bounty scheme in Victoria has been a success, there is at this stage no evidence that the program has contributed to reducing the impact of foxes on livestock production or the environment.

The fox bounty trial is also being used by the Victorian Department of Environment and Natural Resources as an opportunity to collect tissue for DNA analysis. Looking at the genetic differences between foxes from different locations may provide information on dispersal between populations. This may then provide a better understanding of fox populations and whether there are any barriers to effective dispersal. This information may assist in planning future fox control programs but will rely on matching data collected from the bounty scheme with DNA profiles for foxes which has been collected from across Victoria in previous years. South Australia does not have baseline DNA profiles on foxes from a range of districts and the Victorian experience is being monitored to determine if there is any value in undertaking such work.

YOUTH SERVICES FUNDING

In reply to **Hon. A.L. EVANS** (26 August).

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

1. Are the accommodation and treatment programs for high-risk adolescents still functioning and providing a service? If so, what are the target outcomes for the financial year 2002-03?

The Department of Human Services (DHS), through Family and Youth Services (FAYS), provides accommodation services to particularly disadvantaged young people. Brookway Park, a Community Residential Care (CRC) accommodation option for young people who require intensive intervention and support, has received additional funding, while a mental health worker has been funded to work with young people in FAYS's CRC units.

Funding has also been provided to undertake mental health assessments of, and provide therapeutic responses for, young people with high needs who are under the guardianship of the minister and in alternative accommodation.

A supported accommodation service is being provided to young people in Whyalla with mental health issues. Planning is well under way in the Riverland to implement supported accommodation responses for young people with mental health issues. Preliminary discussions are occurring for the development of a service to meet the accommodation needs of young people in the southern area of Adelaide who under the guardianship of the minister and at risk of homelessness.

2. Now that the budget is in place, what proportion of the promised $2 million has been committed to help youth at risk of suicide?

The government's mental health initiative commitment includes $2 million over four years for children and young people, and for culturally sensitive mental health services for Aboriginal peoples. All of this budget allocation is intended to positively address youth suicide in the context of it being a mental health problem. However none of this money is exclusively allocated to youth suicide prevention.

Initiatives funded within this allocation include:

- ensuring young people under 16 years of age are not admitted to adult mental health facilities;
- improving country services that support children whose parents have a mental illness; and

developing strategies for mental health promotion, and for the prevention of mental illness.

3. What programs are outlined in this year's budget for the support of young people and what are the budgetary allocations for each program?

In addition to the aforementioned initiatives, $4.3 million has been committed for the redevelopment of the Child and Adolescent Mental Health Services (CAMHS) at the Women's and Children's Hospital. This is in addition to recurrent funding to both Northern and Southern CAMHS of $7.1 million and $3.8 million respectively. CAMHS provides a confidential counselling service for children and young people, and their families.

A further $220 000 has been allocated to CAMHS for the development of multi-sector links in the youth mental heath activities, namely a collaborative program to support youth mental health workers with a direct role with youth sector agencies, such as homeless shelters, youth health services and welfare agencies.

An emergency services project to address multi-sector collaboration, enhanced links to Southern CAMHS and emergency support for adolescents at the Women's and Children's Hospital with links to assessment crisis intervention service will receive $200 000 this financial year.

The government, through the Department of Human Services, provides $80 000 per annum to Centrecare Catholic Family Services for a youth suicide prevention service. It is also funding three youth suicide prevention workers, and two youth mental health workers, in various country areas of South Australia.

An Aboriginal youth mental health partnership, of CAMHS and the Metropolitan Aboriginal Youth Team (MAYT), receives $60 000 per annum for a project officer to provide mental health services to Aboriginal children in the MAYT program, which is managed by FAYS.

Infant mental health prevention also receives $100 000 funding, through the employment of staff to focus on the particular needs of mothers and young babies. Youth mental health promotion, through educational materials, has been allocated $30 000, while $20 000 has been allocated for the provision of coordinated training for youth mental health service consumers.

The government has been developing a broader whole of government and whole of community approach to suicide prevention. Planning in the DHS has commenced, to determine more effective internal processes and working relationships with other departments, the social inclusion unit and the commonwealth Department of Health and Ageing, the latter being responsible for coordinating a number of national suicide prevention strategy activities in SA.

Through these structures a state suicide prevention framework will be considered to:

- develop and coordinate consistent approaches to suicide detection, reporting and investigation across health, corrections and police services;
- develop an action plan for suicide prevention strategies linking national, state and local initiatives, within the mental health reform context; and
- address issues amongst particular populations at high risk of suicide, particularly Aboriginal youth.

QUEEN ELIZABETH HOSPITAL, REPRODUCTIVE MEDICINE UNIT

In reply to **Hon. SANDRA KANCK** (15 October).

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

1. The Reproductive Medicine Unit comprises two components:
   - Repromed Pty Ltd which is the clinical service operating as a private company of the University of Adelaide and
   - The research activities which are undertaken through the Reproductive Medicine Unit as part of the University of Adelaide Department of Obstetrics & Gynaecology.

Both components of the Reproductive Medicine Unit are managed by the University of Adelaide and not by the Department of Human Services, even though it is based at The Queen Elizabeth Hospital (TQEH). The Reproductive Medicine Unit is an independent unit.

Healthy Start 2000-2011, the final report from the metropolitan clinical service planning studies into obstetrics and neonatal services, recommended the relocation of the entire Reproductive Medicine Unit from TQEH to the Women's & Children's Hospital (WCH) based on:

- The WCH is the main tertiary centre for women's health in South Australia.
- Co-location of the Reproductive Medicine Unit and the WCH would build on the strengths of both organisations with increased benefits in reproductive research and clinical services arising from this co-location.
- The relocation would facilitate the consolidation of reproductive and fertility research on one site.

The research activities are to be relocated to WCH whilst the clinical service is relocating to purpose built accommodation on Fullarton Road.

2. The Reproductive Medicine Unit provides services to the entire state. It is not an exclusively western suburbs service. It is understood that western suburbs clients receive approximately 10 per cent of services provided by the unit with even fewer clients choosing to deliver at TQEH.

3. The costs of the relocation are still being developed and negotiations are occurring with the University of Adelaide on funding arrangements for the relocation.

4. All staff employed by the university and by Repromed Pty Ltd will retain their employment after relocation.

However, two staff (1.5 full time equivalents) who are currently employed by TQEH but who work with the Reproductive Medicine Unit are to be redeployed to other positions.

5. Consumers in the western region comprise approximately 10 per cent of total consumers using the services of Repromed Pty Ltd. Consumers from the western region, and other regions of the State, who require these services will need to travel to the city to access them.

6. All grants, including recently awarded grants, received by the Reproductive Medicine Unit at TQEH will transfer to the new site.

MOUNT GAMBIER PRISON

In reply to **Hon. R.I. LUCAS** (21 October).

The Hon. T.G. ROBERTS: I advise:

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

Monthly reports are provided by the contractor responsible for the operation of the Mount Gambier Prison. In addition, reports on specific performance indicators are prepared which are independently verified by staff from the Department for Correctional Services.

All of these reports are considered by key operational staff of the department including the relevant operational director and prison manager. In addition, they are considered by the crown's contract administrator and by the strategic planning committee which is established under the contract to review relevant contract and performance issues.

I have previously advised that I have not read those performance reports. I have chosen to rely upon the advice of the department that the prison is operationally effective and fulfilling its required role in the overall correctional system.

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?

Each prison in South Australia is significantly different in terms of role, capacity and design. It is difficult therefore to directly and meaningfully compare the relative performance of prisons in South Australia. The advice to me from the Department for Correctional Services is that all prisons including the Mount Gambier Prison are currently operationally effective.

This advice is consistent with my experience gained through personal visits to prisons in South Australia.

I am therefore satisfied that Mount Gambier Prison is adequately performing its role in the South Australian correctional system.

REGIONAL DEVELOPMENT

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

The Hon. T.G. ROBERTS: The cost to undertake reviews of six regional development boards was $43 890, including GST. It should be noted that the requirement to conduct the performance reviews arises out of a clause in the resource agreements between the state government, regional development boards and participating councils, signed by the former government (specifically the (then) Minister for Industry, Trade & Tourism or the Minister for Industry & Trade). In addition, the reviews of the initial six boards commenced under the former government with a request for tender proposal dated December 2001.

In reply to **Hon. J.S.L. DAWKINS** (21 October).

The Hon. T.G. ROBERTS: It is not proposed to reconvene the regional development issues group. Rather, the government has established a new office of regional affairs by bringing together the former office of regional development with the regional business services unit of the (then) Department of Industry & Trade, to provide a whole of government perspective and a single focal point on regional development issues. This approach amalgamates the business development thrust of the regional development boards with

the community development focus of the former office of regional development.

Furthermore, the office of regional affairs has been positioned within the office of economic development to ensure close linkages with economic policy and implementation.

In reply to **Hon. T.J. STEPHENS** (21 October).

The Hon. T.G. ROBERTS: The reviews of six regional development boards were undertaken by a consortium of three consultants; namely: Barry Burgan, representing Economic Research Consultants Pty Ltd, Julian Morison, representing EconSearch and Jim McColl, representing McColl Consulting. For contract purposes, Economic Research Consultants Pty Ltd acted as the principal consultants. In terms of their credentials: Barry Burgan (B Ec (Hons), ABFI Assoc (Snr)) director, ERC Pty Ltd., has extensive experience in economic and financial assessment and policy advice.

His background includes public and private sector and academia. He has consulted in the application of economic policy including regional development. He has policy experience with respect to local government and lectures on under-graduate and post-graduate programs on financial valuation and market issues. His experience in regional development includes work on economic development strategies in the Riverland regions, the Adelaide Hills region, Eyre Peninsula, Port Pirie and other parts of the Upper Spencer Gulf. Barry has also been involved in more than a dozen prior compliance and performance reviews and is a current research associate and former manager and director of the SA Centre for Economic Studies.

Julian Morison (B Ag Ec., PhD, MAIAST, CPAg) director, EconSearch Pty Ltd. He has had over 20 years of experience in applied economic analysis, particularly related to natural resource issues and regional economic development. He has also conducted numerous analyses of industry specific projects including agriculture, resources and dairying, and infrastructure needs in SA, Victoria, New South Wales and Qld.

Jim McColl (B Ag Sc MAg Sc) of McColl Consulting is a specialist in reviews, evaluation, strategy and policy. He is well experienced in external reviews of institutions, R&D programs and government policies and was formerly director general of Agriculture in SA and chairman and managing director of SAGIC International.

The consultants found that the Whyalla Economic Development Board (WEDB) has been reasonably successful in achieving the desired objectives over the Resource Agreement period. This was evidenced by such factors as:

- satisfactory performance with regards to compliance with the requirements of the resource agreement,
- feedback from stakeholders and business indicated that the board's performance had been satisfactory; administration and labour costs were in proportion to other costs and revenue,
- achievement of jobs and investment targets,
- interviews which indicated general recognition of the key achievements of the board,
- survey respondents views on publications, aspects of community leadership, strategic directions, influence in economic development, etc. were quite positive,
- participation in the successful Upper Spencer Gulf Common Purpose Group.

As the member is aware, Whyalla and indeed the Upper Spencer Gulf region has experienced economic problems over the past decade.

Importantly, however, the review identified that stakeholders consistently rated the board high in most of the output areas and there is 'strong recognition of the achievements of the board in difficult circumstances and a general appreciation of the board's willingness to work in partnership.

While the reports on all six boards conducted to date are generally written in auditor terms, they also offer the opportunity to identify potential areas of improvements. The Whyalla board along with the other boards reviewed to date have been given a copy of the report for their consideration.

CORNISH FESTIVAL

In reply to **Hon. T.J. STEPHENS** (21 October).

The Hon. T.G. ROBERTS: The Minister for Tourism has advised:

Events and festivals are certainly a vital component of our state's tourism industry. They encourage people to visit our state's tremendous tourism regions, and while there, stay longer, and spend more. They also have the potential to encourage repeat visitation, benefiting not only tourism businesses, but also a wider range of related businesses throughout the state.

In recognition of their tremendous impact, the South Australian Tourism Commission administers a regional events and festivals program, which provides marketing funding to events and festivals capable of generating tourism activity within their region.

In 2002-03, this program allocated $419 270 in funding to 43 events and festivals, spread right throughout the state's 12 tourism regions.

This is in comparison to the amount of $412 000, which was allocated to 52 events in 2001-02.

In order to ensure a fair and equitable distribution of this funding, applications for this program are received once a year, and close at the end of March.

Unfortunately, an application was not received from the Kernewek Lowender organisers until 13 June 2002, by which stage all funding for the 2002-03 regional events and festivals program had already been allocated.

Additionally, a key focus of this program is encouraging events and festivals to work towards self-sustainability, without reliance on government grants.

Therefore, events are generally only supported for a maximum of three years (or three events), with funding gradually declining over this period.

I've been advised that the Kernewek Lowender Cornish Festival has received extensive funding through the South Australian Tourism Commission in the past, dating back to $4 000 in 1989.

This funding has also included $10 000 in 1991, 1993, 1995 and 1999, as well as a payment of $13 500 for the 2001 event.

Based on this extensive period of support, funding to the 2003 Kernewek Lowender through the SATC's 2002-03 regional events and festivals program would not have been guaranteed, even if an application were received by the March deadline.

I would like to conclude by saying that the Kernewek Lowender is one of our state's most popular and unique festivals, and does provide a considerable boost to tourism to the Yorke Peninsula.

Considering its past successes, I have no doubts that it will continue to draw visitors to this region, as it evolves and develops into a self-sustainable event over the coming years.

The South Australian Tourism Commission has also been in contact with festival organisers to see what in-kind assistance in areas of publicity and promotion can be given in lieu of funding.

ARTS GRANTS

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation.

Leave granted.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Ever since I made a statement criticising the Premier last week, members opposite have been implying all sorts of things about my administration as minister for the arts over the last eight years. I seem to have gotten under their skin.

The PRESIDENT: Order! The honourable member has leave to make a personal explanation.

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: I know. You were really nice.

The PRESIDENT: Order! The honourable member will make her personal explanation or sit down.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I would love to be minister still; I can't, but I should be. Offers seem to be floating around, and I think the arts community would like me still to be minister. My personal explanation relates to arts

grants. The Minister Assisting the Premier in the Arts made the following statement earlier today.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: The minister said:

> I point out to the house for the record that under the previous government just 10 per cent of the History Trust grant program was spent in Labor electorates, so no wonder the Hon. Diana Laidlaw wanted the system that she had in place because she was obviously favouring her own side. I table the document to which I have referred.

I did not have any responsibility for assessing or determining arts grants through the History Trust Museum's Accreditation and Grants Program. That was wholly the responsibility of the History Trust. The recommendations came to me, and I endorsed them on every occasion. The minister is implying that I was obviously favouring my own side in terms of the administration of these grants. I refute that entirely, and I ask him to withdraw that statement and apologise for misleading the parliament in relation to the administration of these grants. I highlight, too, that the minister indicates that there are 30 to 40 such grants each year, and he states that only 10 per cent went to Labor electorates and that again I was favouring the Liberal Party.

The PRESIDENT: Order! The honourable member is starting to debate the issue. She has made the point that she was misrepresented; she has corrected the record.

The Hon. DIANA LAIDLAW: Thank you for your guidance, Mr President.

MATTERS OF INTEREST

VOLUNTEERS

The Hon. R.K. SNEATH: Recently, I had the honour of attending a CFS (Country Fire Service) exercise at Paskeville on behalf of the Minister for Emergency Services, Pat Conlon. Some 350 volunteer firefighters went through a number of exercises, including burning a house and various rooms and investigating the cause of the fires. While I was there, I was informed of the lack of volunteers and people joining the Country Fire Service in the past couple of years in particular, and it is a real problem. I notice that in October the *Advertiser* highlighted the lack of CFS volunteers and stated:

> The Country Fire Service is losing about 12 volunteers a week. More than 600 people—firefighters, cadets and administrators—left the CFS last financial year.

The article continues:

> Many volunteer firefighters were staying on for longer 'just to make sure someone is there' to respond to an emergency. . .
>
> The average age of a volunteer firefighter in SA is now 41. CFS figures show numbers fell from 17 026 in 2000-01 to 16 412 in 2001-02. The number of firefighters dropped from 12 158 to 11 875 and cadet numbers fell from 1 166 to 1 059.
>
> . . .if the trend continues the number of volunteers will halve in the next 10 years.

That is a big problem because, without the Country Fire Service and the volunteers, there is very little protection in the bush, in particular.

I think one of the reasons that the number of volunteers is dropping in great numbers is the fact that people, not only in the bush but also in the city, are asked to work longer hours these days. There is proof that people are working up to 45 and 50 hours a week—10, 12 or 20 hours overtime. In many cases, people work those hours at the ordinary rate and not the overtime rate. It begins with half an hour here and it then becomes a habit of employers to increase the hours and work employees an extra 10, 12 and 20 hours a week. But, employees find themselves in a position where it is hard to refuse overtime because they are worried that, if they refuse excessive overtime, they will be made redundant and be replaced with people who will work the long hours.

It is pretty hard to work 50 or 60 hours a week and also spend time with your children and partner, do a few things around your house and volunteer for not only the CFS but also other organisations that rely on volunteers. There is a number of other organisations apart from the CFS, especially in the bush, that rely on volunteers that also are not attracting new recruits. Recently, my son was in the Royal Adelaide Hospital, and the volunteers in the canteen do a marvellous job every day, volunteering their time to run a canteen which caters for staff and visitors alike. Surely that must raise quite a few bob for the hospital, but I imagine that the average age of the volunteers at the Royal Adelaide Hospital canteen would be 65 years. I think that the problem with the overtime being worked is the cause of the lack of volunteers.

Time expired.

PIONEERS ASSOCIATION OF SOUTH AUSTRALIA

The Hon. J.S.L. DAWKINS: I have recently read the book *A Pioneer History of South Australia: in the Wake of Flinders and Baudin*. This book consists of an edited collection of articles published by the Pioneers Association of South Australia over the past 70 years. The articles cover the early years of exploration leading to the decision to form the colony of South Australia. They then look at the reasons why people emigrated and the hardships they faced on the long voyages of the pioneering ships. Later chapters cover early impressions of Adelaide and the development of the town, as well as the spread of settlement into rural South Australia.

The Pioneers Association of South Australia is an incorporated not-for-profit community organisation. Membership is open to persons who have at least one ancestor who arrived in SA before the end of 1845, or who can otherwise demonstrate support for the objects of the association. Those objects are:

- to perpetuate the memories of the pioneers of the early settlement of SA;
- to establish and maintain a faithful record of the pioneers for the benefit of future generations;
- to preserve records, publications, and so on, associated with pioneer settlement; and
- to promote awareness and knowledge of South Australian history.

A Pioneer History of South Australia was produced with funding assistance from Encounter 2002, a major event of the South Australian Tourism Commission which marked the bicentenary of the expeditions in 1802 of Matthew Flinders and Nicholas Baudin in the waters of what would later be called South Australia.

The Historical Publications Subcommittee, consisting of Anne Guster, association President Jeffery Nicholas, Bob Ormston, Tim Porter, and a former president of this place, the Hon. Jamie Irwin, deserve particular praise for their work on the development of this book. Many other people contributed to the production of this excellent publication; however, the association gives particular acknowledgment to the original

contributors who authored, compiled or edited the 55 or so individual articles represented in the book.

The original articles were not rewritten or corrected to reflect later research. Whilst some minor editing was undertaken to enhance readability, the association is aware that the articles contain the occasional historical or factual error. Indeed, association members are keen to have such anomalies brought to their attention.

The Pioneers Association believes that it is important for South Australians, particularly young people, to have a better understanding of our state's history, including the important role that early pioneering settlers played in the development of SA as we know it today. I quote from the introduction of the book:

> The genesis of European settlement in South Australia reaches back to the close of the 18th century and the maritime exploits of both the French and the English in the waters of Kangaroo Island. The independent mapping of our coastline by Flinders and Baudin and reports to governments and learned societies in England and France awakened interest in the possibilities of settlement, particularly free settlement, unencumbered by the shadows of religious restraint and economic disadvantage.
>
> Just as we now acknowledge prior settlement of the indigenous tribes of the region, we also have come to learn of the intermittent settlement on Kangaroo Island and elsewhere by others in the decades prior to 1836. The movement of whalers, runaway convicts and shipwrecked sailors account for most of these tales.
>
> Furthermore, we should not underestimate the effect that newspapers and other written reports had back in England as descriptive details of the indigenous population and the diversity of animal and plant life 'down under' permeated the imagination of many. It is not difficult to see how a trickle of information about a great 'south land' could grow to a point where settlement became inevitable.

In closing, I congratulate the Pioneers Association on their commitment to the production of this valuable historical publication.

CARERS ASSOCIATION OF SOUTH AUSTRALIA

The Hon. G.E. GAGO: Given that it was recently Carers Week in South Australia, the launch of which I was fortunate enough to attend with the Hon. Stephanie Key, I take this opportunity to acknowledge and praise the carers of South Australia and the Carers Association of South Australia.

The value of carers is often not recognised, or is under-recognised. At times, carers perform a thankless task, even though they can find the experience of caring for a loved one or friend quite rewarding and satisfying. Carers come from all social and cultural backgrounds and are of all ages, as you would expect.

Carers make many personal sacrifices—often family sacrifices, too—to take on the responsibility of providing care for someone who has a chronic mental or physical illness or a disability, or who is elderly and frail. The person requiring care could be a friend, a child, a parent or a partner. They provide a range of levels of care, from assisting with the activities of daily living (such as showering, feeding, toileting and administering medication), as well as household chores and providing transportation; the list is quite extensive. This is an enormous service, and it is incredibly valuable to both individuals and the state as a whole.

Carers are not always adults. In fact, according to the 1998 ABS survey, out of approximately 2.3 million carers in Australia 17 per cent are under the age of 26. The 2001 Young Carers Research Project showed that services have identified carers as young as six years old, which is quite alarming.

Of the 2.3 million carers, 19 per cent are primary carers, providing the majority of care for those they assist. Carers often sacrifice their own health, social life and income to take on the role of carer. The Young Carers Research Project highlights that there are significant implications associated with being a young carer. Some of these include difficulties in establishing meaningful relationships and friendships, interruption to education and generally having fewer opportunities to continue education after the age of 15, hence further limiting future income options. This results in an increased risk of unsuccessful transition into the labour force.

The Carers Association of South Australia's mission is to promote, assist, empower and enhance the lives of carers in South Australia. The association operates according to the following principles:

- carers have the right to an identity independent of the person for whom they care;
- carers have the right to financial, physical and emotional security;
- carers and those they support have the right to live with dignity;
- carers have the right to access appropriate information and services without discrimination;
- carers recognise the rights of the person being cared for; and
- the Carers Association of SA will respect and work with carers, other organisations and individuals to meet carer needs.

The association is involved in numerous activities whilst attempting to promote, assist, empower and enhance the lives of South Australian carers. These include:

- community education;
- the provision of information and services;
- the development of carer and carer organisation networks;
- the development of carer training packages;
- advocating on behalf of carers;
- encouraging the participation of carers in the policy, planning and delivery of services; and
- encouraging research related to carers.

Of course, this is only a thumbnail sketch of the activities of the association, and it is difficult to do it justice in the short period of time available.

I am also pleased to inform the chamber that the Hon. Stephanie Key, the Minister for Social Justice, has recently announced the development of a new cross-government carers policy. This will be formulated after consultation with various carers groups and investigations into a number of key issues, including the issue of children and young people as carers. I commend the Carers Association of South Australia for the important work it carries out in serving the many carers of South Australia. However, more importantly, I wish to acknowledge the invaluable work carers carry out in this state.

JULIA FARR SERVICES

The Hon. SANDRA KANCK: Plans to phase out 70 beds for disabled elderly residents at Julia Farr Services is the latest item on an agenda of bureaucratic interference from within the Department of Human Services. Julia Farr Services is a recognised centre of excellence in dealing with people who have severe brain injury. Rehabilitation is part of what they do very well and many of their clients benefit from independence and receiving care and support in a community setting. But, for some clients, no matter how good the

nursing, medical and ancillary care, there are limits to the success of the rehabilitation. For these highly dependent people, independent living is not option.

Deinstitutionalisation, which hit Australia like a rampant virus in the '80s, is not a blanket solution to be applied to all clients of services such as Julia Farr. Over the past eight years, the department has waged what amounts to a vendetta against the management of Julia Farr Services. I have therefore been more than a little surprised to hear the former minister for human services, Dean Brown, making political mileage over proposed bed cuts. Julia Farr Services has withstood $14.5 million of budget cuts in the last eight years, most of that at the hands of the Liberal government, and most of that at the hands of Dean Brown as the minister for human services. You might query my use of the term 'vendetta' but let us look at why I make this accusation.

Obviously, there are the continuing budget cuts. Then there were the persistent moves by the department to veto the unanimous decision of the board of Julia Farr Services to reappoint their director. This resulted in solid defiance by the board to retain the person they regarded as best for the job. In the subsequent stand-off between the board and DHS over many months the board ultimately won. But why did DHS take such a bloody-minded stance? It is my view that the board has never been forgiven by DHS because they were made to look like the fools they are, and so the persecution has continued.

The bureaucratic undermining has included disappearing beds. When beds were being re-allocated, some never reappeared. Rehabilitation beds were lost or evaporated from the system when Julia Farr beds were transferred to the Hampstead Centre. Then, somewhere around 1998, DHS insisted on an information technology package for Julia Farr which staff were forced to persevere with, despite their complaints and despite immense frustration that it was not appropriate. Eventually DHS and the software vendor agreed it was in fact not suited to the needs of the centre. Now we have the prospect of severely disabled pensioners being farmed out to nursing homes, away from the specialised workforce who know the particular needs of these patients. Members of the management board of Julia Farr Services are unpaid, managing a sizeable budget, and doing so extremely well, especially considering the constant undermining by DHS. Their time and energy could be put to better use than constantly battling the department for money and respect. Perhaps DHS is a little envious of the success that these volunteers have.

If the clients, families, staff and volunteers of Julia Farr Services have faith in the board, on what basis has DHS become the odd one out? The undermining of an award-winning service and the threat to the best care practices for people with physical, neurological or brain injury disability, whatever age they are, must cease.

INDUSTRIAL RELATIONS

The Hon. D.W. RIDGWAY: I would like today to discuss a matter of significant importance to our state and its economic future. It is a subject I have touched on before in this house and, given recent developments, I consider it an appropriate time to make further comment. Last week we saw the release of a report into the industrial relations system, one of many reviews which have been initiated by this government, and conducted by an ex-union boss, Mr Greg Stevens. At first I was concerned with the appointment of Mr Stevens to conduct the review because of his background. I was also particularly surprised at spending over $80 000 on a review of a system which is regarded as one of the best in the country. I must say $80 000 on a single review is not what I consider the right priorities for South Australia. I would prefer to see the money go into schools and hospitals. It is clear that the union consultants are a priority of this government.

The report released has some 200 recommendations which cover a range of topics. Strangely, it would seem that many of these topics seem to have been lifted straight from the submission written by the United Trades and Labor Council: plagiarism, some would say. Not that this is a huge surprise to anybody, because South Australians know that those members who occupy the government benches and Treasury are in the grasp of union control.

Janet Giles, a great friend of those who sit over there, was simply gushing when discussing some of the outcomes of the report last Thursday on radio. The union movement sees this as a big win and, to be frank, it has every reason to think that. It was able to get an ex-union hack into the consultant's job without it being advertised, and then he wrote a report which would clearly have given the left-wing unionists and some lefty university academics an experience usually only experienced when somebody's football team wins a premier-ship.

However, businesses cannot believe it. As it did with the hotel industry, this new government looked them in the eye and then misled them. The new minster said this review would be looking to enhance the current industrial relations system. One business association source said to me that this report is simply re-regulating and taking the system back into the past, not looking forward to future challenges. The minister said this review would be about making positive change. He has misled business: it is about keeping Trades Hall happy. Unfortunately, the report presented would suggest this assessment was close to the truth.

But, for once, we welcome the government's review into the review. This is an opportunity for this Labor government and this Labor minister to prove not only to us, business and the electorate, but to the lazy, unrepresentative hacks who sit in Trades Hall that they cannot run this government. It is ironic that in a radio interview following the release of the much-vaunted Economic Development Board report, released only a day earlier, Robert Champion de Crespigny stated that, 'We [South Australia] have the best labour relation rates here.' Maybe Foley and his faction will be able to roll Trades Hall for the good of the state, otherwise the whole concept of the Economic Development Board will be proven a farce.

FRESH FM

The Hon. T.J. STEPHENS: Today I would like to speak about Adelaide's youth radio station, Fresh FM. I had the pleasure of attending their official launch as a permanent radio station dedicated to the youth of Adelaide, as well as the opening and dedication of their new studios. The whole concept of a youth radio station for Adelaide began in 1997 when three young friends were holidaying in Melbourne and heard a youth station there. They knew immediately that Adelaide needed its own youth radio station. An association was formed and a team of volunteers came together.

Fresh FM commenced broadcasting as a temporary community broadcaster on 17 March 1998. Discussions were held with Radio Televisione Italiana (5RTI), and the idea of

sharing a frequency was agreed to, on what was then 92.9 mHz, later becoming 92.7 mHz. On 22 August 2002, just over four years since Fresh FM began as a community radio station, it was granted a permanent 24 hour a day, 7 day a week licence by the Australian Broadcasting Authority.

I was delighted to be asked to represent the Leader of the Opposition at the official launch of Fresh FM as a permanent youth radio station on Friday 1 November. It was a great opportunity to meet this proactive and enthusiastic group of young South Australians. In particular, I wish to mention Chris Velliaris, Geoff Wintle and James Engelmann, the original three founders in 1997, who have worked tirelessly over the past four years to bring the Adelaide youth radio station to fruition. I would also like to mention some of the other committee members that I met, Greg and Graham Brandford, Wade Conoly, and I was very impressed to meet Tim Roberts.

The creation of Fresh FM has been a huge team effort. Fresh FM has over 80 volunteers. Fresh FM members consist of general volunteers, with some of Adelaide's DJs and professionals giving up their time on a regular basis, all working together to form this dynamic organisation. It is obvious that all the volunteers at Fresh FM have a really great time as well as benefiting from being part of the community-orientated station. Importantly, all involved gain valuable experience and job opportunities within the radio and dance industries and community organisations as well as other related industries.

I understand that on Saturday 16 November there was a huge 24-hour party for many volunteers and supporters who celebrated and welcomed Fresh FM as Adelaide's youth radio station. I understand that some 800 young adults participated, and the 24-hour drive for new subscribers was very successful. Fresh FM has over 5 000 subscribers whose support of thousands of letters and signatures helped prove to the Australian Broadcasting Authority (ABA) that Fresh FM is an essential part of the youth culture of Adelaide.

Fresh FM is a unique radio station which, through its mix of alternative music, attracts a wide audience and promotes a great awareness of youth and local community issues. Fresh FM has been involved in community events like Mission Australia's winter sleepout, McHappy Day for the Variety Club of Australia and events organised through the International Year of Volunteers. Having such a wide audience, it is easy to see why business sponsors would be very much attracted to Fresh FM and take advantage of the opportunity to promote their businesses through on-air messages. As a result, Fresh FM has developed into a full-time, viable and successful business.

Fresh FM provides an important service to the youth community of Adelaide. It gives the youth of Adelaide their own voice. I was interested to learn, for example, that every Saturday morning between 9 a.m. and 11 a.m. Fresh FM hands over 92.7 MHz, so young South Australian musicians, mix DJs and local audio artists can air their work across the metropolitan area. This programming session is aptly named Fresh Air, and during this timeslot Fresh Air plays only 100 per cent local and Australian music and gives much-needed exposure to local Adelaide and Australian music artists.

This is a brilliant opportunity for our young musicians to demonstrate their work and hopefully gain a place on a Fresh FM play list. They may eventually tap into the music industry with the help of Fresh Air. Fresh FM is an innovative, successful initiative started by a group of young and enthusiastic South Australians, and I heartily congratulate all those involved at Fresh FM.

Time expired.

SUMMARY OFFENCES (LOITERING) AMENDMENT BILL

The Hon. R.D. LAWSON obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

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

That this bill be now read a second time.

Section 17 of the Summary Offences Act presently provides that a police officer can request a person to cease loitering only if the officer believes on reasonable grounds that an offence has been or is about to be committed, a breach of the peace is occurring or is likely to occur, pedestrian or vehicular traffic is being obstructed or is about to be obstructed, or that the safety of a person is in danger. Over the years, a number of police officers have complained that these powers are inadequate to deal with gangs hanging about in malls, darkened laneways—

The Hon. Diana Laidlaw: Or outside hotels.

The Hon. R.D. LAWSON: —or outside hotels—and in many different places where their very presence creates in the minds of reasonable people distress or a fear of harassment. Only yesterday in the *Advertiser* there was a report of an increased number of serious assaults against women in the City of Adelaide. The statistics, which were referred to in a question earlier today by the Hon. Diana Laidlaw, indicate that there are parts of Adelaide and certainly various times in Adelaide when it is unsafe. So the fears that people have when they see usually young men hanging about in a mall or in the laneways off Hindley Street and in Hindley Street itself are not unfounded. Similarly, in suburban areas and throughout the metropolitan area of this state, there are frequent complaints by people that at certain times and in certain places the presence of people loitering or just hanging about creates a fear.

People will not go, for example, to bus stations and other places because of people hanging about. So they have to change their lifestyle and they might abandon going out. There are many elderly people in our community who fear going out because of the presence in some places of people who are hanging about. At the moment the police do not have specific powers to ask such people to move on unless one or other of those conditions that I have summarised in clause 3 are met. Of course, the onus is on the police officer to be able to establish to the satisfaction of a magistrate that he entertained on reasonable grounds that, for example, an offence was about to be committed. That is a fairly onerous task of any police officer. The provision is really designed to codify the circumstances in which police can act.

In supporting my proposal to extend the powers of police, I ought go back into some of the history. The first statutory power in South Australia which was given to police to move on loiterers came in the Police Act 1841, which enabled a member of the police force:

> . . . to apprehend all loose, idle, drunken and disorderly persons whom he shall find between sunset and the hour of eight in the forenoon, lying or loitering in any street, yard or other place within any city, town or village or upon any highway or public road within the said province and not giving a satisfactory account of himself.

That reflects the police powers that existed for very many years. I assure the council that this proposal in no way seeks

to return to what I would describe as 'the bad old days' when police without any reason whatsoever could force people to move on because they did not like the look of a person, because they thought the person—for example, an indigenous person—should move out of a place, or because the person was drunk or had an appearance that the policeman did not like. Of course, if the person did not move on, the police could exercise their power to make an arrest and charge that person. Too often in the past those powers were, as we are frequently told, abused by police officers who simply did not like the look of some larrikin element and would exercise this rather brutal power.

That fact was acknowledged, and acknowledged by many police as well as policy makers and, accordingly, the laws relating to loitering have been much improved and tightened up. The Mitchell committee on penal methods in the 1970s recommended that these loitering laws be modified because, in the words of the authors of that report, the powers that had been contained by that stage in section 59 of the Police Offences Act were 'at best a subterfuge and at worst an unwarranted interference with the liberty of all persons to use streets and other places'.

It was important then, and it remains important, to balance the civil liberties of people to go about our streets, to sit in parks and gardens, to linger before shop windows and so on without fear of harassment from law enforcement officers against the rights of people to undertake their business without fear of harassment. It is not suggested for a moment that the test of fear of harassment should be the test which might apply to the most timorous member of our community, but my amendment would seek to introduce a notion of reasonableness: 'to cause distress of fear of harassment in a reasonable person within site or hearing of the person or group' is the language which is adopted.

I am heartened by the fact that the live music working group, which comprised representatives of the police, the Liquor and Gaming Commissioner and the Australian Hotels Association and which was chaired by the Hon. Angus Redford, released a very helpful report which has been largely implemented—

The Hon. Diana Laidlaw: No, it hasn't been largely implemented.

The Hon. R.D. LAWSON: Largely accepted, if not implemented.

The Hon. Diana Laidlaw: It was accepted by the former government, but it has not been implemented by this one, but we are helping them.

The ACTING PRESIDENT (Hon. R.K. Sneath): Order!

The Hon. R.D. LAWSON: I stand to be corrected: the report which was embraced by the previous government, and which it is still hoped will be embraced by the current government because of the sensible nature of its proposals. This particular working group did recommend—and it was a unanimous recommendation of the working group—the following:

> The Summary Offences Act be expanded to include a new offence relating to circumstances where a person, who, without reasonable cause, disturbs another in or adjacent to any licensed premises where entertainment is held or by wilfully creating any undue noise or behaviour.

The working group was looking to the creation of an offence. What is being proposed is the creation of additional powers for the police. The Mitchell report came out in July 1974. The government had already made amendments in 1972 and, following the Mitchell report, further amendments were subsequently made.

The importance of giving the police power to readily and rapidly defuse situations is apparent, for example, from the actions of the black shirt vigilantes who have been threatening (without much success to date) to bring their activities to this state. However, the black shirts are a vigilante group of people who are opposed to the orders, activities and provisions of the Family Court. They were, I believe, established in Victoria, and their standard modus operandi is for a group of persons to stand around in black shirts and wearing balaclavas or black masks outside the residences of people, usually women, who have been engaged in Family Court proceedings where the former spouse does not like the orders that are being made.

In Victoria, they found that the legislation was insufficient to give the police ready powers to move these people on and to prevent the nuisance, which, undoubtedly, they were creating and the fear and harassment that they were undertaking. When it was suggested that they would come here, the suggestion of our Attorney-General, certainly in the initial stages, was that the stalking laws might assist. However, stalking laws only apply to a person, who, on more than one occasion, engages in a particular sort of conduct. The Attorney, when pressed, suggested that the appropriate thing would be for the woman concerned to go to the Magistrates Court and obtain an apprehended violence order.

I regard that as a highly unsatisfactory solution. Why do you put a victim in those circumstances to the trouble and expense of having to make an application to a court and have a hearing before a magistrate? Why not give the police the power to defuse the situation immediately and remove the person who is creating the fear and harassment? What we need in these cases is powers which can be exercised expeditiously and inexpensively. It is that particular suggestion which has highlighted the need for legislation of this kind. The Liberal Party went to the election earlier this year with this amendment as part of its policy. We do believe that the police should have sufficient power to uphold the rights of citizens to use public places freely and without fear. They should not be circumscribed by restrictions which are very difficult to apply in operation and which, in effect, are a disincentive for them to exercise their powers for the protection of the community.

This is a modest measure. However, it is one for which police have been calling for some time, and certainly there is a need in our community for legislation of this kind. It might be said against legislation of this kind that it is seeking unduly to restrict the civil liberties of individuals. I assure the parliament that that is not the intention, and indeed the section is drawn in a way which will ensure that it is restricted in its operation. Police will still have to apprehend on reasonable grounds, as they do now, for the other criteria. They will have to be prepared to satisfy an independent arbiter, namely a court, ultimately if necessary, that their action was appropriate in the circumstances. Police are not exempt from actions for wrongful arrest and there remains in place that important judicial power and check and balance on police activity.

The way in which laws of this kind operate is that police in these circumstances can ask a person to cease loitering, to move on or to move out of a particular area, and it is only if the person refuses to move on that an offence is committed and the person is exposed to prosecution. Once an offence is committed, the police officer can arrest the person and

accompany them to the police station where formal charges will be laid. This is an important power. I believe that this measure is overdue. It does not infringe civil liberties. It will provide protection to the community and I urge support from members.

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

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That the time for bringing up the report of the committee be extended until Wednesday 19 February 2003.

Motion carried.

SELECT COMMITTEE ON RETAIL TRADING HOURS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That the time for bringing up the report of the committee be extended until Wednesday 19 February 2003.

Motion carried.

SELECT COMMITTEE ON PITJANTJATJARA LAND RIGHTS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That the time for bringing up the report of the committee be extended until Wednesday 19 February 2003.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

The Hon. R.K. SNEATH: I move:

That the report of the committee be noted.

This is the 7th annual report of the Statutory Authorities Review Committee. It provides a summary of the committee's activities for the year 2001-02. During this period the committee released three reports. On 3 August 2001, the committee tabled its 27th report, being the Second Inquiry into the Commissioners of Charitable Funds. In April 1998, the Statutory Authorities Review Committee tabled its first report into the Commissioners of Charitable Funds. As a result of its first inquiry, the committee unanimously recommended that the Commissioners of Charitable Funds be abolished.

In recent years there has been a progressive decrease in new funds received by the commissioners from prescribed institutions other than the Royal Adelaide Hospital. For the financial year 1999-2000, 99.99 per cent of funds received were gifts and donations made to the Royal Adelaide Hospital. The committee concluded that, if not for the Royal Adelaide Hospital, the commissioners would be hard pressed to justify their existence. The committee was unanimous in recommending that the Commissioners of Charitable Funds should be abolished.

On 28 August 2001, the committee tabled its 28th report, being the Fourth Inquiry into Timeliness of 1999-2000 Annual Reporting by Statutory Bodies. Over the course of its four inquiries into the timeliness of annual reporting by statutory bodies, the committee encountered difficulties in identifying all statutory bodies for which annual reports are required to be tabled in parliament. In all four of its reports, the committee recommended that the government should commit the funds to compile and maintain a comprehensive list of statutory authorities and statutory bodies for which annual reports are required to be tabled in parliament.

The committee is of the strong belief that this information should be widely accessible and therefore all statutory authorities should be listed either on the SA Central web site or on the relevant ministerial web site. During the inquiry, it became clear that the delay in the tabling of some annual reports was due to a failure in administrative procedures in ministerial offices. The committee recommended that ministers should ensure that annual reporting requirements for all statutory bodies within their portfolios are clearly identified. Ministers should instigate appropriate procedures to ensure that annual reports for statutory bodies are tabled in compliance with the relevant legislation.

On 28 November 2001, the committee tabled its 30th report, being its Inquiry into the Aboriginal Lands Trust, the Coast Protection Board and the Veterinary Surgeons Board. The committee took evidence from the Aboriginal Lands Trust, the Coast Protection Board, the Veterinary Surgeons Board and a member of the community. The committee recommended that all statutory authorities in South Australia present their annual report to the responsible minister within three months after the end of the financial year to which it relates. This is consistent with the requirements of the Public Sector Management Act 1995.

The responsible minister should be required to report to parliament the circumstances for any statutory authority's failure to comply with the requirements of the legislation. It was further recommended that, when a department proceeds with a review of legislation that affects the statutory authority, it should ensure that all interested parties are invited to make a submission. This would enable any amendments to have the support and confidence of all stakeholders.

In this period, a new committee was appointed at the beginning of the second session of the 50th parliament. The present committee would like to thank previous members for their work during their time on the committee. The committee currently has three inquiries: the operations and functions of the Passenger Transport Board; the operations of HomeStart Finance; and the operations and policies of certain social aspects of the South Australian Housing Trust. The committee is also continuing its review of the management of the West Terrace Cemetery.

I take this opportunity to thank the staff for their dedication over the past 12 months: our former secretary, Ms Tania Woodall, who has moved on to study in the UK; our former administrative assistant, Ms Linda Clark, who has joined minister Jay Weatherill's office; and a special thank you to our research officer, Mr Gareth Hickery, whose tireless efforts have been appreciated by all members.

The Hon. Sandra Kanck: One of them stayed with you then?

The Hon. R.K. SNEATH: Yes. Gareth successfully applied last month for the secretary's position and his replacement is Mr Tim Ryan, who was appointed to the research officer's position. I thank previous committee

members for their work: the past presiding member, the Hon. Legh Davis; and committee members the late Hon. Trevor Crothers, the Hon. Julian Stefani and the Hon. John Dawkins, whose expertise on rural issues and boards was of great benefit to the committee.

I am pleased to report that the new committee is made up of people with a broad range of knowledge, covering a wide range of subjects that affect the statutory authorities. Being the only former member of the committee and now the Presiding Member, my role was made easier by having people appointed to the committee with such diverse backgrounds. The new committee members are the Hon. Caroline Schaefer (who brings with her a knowledge of rural issues similar to the Hon. John Dawkins's), the Hon. Terry Stephens, the Hon. Andrew Evans and the Hon. Nick Xenophon, all of whom have a good understanding of issues affecting statutory authorities and the people who rely on them. I have much pleasure in moving that the committee's 31st report, namely, the annual report of the Statutory Authorities Review Committee for 2001-02, be noted.

The Hon. J.S.L. DAWKINS: It is with pleasure that I support the noting of this report. As a former member of the Statutory Authorities Review Committee, I would like to make some remarks about the three reports that were issued by the committee in the reporting period, as well as some other brief comments. I think that, in his remarks about the second inquiry into the Commissioners of Charitable Funds, the Hon. Mr Sneath indicated that the first report into that matter was issued in April 1998. That was shortly after I joined the committee, having been elected, I think, in December 1997.

The Commissioners of Charitable Funds was established in 1875 as a body corporate with responsibilities for administering donations and bequests for public health bodies. As a result of the first inquiry, the committee unanimously recommended the abolition of the Commissioners of Charitable Funds. At that time 96.5 per cent of the more than $37 million held by the commissioners was on behalf of the Royal Adelaide Hospital, and $1.3 million was held for another 13 health groups. In the first report, the committee further recommended that hospitals and health services that received funds from the commissioners should, wherever possible, ensure that these funds are managed in accordance with the specific conditions attached to donations and bequests.

In 1999-2000 the committee became aware that the Commissioners of Charitable Funds had not been abolished. It was subsequently established that the minister was planning to retain the commissioners and to amend the legislation. As a result, the committee resolved to take further evidence on the matter. The committee established that funds invested with the commissioners held for the Royal Adelaide Hospital continued to increase as a proportion of total funds held and received. Since 1997-98 funds held for the RAH have increased from 95.61 per cent to 96.42 per cent of the total funds held.

Furthermore, in 1999-2000, 99.9 per cent of all funds received by the commissioners were donations and bequests for the Royal Adelaide Hospital. In fact, the percentage figure for 2000-01 would have been similar if not for a one-off large receipt of funds from the Whyalla Hospital and Health Service. It is apparent from the report that the amount received by the Commissioners of Charitable Funds from other metropolitan and regional institutions continues to decrease. It is possible that these institutions are endeavouring to circumvent the requirement to forward donations and bequests to the commissioners by encouraging donors to give to specific projects or through establishing foundations.

The committee continued to believe that the current legislation was an anachronism. No other state or territory in Australia has a body comparable to the Commissioners of Charitable Funds, and the committee again recommended the abolition of commissioners. I should say that the committee's decision to recommend the abolition of the Commissioners of Charitable Funds in no way reflected on the performance of the commissioners. The current commissioners have performed their duties in a proficient and professional manner, despite the restrictions of the legislation.

The fourth report produced by the Statutory Authorities Review Committee on the subject of timeliness of annual reporting by statutory bodies continued to monitor the annual reporting performance of statutory bodies. The committee believed that timely annual reporting by these bodies is very important for both accountability and transparency. Over the course of its four inquiries into timeliness of annual reporting by statutory bodies, the committee encountered difficulties in identifying all statutory bodies for which annual reports are required to be tabled in parliament.

In each of the four reports the committee recommended that the government should commit funds to compile and maintain a comprehensive list of statutory authorities and statutory bodies for which annual reports are required to be tabled in parliament. The committee is of the strong belief that this information should be widely accessible and, therefore, as the Hon. Mr Sneath said, all statutory authorities should be listed either on the SA Central web site or on the ministerial web site.

This report demonstrated a slight decline in annual reporting performance by statutory bodies for the 1999-2000 financial year and the calendar year 2000. However, 76.2 per cent of annual reports required to be tabled in parliament were tabled in accordance with all legislative requirements. Appendix 1 of the report provides details on all statutory bodies for which annual reports were tabled in 1999-2000 in accordance with legislative requirements.

Thirdly, I would like to make some comments about the inquiry into the Aboriginal Lands Trust, the Coast Protection Board and the Veterinary Surgeons Board. This report was tabled almost 12 months ago. The committee decided to hold an inquiry into these three statutory authorities because these bodies had been persistently late in tabling their annual reports.

During the course of the inquiry it became apparent that the authorities examined had different reporting requirements. The committee reiterated its previous statement in relation to the timetable of annual report delivery. The state's statutory authorities should have similar reporting requirements, namely, those set down in the Public Sector Management Act 1995. The committee also believed that the responsible minister should report to parliament any failure to comply with the requirements in the legislation and the reason for any lateness. This would assist in reducing any future irregularities.

It was also revealed to the committee that two of the statutory authorities—the Aboriginal Lands Trust and the Veterinary Surgeons Board—had administrative and financial irregularities in recent years. The further authority, the Coast Protection Board, did not have any such irregularity. The committee noted that the Aboriginal Lands Trust had recently

introduced a code of conduct for staff. The committee believed that these guidelines would lead to a more efficient administration and financial management of the trust. The code of conduct for staff should further ensure that annual reporting deadlines are met.

The Coast Protection Board does not appear to have any adequate reasons for its persistent lateness in annual reporting. The chairperson of the board gave evidence to the committee and recognised that the timeliness of annual reporting by the board must be improved. The financial indiscretions suffered by the Veterinary Surgeons Board in the mid-1990s (due to fraudulent behaviour of the executive officer) have been resolved. Since that time the board has improved the timeliness of its reporting. The committee noted that there appeared to be a lack of adequate consultation in the review and amendments to the Veterinary Surgeons Act 1995. Representatives of the Veterinary Surgeons Board gave evidence to the committee that they were greatly dissatisfied with the Department of Primary Industries' cooperation in the review of the Veterinary Surgeons Act 1985.

I also wish to make some very brief comments about the management of the West Terrace Cemetery. The Statutory Authorities Review Committee seemed to have an ongoing brief on this subject from the time when I first joined the committee. In fact, there were three reports critical of the management of the cemetery. This resulted in the then minister (my colleague the Hon. Diana Laidlaw) requesting that a new and more comprehensive management plan be prepared by the Enfield General Cemetery Trust.

As part of the committee's continuing review of the management of the West Terrace Cemetery, evidence was taken late last year from Heritage SA and the Chief Executive of the Enfield General Cemetery Trust, but the report was not tabled due to the timing of the state election. However, I understand that the new committee has taken evidence from the Chair of the new Adelaide Cemeteries Authority board and further evidence from Heritage SA. I also welcome the information that the committee will maintain discussions with the board of the Adelaide Cemeteries Authority and report on the outcomes later in this financial year.

In conclusion, I would like to make some comments about the membership of the committee. I was fortunate to serve on the Statutory Authorities Review Committee for just over four years under the then Presiding Member, the Hon. Legh Davis. The Hon. Mr Sneath is only the second presiding member of that committee. The Hon. Legh Davis led that committee well over a period of eight years. Other members during my time on the committee were the late Hon. Trevor Crothers, the Hon. Julian Stefani, the Hon. Mr Sneath (as mentioned) and, of course, in the first year or two of my time on the committee, the Hon. Carmel Zollo prior to her promotion to the position of Opposition Whip.

Since the election, 80 per cent of the composition of the committee has changed. The only remaining member is the Hon. Mr Sneath. Indeed, he is the only member of the government on this committee, but he has commented on the wide range of backgrounds of the members of the committee, and I endorse those comments. I wish the Hon. Mr Sneath and his colleagues well in their endeavours. The other members are: the Hon. Andrew Evans, the Hon. Nick Xenophon and my Liberal colleagues the Hon. Caroline Schaefer and the Hon. Terry Stephens.

I would also like to put on the record my thanks to the staff with whom I worked on the committee. In more recent times, we had Ms Helen Hele and then Ms Kristina Willis-Arnold, who took maternity leave in the latter part of my time on the committee; Ms Tania Woodall, who took over from Ms Willis-Arnold; Mr Gareth Hickery, who spent some time as a research officer with the committee and who I understand has now been appointed as secretary of the committee; and I would also like to put on the record my appreciation to Ms Linda Clark, who, as the administrative assistant, was always very helpful. I understand that she has gone to a position in the Public Service, and I wish her well. With those words, I commend the motion to the chamber and, once again, I wish the Statutory Authorities Review Committee all the best for its work in the future.

Motion carried.

CONTROLLED SUBSTANCES ACT

Order of the Day, Private Business, No. 10: Hon. Carmel Zollo to move:

That the regulations under the Controlled Substances Act 1984 concerning simple cannabis offences, made on 29 November 2001 and laid on the table of this council on 5 March 2002, be disallowed.

The Hon. CARMEL ZOLLO: I move:

That this order of the day be discharged.

Motion carried.

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1290.)

The Hon. D.W. RIDGWAY: I was quite surprised to learn so early in my parliamentary career that I would have to consider this bill. During my preselection process with the Liberal Party I was asked on a number of occasions my position on voluntary euthanasia; in fact, I was even asked during my final presentation to the Liberal Party. My position then and at the time of being elected to the Legislative Council was that I was basically in favour of and supported the principle of voluntary euthanasia but that I needed to be sure that whatever system was introduced would not be open to abuse or misuse.

By now all of you are well aware that my background is from rural South Australia from what I guess would be described as a conservative country community and a conservative community-minded family. I have had very little experience with death apart from the death of my grandparents and my wife's grandparents, the unfortunate and devastating results of road trauma involving young people in country areas, and, of course, my father who passed away in 1995 as a result of a brain tumour.

Once the Dignity in Dying Bill was before this place, I felt compelled to research this subject thoroughly. I had not had the opportunity to do so through the parliamentary committees as many here have. It would have been very easy for me simply to read some of the transcripts, committee reports and the many letters I have received since the introduction of the bill, but I felt that for my own peace of mind I should speak to those people who in their everyday lives are confronted with issues relating to voluntary euthanasia.

The Voluntary Euthanasia Society made appointments to visit me and explain their position, and I thank them for the time they have given. In the middle of the year I made an appointment with the Mary Potter Hospice and I had a very interesting discussion with a number of the staff members as well as some members of the Mary Potter Hospice Founda-

tion. It was their view that palliative care had made some significant advances in recent times but that there still seemed to be about 5 or maybe 10 per cent of patients where pain relief and palliative care are not effective.

I believe it is important when we as members of parliament are asked to make decisions for the people who elected us that, where possible, we should engage those people in discussions in relation to the bills before us. I have done this on an informal basis at local football matches, the shopping centre, school events, with family and friends, or just whenever the opportunity has presented itself following the introduction of the bill. The South Australians with whom I have spoken are all overwhelmingly in favour of some sort of voluntary euthanasia, although they are also concerned that if we are to have such a law we should have safeguards and checks and balances that protect South Australians. Even as recently as last Wednesday night, a quick poll of 16 men aged between 25 and 40 indicated 70 to 80 per cent support.

In late October/early November I travelled to the Netherlands to see at first-hand a society where voluntary euthanasia is a legal practice. I decided that I needed to speak to those in the Netherlands who are in favour of voluntary euthanasia, officials of the ministry of health who oversee it, and of course those opposed to the legislation—the Netherlands patients society and Andre Rouvoet, who is a member of parliament and a member of the Christian Union Party, which is opposed to voluntary euthanasia. I had appointments over three days during my visit to the Netherlands and spent some six or seven hours with representatives from these groups. They all had a very interesting contribution to make. Obviously, the Voluntary Euthanasia Society was in favour of this bill, although it was a little surprised at some of the wording, especially clause 11(1) where a person may revoke the request for voluntary euthanasia at any time. The society was quite surprised, and even alarmed, that you would assume that an individual did not have the right to change their mind at any time.

They were able to put many of my fears to rest. However, I was very concerned with some of the information given to me, just prior to leaving for the Netherlands, by the Hon. Andrew Evans that in 1995 in excess of 900 people in the Netherlands had their lives terminated without their express request. On further examination of these statistics, I discovered some interesting facts. First, the number of doctors surveyed to obtain the data was quite small, and these results were extrapolated across the Netherlands population. Secondly, in the vast majority of these cases the onset of a terminal illness was so rapid that there was no opportunity to canvass the possibility of voluntary euthanasia with patients or their families. These approximately 900 people represent about 0.7 per cent of the mortality rate in the Netherlands in 1995.

In that same year, in Australia, 3.5 per cent of our mortality rate was accounted for by people whose lives were ended without their explicit request, using the same method to sample the small number of doctors and extrapolating the results across the population. Given that our population is slightly greater than that of the Netherlands, this figure represents between 4 500 and 5 000 people. These figures come from a study carried out in Australia with the support of a grant from the National Health and Medical Research Council in 1995-96. The study revealed that, in 30 per cent of Australian deaths, a medical end-of-life decision was made with the explicit intention of ending the patient's life. Only 4 per cent of deaths were in response to a direct request from patients. The authors of the study conclude:

> Australian law has not prevented doctors from practising euthanasia or making medical end-of-life decisions explicitly intended to hasten death without a patient request.

I am sure this practice will continue. It would, therefore, seem logical and clear that we need a proper legislative framework to protect not only the patients but also the doctors.

Mr Andre Rouvoet MP of the Christian Union Party was opposed to the legislation. He concluded that it was unlikely that the Dutch legislation would be repealed but said that he would seek to have some amendments made at the earliest possible opportunity. Two of his suggestions were that advance requests should be valid for only a certain period of time, and he said that the monitoring committee was inappropriate for doctors to report to and he wished to see the doctors report directly to the department of public prosecutions. I agree with his view on advance requests: we need to be absolutely sure that at the time of death it is still the wish of the patient.

My final appointment was with Mr Visser in the ministry of health, welfare and sport. He is the chief bureaucrat overseeing the implementation and administration of the new Netherlands law. He was relatively relaxed and comfortable with the current situation and did not believe that there was any significant misuse or abuse of the law. However, he revealed that a review of the new law is being conducted at present. He said that it will be wound up in the next few weeks and that the findings will be available by about April 2003.

I have also consulted widely with the nursing profession, as well as many nursing homes and palliative carers. There seems to be significant support for some enabling mechanism for patients who wish to have the right to die. Having said that, at this point in time, and being relatively fit and healthy, I do not believe that I would choose euthanasia for myself, but I do not wish to stand in the way of those who wish to have that choice. I have considered the risks to the South Australian people and, in view of my assessment of this bill and what happens in the Netherlands, I feel comfortable that with a few minor amendments the risks to South Australians of misuse and abuse will be negligible.

The amendments that I will propose in the committee stage will support the Hon. John Dawkins' residency clause; include a euthanasia question on admission forms to hospitals, nursing homes, etc.; pursue a time limit on advanced requests; require documentary evidence when a doctor first discusses voluntary euthanasia with a patient; and require a second medical practitioner to be in attendance when the request is made. Therefore, it is my intention to support the bill today. However, I strongly recommend that before it progresses further we await the outcome of the review in Holland. It would seem to me to be inappropriate to either pass or defeat this proposed legislation without knowing all the facts. We now have an opportunity to look at this review and enhance what is before us or, if there are some problems, make a judgment on those problems some time towards the middle of next year. In closing, I remind the council that I think people often lose sight in this debate of the fact that we are talking about voluntary euthanasia. I support the bill.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak to the second reading, but not at length. My views on this issue are well known to the lobbyists both for and against voluntary euthanasia in South Australia. I have

been and remain a strong opponent of voluntary euthanasia legislation. I find from the record that I have spoken on issues of death and dying—not all on voluntary euthanasia—on a number of occasions in parliament, dating back to the first debate on the Natural Death Bill in 1983, which was my first year in parliament. The Hon. Mr Ridgway has indicated his surprise at being called upon in his first year in parliament to vote on such an important issue.

I remember, many moons ago, having a considerable wrestle with my own conscience at the time in relation to the Natural Death Bill, and that was the first of many debates and discussions I have had over 20 years on issues of death and dying. I remember at the time that the Hon. Legh Davis was a very strong opponent of the natural death legislation. The majority of members in the Legislative Council supported it at the time, as, indeed, did I, but there was an indication even in 1983 that there were strongly divided views in the Legislative Council on the issue of the Natural Death Bill.

In more recent years, such bills have been introduced with great rapidity into the parliament. In 1995, John Quirke introduced legislation in the House of Assembly; in about 1997, legislation was introduced by I think the Hon. Anne Levy; in about 2001, legislation was introduced by the Hon. Sandra Kanck; and now, in 2002, legislation has again been introduced by the Hon. Sandra Kanck. I might have missed a referendum bill that the Hon. Sandra Kanck introduced back in 1996 or 1997.

As I said, the Natural Death Bill was introduced in 1983 and there seems to have been a pause for a while, but in the past six or seven years we have been averaging a new bill every couple of years or so. As was recounted in *Hansard* last time, the Hon. Carolyn Pickles indicated that, when she accepted that the legislation was unlikely to be passed by parliament, she or they would keep on trying, and the Hon. Sandra Kanck is certainly consistent in her views on this issue and has continued the battle, as she sees it, for those within parliament and the community who passionately believe in this issue.

As I commented last time and as I comment again, I think it has been healthy that the debate has been carried in this parliament thus far without rancour, with people accepting varying views on both sides of the council. There are strongly held views both for and against in my own party, and some have only just made decisions or are still contemplating aspects of it. I am sure that in the community generally there are those who wrestle with their own views. The Hon. Mr Ridgway and others have referred to the strong support for the notion of voluntary euthanasia in formal and informal polling of the community, and I accept that. As I have recounted on previous occasions, on this issue I do not accept the majority view, as I do not in relation to capital punishment.

The same formal, or informal, polling shows that the vast majority of people (approximately 70 per cent to 80 per cent) support capital punishment in various circumstances. As I have argued on other occasions, as members of parliament we make our judgments either individually (as in this case, because it is a conscience issue), or collectively as political parties and entities, on the basis of the information as we know it.

Certainly, I have always strongly supported the view that I do not argue or support a position just because 70 per cent or 80 per cent of the population has argued for a particular point of view. We are elected as legislators to make decisions. Ultimately, if the community is unhappy with the decisions that we make over a period of time, either individually or collectively, in the main it has the opportunity of saying no, either specifically or collectively, as representatives of a political party.

Normally, I do not vote against second readings, but I do not intend to support the second reading of this bill. As I outlined last time, one of the reasons I do so is that I have strongly held views; another is that I am advised that perhaps three or so members of the parliament have indicated that they will, as a matter of form or process, support the second reading but have already indicated that they will vote against the third reading.

As occurred last time, it is likely that this bill will pass the second reading. However, if one accepts the word of individual members who say that they will vote against the third reading, the bill is unlikely to be successful at that time. As with the prostitution legislation, that means that this parliament will spend an inordinate amount of time at the committee stage debating and refining a bill when a majority of members have decided that they will oppose the third reading.

If it were the position that members were awaiting the refinement of the committee stage to form a view, clearly it would be in doubt whether the legislation would pass the third reading; I am advised that that does not appear to be the case. So, parliament is likely to spend a considerable period of time wrestling with amendments, and the Hon. Sandra Kanck will spend some time answering questions from lawyers, de facto lawyers, such as the Hon. Mr Gilfillan perhaps, and others on the implications of clauses in the legislation. In the end, however, if one accepts the statements that some members have made, the bill will fail at the third reading. That is the second major reason why I do not intend to follow my normal course of generally supporting second readings of legislation; the other is that I am strongly opposed to the legislation for the reasons I have previously indicated.

I congratulate all members on their contributions, but I particularly congratulate the Hon. Andrew Evans. I thank him and his officers for the material that they have provided to all members, even though I am sure some members have not agreed with his position. However, I have certainly appreciated their assistance in providing information. I also thank the Hon. Mr Gilfillan, to whose contribution I listened with great interest. He has provided me with some further information from which he had quoted at an earlier stage. Certainly, I found his contribution and the information that he was able to provide most interesting and useful in confirming my views and concerns about provisions in the legislation.

I do not intend to go through a detailed analysis of the legislation, because that would be repeating what I have argued on a number of previous occasions over the last 20 years, particularly over the last six years. I remain an opponent of the legislation, and I intend to vote against it at both the second and third readings.

The Hon. SANDRA KANCK: I thank all honourable members for giving this bill the serious consideration it deserves, regardless of whether they supported or opposed it. In considering the contributions that members have made on the bill, I will obviously be speaking about those who oppose the legislation. I begin with some comments made by the Hon. Andrew Evans, who clearly thinks that the reason people seek voluntary euthanasia is pain. That is not the reason people seek voluntary euthanasia. For example, in Oregon, where they have the Physician Assisted Suicide Act,

when people were surveyed, the three key reasons for choosing physician assisted suicide were loss of autonomy, decreasing ability to enjoy life and the lack of control of bodily functions.

At a local level, there have been a number of well-known cases, and some not so well known. I remember a particular friend who was dying and, when I wanted to visit her in the last few days of her dying, she refused to let me come and visit her simply because she felt that she no longer had any dignity, and she did not want me to see her connected up to tubes, oxygen bottles and so on. Dignity is a key factor in all this.

Members may recall one of the people who travelled to Darwin to avail themselves of the Rights of the Terminally Act—Janet Mills from Naracoorte. When she was interviewed on TV, her skin was peeling off, and pus was exuding from her skin. One has to ask how anyone can feel dignified under those circumstances. Why would you want to continue your life?

Shirley Nolan took her own life earlier this year. Her body would freeze in spasms. The day I visited her, she had spent a number of hours lying on the kitchen floor. She was dependent on people wandering in and out of her house, and I have forgotten how many people she said had keys to her front door. On this particular occasion, nobody came for a number of hours, so she was lying there in spasm on the kitchen floor. Why would you want to continue your life like that?

Jo Shearer was another South Australian who took her own life a few months ago. She had double scoliosis of the spine and had enormous pain. Having waited a number of months, she was admitted to the pain clinic at Flinders Medical Centre, but they were unable to do anything for her. Why would you want to continue life in the state that she was in? The Hon. Andrew Evans said:

> If correct pain relief had been administered to Mrs Nancy Crick, she may not have chosen to die.

That is nonsense. Nancy Crick's death was not about pain relief or about pain. In fact, Nancy kept an open mind about her condition. A joint media release with the Australian Voluntary Euthanasia Society stated:

> She constantly reviewed her situation, delaying her decision to end her life on a number of occasions, notably to see whether palliative care could ameliorate her suffering. She found that palliative care eased her pain but clouded her consciousness and did not help with her other symptoms to her satisfaction.

So, her death had nothing to do with the relief of pain. Nancy's symptoms, as well as involving pain, included nausea and vomiting, diarrhoea and severe and progressive weight loss which, as the statement says, were 'entirely consistent with failure of her gastrointestinal tract which leads to death through lack of nutrition comparable to starvation.' It has nothing to do with pain.

I recall a page one heading in the *Advertiser* in relation to Nancy Crick which read, 'You are not terminally ill', but she might as well have been. She weighed just 29 kilograms. She was just wasting away. If she had not taken her life when she did it is unlikely that she would have survived more than a few more months because her body would have been incapable of sustaining itself. What was the value in keeping this woman alive with her nausea, her vomiting, her diarrhoea? I think she actually said that one of the things she was concerned about was the prospect of having to have her nappies changed like a baby.

It needs to be understood that pain management clinics at our major hospitals are available, in the first instance, on a priority basis to those who are terminally ill. The clinics have waiting lists of up to 10 months, so to say that pain is what causes people to seek voluntary euthanasia, and that pain management clinics are the solution, is simply a misunderstanding of the current situation in our hospitals and in medical practice.

A number of members referred to the situation in the Netherlands, including the Hon. Andrew Evans who said that 55 per cent of voluntary euthanasia in the Netherlands was, in fact, non-voluntary. The Hon. David Ridgway has very capably addressed that, as has the Hon. Gail Gago. There is no truth to those arguments. The Hon. Robert Lawson said:

> The Netherlands government has found it necessary to publish information in many languages to address the continuing inquiries that it has received about its legislation.

It is not just inquiries but misinformation and mischief-making—such as that claim of 55 per cent non-voluntary euthanasia—that has led the Netherlands government, really in an act of desperation, to prepare that booklet, in an attempt to correct the misinformation.

The Hon. Andrew Evans advanced the 'I cannot sell myself into slavery' public policy argument. This is one that has been advanced on a number of occasions by Dr John Fleming. He advanced that same argument to the Social Development Committee some years ago. Quite frankly, this is just plain, good old-fashioned sophistry. Sophistry is the term given to a form of argument that is really nothing more than intellectual pretence, and that is what this argument is. There is no comparison between people seeking to end their lives because of the intolerable nature of their condition and someone wanting to sell themselves into slavery. The former is a real situation; the latter is a rhetorical device to win an argument. I am not aware of anyone, anywhere demanding the right to sell themselves off as slaves. Certainly nobody is advocating any legislation supporting that position. I do not believe there would be a politician anywhere in the world advocating that. It is just a stupid argument.

The Hon. Andrew Evans also referred to the fact that, in the state election, the euthanasia campaigner, Dr Philip Nitschke, polled only 1.18 per cent of the vote. Referring to my stance on voluntary euthanasia, he said:

> The Hon. Sandra Kanck, for the Democrats, made a very clear statement, before the election that she was in favour of voluntary euthanasia and would introduce a bill during the first session of parliament. Instead of the Democrats vote increasing, it fell. The Family First party came out very strongly against euthanasia. Our information and research showed that a large body of people in South Australia are strongly opposed to euthanasia. The election results speak for themselves. The people of South Australia have clearly demonstrated that they are not in favour of voluntary euthanasia.'

What Mr Evans has clearly demonstrated is that, first, he paid very little attention to what was happening in relation to media coverage during the election and, secondly, that he is not a psephologist. Dr Nitschke had very little exposure as a candidate. It was announced very late in the campaign that he was standing, and I doubt that most people even knew he was standing. He had very few people handing out how to vote cards at polling booths.

With regard to the Democrat vote, I recognise that we, as a party, were in a position where our vote had begun plummeting, back at the time of the 2001 federal election, and it was continuing to free fall. Despite that, I was the ninth elected Legislative Council member, as opposed to being

elected tenth in 1993. There was a doubling in the number of Legislative Council candidates standing, but despite that I had the highest personal below-the-line vote of any candidate. I think that, in fact, my stance on voluntary euthanasia was well-known, and it contributed to that very high personal vote.

The Hon. Andrew Evans raised the connection of legal voluntary euthanasia encouraging young people to suicide. Again, I do not think that he has done his research. He needs to look at the causes, such as the encouragement and the glorifying of suicide through the songs and youth culture at present. This bill, in fact, discourages suicide. It gives people a legal way to do things very cleanly, with the assistance of doctors, so that no-one has to attempt suicide. The likelihood is that there is a greater chance of suicide occurring if there is not legal voluntary euthanasia.

On the issue of palliative care, the Hon. Carmel Zollo quoted Professor David Curnow, saying:

> To suggest that we should divert precious resources from palliative care to assessing people's suitability for euthanasia is absurd.

I agree: it is absurd. That is not what this bill seeks to do. Who on earth is suggesting that resources should be diverted in this way? But, under this legislation, if I was hopelessly ill and went to my doctor to ask for assistance in ending my life, it would have nothing to do with the funding of the health system. It would be a discussion between my doctor and me. There would be no diversion of public health funds in order for it to happen.

I do not know whether the Hon. Carmel Zollo is suggesting therefore that we need some sort of vetting process when we ring our doctors to make an appointment. Perhaps the receptionist will say, 'Excuse me, are you asking for the doctor to assist you with voluntary euthanasia? If so, we will not give you an appointment.' If that is what she is suggesting, I would be absolutely horrified at this interference in people's private lives. She said, 'If parliament decides that euthanasia should be available, it has nothing to do with palliative care.' In fact, voluntary euthanasia is the last resort when all other aspects of palliative care have failed, for those who have a terminal illness and have been lucky enough to get palliative care: it is not an option for people who are hopelessly ill, as defined in my bill.

I disagree with the Hon. Carmel Zollo about the connection, because wherever voluntary euthanasia has been made legal, as it was in the Northern Territory, or Oregon with the passage of physician-assisted suicide legislation, it has made health authorities take a much-needed look at the limitations of their current system. In those cases the options available for palliative care have greatly improved, resulting in better resourcing overall for palliative care. In the Netherlands, the government says that every hospital bed has the potential to become a palliative care bed but, here in South Australia, and probably through most of Australia, the only way you can get palliative care is if you have a terminal illness. The front cover of a brochure from Palliative Care Australia reads:

> Palliative care is specialised health care of dying people—

I emphasise 'dying'—

> which aims to maximise quality of life and assist families and carers during and after death.

I will be referring to the suicide of Jo Shearer in greater detail later, but she was told that she was ineligible for palliative care because she was not terminally ill. Palliative care does not provide all the options. A position statement on euthanasia put out by the Palliative Care Association in 1999 states:

> Palliative Care Australia . . .
>
> (5) acknowledges that while pain and other symptoms can be helped, complete relief of suffering is not always possible, even with optimal palliative care.
>
> (6) recognises and respects the fact that some people rationally and consistently request deliberate ending of life.

If this legislation were passed, I am certain it would exert the necessary pressure to make palliative care available not only to those who are terminally ill but also to those who are hopelessly ill. That would be a good thing and something that the supporters of voluntary euthanasia would welcome.

The Hon. Andrew Evans said that palliative care should not be an optional step. But, as things stand, it is possible to have palliative care only if you are terminally ill. The Jo Shearers and the Shirley Nolans of this world would not be eligible. In South Australia we have just six palliative care specialists. If having palliative care is to be a requirement for people who are hopelessly ill as well, then something will have to be done, seriously, about training more palliative care specialists in this state.

What I do object to in making it a compulsory step is that it demeans the people who have gone through this process and who have thought it through rationally. As the Palliative Care Australia statement says, people rationally and persistently request, and it does patronise them to say that we do not accept their decision and to say, 'You are not clever or sane enough, or whatever it is, and we will make you jump through more hoops.'

It was a national point of publicity when Shirley Nolan took her life in June. As no-one else has spoken about her death, I want to put on record the statements that were released by the Voluntary Euthanasia Society at her request. The first one states:

> I hope today I can end the horror my life has become. Parkinson's disease has slowly debilitated me for some 25 years leaving in its path an almost unrecognisable parody of my former self. No-one has assisted me to end my life, and the detailed account of my deplorable condition will affirm its necessity and blessed release.
>
> Here today, my last day, I am an advocate of death, yet for over a quarter of a century as founder of the Anthony Nolan Trust, I have worked with fervour and determination to give to children and adults throughout the world suffering leukemia and related diseases the greatest gift of all, the gift of life.
>
> Yet as valuable as that life is, when shown it no longer has quality, reduced to intolerably cruel days and nights of pain and suffering, I have always believed in the right to die with dignity. From the heart, I should have that right.

That is signed 'Shirley Nolan, OBE'. There is another statement:

> To whom it may concern: My life and my death.
>
> I have battled Parkinson's disease for more than 25 years to the stage of losing control of my body. Now at times I cannot even move, speak or breathe. I am further demeaned by staggering, shaking and falling, appearing to be inebriated. It is easy to appreciate the loss of self-esteem in Parkinson's patients when they see the look of disgust when observed by the unenlightened.
>
> Parkinson's disease becomes increasingly degenerative. I am beginning to stoop, my muscles too weak to hold my body upright. My feet claw like talons and recently my hands cramp and become exceedingly painful.
>
> My muscles are almost constantly in spasm, i.e. rigid, heavy and aching. Most of the time in this latter stage of my illness, I find it impossible to relax sufficiently to read a book, view TV or even lie on my bed. I can no longer even control my body temperature. I hover between a state similar to hypothermia and menopause. My face can be hot and perspiring and my feet blue and icy. Passing from one room to another of a different temperature causes me to freeze, i.e. rendered completely immobile and helpless.

Those blocking research for Parkinson's (and other neurological conditions) should experience the indescribable terror of this paralysis. They should experience the slow erosion of self-confidence, self-worth, freedom and independence; the inability to even walk alone, leave one's home unassisted, go to a movie, dine out, visit friends—those few stalwarts who remain.

It is a life without quality. It is a living hell. I place what is left of mine on the altar of compassion in the hope that my death will highlight the plight of others and thus serve some purpose.

I pray for the speedy success of a change of the law to allow people like me to have assistance to die. Meanwhile I must take my release into my own hands. I have already exercised my legal right to take my own life, but unfortunately I botched it. Consequently, I have now planned with greater care and I hope fervently that I will succeed the second time. Shirley Nolan, OBE.

I think it is appalling that a woman of her stature uses the term 'botch'. She attempted suicide and it did not work. Because we as MPs are intransigent about passing legislation such as this, she blames herself. How appalling that we as parliamentarians put a woman like that in that situation. For those who argue about the sanctity of life, where is the sanctity and sacredness in that? Why should someone like Shirley Nolan have been condemned to life?

The Hon. Andrew Evans talked about the term 'hopelessly ill' and asked, 'How can we objectively assess a person's quality of life? Who determines the exact definition of a life becoming intolerable?' I remind him that it is not 'we' who make that decision. It is not our problem. It is the person who has the illness or condition. How arrogant of us to be even making that decision on behalf of those people. The person who is suffering makes that assessment and therefore makes the approach to the doctor. The doctor's job is to provide information on all the alternatives and to make an assessment as to whether or not the person is clinically depressed.

The Hon. Andrew Evans said, 'They do not have the specialist knowledge of the particular illness.' They may or they may not but, knowing all the paperwork that the doctors have to forward to the coroner, it would be highly unlikely that the doctor would not seek advice. She or he would not be able to fulfil the requirement of the act of providing information about all the alternatives without doing that, and therefore they would not be able to sign the form. Any doctor's professional status would be at stake if they did this, and even the possibility of criminal charges exist within the bill because the case would go to the coroner. So the actions of any doctor in this regard are not to be taken lightly.

I remind members that it is not you or I who makes the assessment: it is the person who has the condition; and the medical profession, to the best of their ability and looking at the fact that they could be deregistered or even imprisoned, has to look at that extremely carefully.

Jo Shearer was another person who took her life in recent times. Members received correspondence about Jo Shearer from the Voluntary Euthanasia Society back in April. I subsequently emailed all members and asked that they not use the information, because she had not in fact succeeded in taking her life. It would have been very difficult and uncomfortable for her family to have this information go public. However, what she had to say in April is now something that can be put on the public record. It says:

Dear member,

I write in the knowledge that if you receive this letter, I will have succeeded in taking my own life. I have given this letter to the South Australian Voluntary Euthanasia Society, to be used as they think fit, after my death.

I am a 56 year old senior manager, at the pinnacle of my career as journalist and editor both in Australia and overseas until forced last year to stop working due to rapid deterioration of my health.

It is with bitter irony that I reflect, as I prepare for the traumatic yet carefully considered act of taking my life, that in all respects other than my unbearable physical and spiritual suffering I have everything to live for: intelligent, happy and successful adult children, an enjoyable relationship with close and supportive friends, a challenging and rewarding career, a passion for learning foreign languages and opportunities to travel overseas, a beautiful near city home which I own freehold, a comfortable financial position, and a strong commitment to and enjoyment in helping others.

Yet my reasons for feeling forced to end my life outweigh all of the above. They are simple and compelling: excruciating, intolerable physical pain caused by a severe, twisted curvature of my spine; Sjogren's syndrome—an auto-immune system disease causing severe dry eyes, soft tissue damage and muscle degeneration; a rheumatic disorder; and Chondrocalcinosis—calcium deposits on my knee.

The ongoing relentless agony caused by this combination of incurable medical problems is intractable. It cannot be controlled by physical therapy or medication. The latter actually causes problems of its own. Morphine, for example, exacerbates my dry eyes which have now ulcerated, thus causing difficulty in reading and sensitivity to light. This poses a possible threat to my vision. Orthopaedic surgery, using steel rods to partially correct my spinal deformity, has a 50 per cent lifelong complication rate, including the risk of paraplegia, massive infection, breakage of the rods and high potential for ongoing or even worsening pain.

I am unable to sit, and cannot stand for periods of longer than 10 minutes. My condition forces me to spend my days lying stretched out over hot water bottles on a bed or sofa, inserting moisturising eye gel every 15 minutes. My pain is of such intensity that I cannot concentrate on reading or writing, or enjoy the company of others. I am unable to make any contribution to my family, community or society at large. The prognosis of surgeons and medical specialists of various disciplines is that my condition will continue to deteriorate. As my condition is not terminal and I have a strong heart, I face the horrific prospect of this intolerable existence for another 25 years or more.

It is most important for you to know that I have tried many avenues for relief of my suffering, at my own expense. Apart from my GP and two orthopaedic surgeons, I have consulted with the following medical specialists:

· a palliative care specialist—

I interpose and say that that was done not in a formal capacity, but she met with a palliative care specialist in that doctor's own time, and she was not entitled to palliative care—

· two neurosurgeons
· five ophthalmologists
· two pain management specialists
· alternative therapists
· physiotherapists
· chiropractors
· a rheumatologist
· a physician
· and finally a Pain Clinic which insisted that I be assessed by a psychiatrist a psychologist and a physiotherapist before a pain management program could be devised.

Meanwhile my condition deteriorates daily and my pain increases.

I simply cannot continue.

I know that in a democratic, compassionate and civilised society I ought to have the freedom to ask a willing doctor to provide me with a quick and peaceful death by means of a lethal injection. Instead, with the reality of the present law, I am forced to suffer. It is a cruel and heartless law that only offers an escape from this nightmare by such alternatives as starving myself to death or resorting to violent means to end my life.

If in South Australia we had voluntary euthanasia legislation with safeguards, as exists in the Netherlands and Belgium, imagine the comfort and peace of mind for myself and others who are suffering torturous lives and whose only chance of relief is through death.

I would have the freedom to discuss my decision openly with family and friends and to have them with me when I choose to die. Instead, and in addition to my unbearable suffering, I am burdened with the strain of having to work out covertly how to end my life, with the least possible impact on my family, and face the fear—in fact terror—of the horrific consequences of failure.

Members of parliament, while it will be too late to benefit me personally, I plead with you as law makers to enact responsible

legislation which will simply give the community of South Australia the right to choose.

The Hon. Andrew Evans spoke of the God he believes in being a God of love and compassion. I was brought up to believe also in a God of love and compassion. I do not understand how the God of love and compassion that the Hon. Andrew Evans believes in tells members to oppose VE so that someone can slowly die of malnourishment, so that someone can linger on for days or weeks not knowing who or where they are, or so that someone dies suffering unremitting pain.

I have put on record before, but it was in 1997, part of the Roman Catholic catechism. I hope that the Hon. Terry Stephens is listening because he mentioned his catholicism in his speech. This comes from Article 3, 'Man's Freedom', in the catechism of the Catholic church, which was approved and signed by Pope John Paul on 11 October 1992. Item 1730 says:

> God created man a rational being, conferring on him the dignity of a person who can initiate and control his own actions. 'God willed that man should be "left in the hand of his own counsel" so that he might of his own accord seek his Creator and freely attain his full and blessed perfection by cleaving to him.' Man is rational and therefore like God; he is created with free will and is master over his acts.

Item 1738 says:

> Freedom is exercised in relationships between human beings. Every human person, created in the image of God, has the natural right to be recognised as a free and responsible being.

Some members of this parliament are taking away that right—very interesting. It continues:

> All owe to each other this duty of respect. The right to the exercise of freedom, especially in moral and religious matters, is an inalienable requirement of the dignity of the human person. This right must be recognised and protected by civil authority within the limits of the common good and public order.

We live in a pluralist, multicultural society and religious freedom is a hallmark of that, so why should the religion of the Hon. Carmel Zollo, the religion of the Hon. Andrew Evans or the religion of the Hon. Terry Stephens be foisted on the rest of us, particularly those who have a different spiritual belief about life and death? What gives you that right?

Where is the sanctity of life in prolonging it in the ways that people such as Jo Shearer and Shirley Nolan had to bear? Dr Roger Hunt, one of the palliative care specialists in this state, in a letter to the *Medical Review* made this comment about Christian values. He said:

> . . . the principles involved in voluntary euthanasia are positives (rather than negatives) for the 'common good', liberty, respect and tolerance for the decisions of others; compassion, mercy, and doing unto others as you would want for yourself. These are Christian values in a civilised, plural society.

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Yes, well, unfortunately, responding to the interjection of the Hon. Diana Laidlaw, I think that for some people it is only a token upholding of those sorts of values. The Hon. Robert Lawson saw fit to criticise Dr Philip Nitschke. He said that, if this legislation were passed, Dr Nitschke would set himself up as a euthanasia specialist, 'a specialist who not knowing the circumstances of individual patients will flit from place to place signing the necessary forms to assist in the suicide of individual patients. It will not be his interest to preserve life, not his interest to offer palliative care and not his interest to help an individual other than to die.'

What a pity the Hon. Mr Lawson did not do his research. When Broken Hill taxidriver Max Bell drove all the way to Darwin and was refused help from the medical fraternity, and then drove all the way back to Broken Hill, Dr Nitschke also moved to Broken Hill and moved into his house. He showed enormous empathy with Max Bell, a man who was living totally on his own. He went to great length to support that man for the 2½ to three weeks before Max Bell was admitted to the Broken Hill hospital, where he died. He was the person who spent 2½ to three weeks doing his best to alleviate the pain and suffering that Max Bell was experiencing.

When Janet Mills went up to Darwin and begged doctors there to help her get a final signature in order to be allowed to use the Rights of the Terminally Ill Act, she did not get the support that she was expecting from the medical fraternity, either, and it was Philip Nitschke who supported her. If the Hon. Mr Lawson had cared to look at the documentary *Where Angels Fear to Tread* he would know that Northern Territory nurse Esther Wilde had been seeking to use the Rights of the Terminally Ill Act. Unfortunately, the Andrews bill was passed and she was not prepared to end her life before that bill was passed, because she said she was not ready. She thought she still had a little bit of quality life left in her. By the time she was at the point where she wanted to end her life, she was not legally able to do so.

For the record, Esther Wilde, as part of her condition, was vomiting up her own stomach lining and her own faeces, but I guess that is sanctity of life. It was Philip Nitschke who moved into the house with her and slept on the floor in the room next to her for four days, putting her into pharmacological oblivion—what some members of this place say is an okay thing to do. Philip Nitschke was the doctor in all these circumstances who showed compassion. It is very easy to demonise, and this was a case where one should never let facts get in the way of a good argument.

The Hon. Mr Lawson was critical of information sent to him by Helga Kuhse and he quoted words she used such as 'the plight of dying patients' and 'giving comfort to tens of thousands of others', saying that it is emotional language that is so often used by those who seek to justify measures of this kind. The Hon. Mr Evans seemed to have some difficulty with emotional stories, and then went on to tell the story of his wife's depression. The Hon. Mr Evans said that we have to look at the logic and the factual and legal ramifications of the bill and make a decision based on fact, not emotion. I agree, and that is why this bill ought to be passed. But I say: what is wrong with emotion? It is an emotive issue when parliamentarians will not grasp this issue and we make people continue to live in the most appalling situations.

The Hon. Andrew Evans misquoted clause 15. I heard him say this on radio, unfortunately after I had also been on radio. He would not debate it with me and I did not have the right of reply. He said it in this place and I now have a right of reply. He said about my bill:

> If a doctor does not want to administer euthanasia then that doctor must inform the patient of another doctor who is prepared to consider the request.

That is not what clause 15 says. Clause 15 provides:

> (1) A medical practitioner may decline to carry out a request for the administration of voluntary euthanasia on any grounds.
>
> (2) However, if a patient who has requested voluntary euthanasia is hopelessly ill and the medical practitioner who has the care of the patient declines to administer voluntary euthanasia, the medical practitioner must inform the patient or the trustee of the patient's request that another medical practitioner may be prepared to consider the request.

In other words, the doctor says, 'No, I will not do it, but there are other doctors around, and if you want to you can go and talk to them.' That is not what the Hon. Andrew Evans says clause 15 states. The Hon. Mr Evans also asked who makes the report to the Coroner. I am sorry that he has not read the bill. Clause 18 provides that a medical practitioner who administers voluntary euthanasia must make a report to the state Coroner within 48 hours of assisting a patient do die. Schedule 4 is the pro forma for the report to the state Coroner.

In terms of comments that have been made about particular clauses, the Hon. David Ridgway said that people in the Netherlands were surprised at clause 11, which gives people the power to revoke their consent to voluntary euthanasia at any time. I agree that one would think it would have to be unnecessary but, when there are mischief makers in this community who keep saying that there are not enough safeguards, you have to put that provision into the bill to try to stifle their arguments.

I note that the Hon. Angus Redford indicated in his short contribution that his position was what it had been when he spoke previously. I take that to mean that he will not support it without a referendum. I ask him to reconsider that position when we get into committee. His party, for instance, is arguing on the nuclear waste dump bill that having a referendum is a very expensive way to get a public position when it is already known that people oppose it. We need to be consistent on this position.

The most recent public opinion poll shows that 79 per cent of South Australians now support legal voluntary euthanasia. That has gone up consistently over a period of years. I think the previous poll, which was taken about five years ago, showed 74 per cent. Every time a survey is taken, the support for voluntary euthanasia in this state goes up. Almost 80 per cent of South Australians believe that is the case. I can provide to the Hon. Angus Redford all the information about those opinion polls, the methodology—whatever it takes—because it is so clear that having a referendum would not make any difference in the end. People do support it.

There are a whole lot of things happening around the world at the moment. I have forgotten which member said that other societies all oppose it, but the Voluntary Euthanasia Society sent a letter to all members of the Legislative Council dated 15 October. That letter reminds members that, since 1942, physician-assisted suicide has been allowed in Switzerland, taking advantage of the law that states that it will be prosecuted only if it is motivated by self-interest. Voluntary euthanasia in Japan has been approved by a high court since 1962. The Oregon Death with Dignity Act was initially passed in November 1994, and that is the first place in the world to allow physician-assisted suicide as a clear legal option for the terminally ill.

Colombia's constitutional court approved voluntary euthanasia in 1997 but it has not yet been ratified by parliament. On 1 April voluntary euthanasia became a legal possibility in the Netherlands for those who are suffering unbearably with no prospect of improvement. In Belgium on 16 May, a law was passed to allow the option of voluntary euthanasia for those who have a hopeless medical condition of constant and unbearable physical or mental pain.

On 26 September the Channel Island Guernsey's governing body, the States of Deliberation, voted by a majority of 38 to 17 in favour of an investigation into voluntary euthanasia. Members of the house were told by the Board of Health and the Advisory and Finance Committee that they should not vote in favour of the investigation unless they were in favour of the law. Debate is planned for a draft bill on euthanasia and assisted suicide in the Luxembourg parliament before the end of this year. In developed countries around the world, more and more parliamentarians are considering the option of legal voluntary euthanasia.

Dr Philip Nitschke is already a euthanasia activist. If people keep ducking the issue of passing voluntary euthanasia legislation then the activists will find ways of bypassing parliament. Witness the plastic exit bags. How can you outlaw the production of plastic bags? How can you prevent someone sewing a bit of elastic and a drawstring to the bottom of a plastic bag?

In the latest newsletter from *Exit (Australia)*, Philip Nitschke talks of a new portable carbon monoxide generator, called the COGen. It produces pure CO which, if breathed through a loose face mask, will produce a rapid and painless death. The device has been developed by VERF (the research division of *Exit (Australia)*) and is sponsored by Hemlock US. It is currently undergoing testing to determine the optimum quantities of consumables necessary to guarantee a speedy, painless death for those who simply apply the mask and switch it on.

Surely, it would be better for parliament to allow people to access legal voluntary euthanasia, so that they can see their doctor to find the alternatives. Having the right to ask for it opens up possibilities. Because I publicly advocate voluntary euthanasia, from time to time people contact me and tell me that they want to end their lives. I am not going to divulge her condition because it will tend to identify her, but one woman contacted my office. She wrote to me and said that she was in this really awful situation. I spoke with her and found out what the situation was. My staff member then followed it up, and we were able to get suitable help for her.

That occurred because she had the freedom to say to someone, 'My life is intolerable; I want to end it. I am going to end it.' She was able to ask. If she had no-one with whom she could speak (and she could not speak to her family), she probably would have taken her life. Having that freedom to be open and honest, as this bill proposes, is absolutely essential. I have also a fax from Ian Ferguson, a member of one of the voluntary euthanasia societies in Australia (I am not sure which one), which states:

> All attempts to have legal euthanasia have been thwarted by forces that have been able to manipulate political power in the legislatures. . . Time has now become a crucial factor because the situation has taken a new turn due to the opponents of euthanasia forcing a search for new drugs used in a way of helping people avoid unnecessary suffering. This can create more anarchy instead of legality. . . Many of the medical professions, so reluctant to support legal euthanasia, must be made to realise—

and I would also say that this applies to parliamentarians who oppose voluntary euthanasia—

> that either they support the control of legal euthanasia immediately or the situation will shortly arise where they no longer control the use of drugs for euthanasia at all. The responsibility for this possible event must be squarely placed on their shoulders if civilised legal medical practice on the question of euthanasia is to remain in their hands. . . The clock is ticking and the weight of argument pointing out the urgent need for action must be lobbied in every legislature and every social group that can be influenced quickly.

It is quite clear that there is a need for parliament to pass this legislation otherwise the easier alternatives will become more widely available and promoted. Their very existence is a consequence of MPs failing to deal with this issue. I want to quote a letter that was sent to the *Australian* by Frances

Coombe, President of the South Australian Voluntary Euthanasia Society. The letter was in response to an article written by Angela Shanahan in the *Australian*, dated 4 June, in which she said that Phillip Nitschke was turning the law into a joke. In her letter, Frances said:

> No, Angela, the law prohibiting voluntary euthanasia has been a tragic and black-humoured joke for many years, causing untold suffering and heartache. Our law makers have made it that way because most of them lack the courage or rational thinking to change it. A law that is continually flouted is brought into disrepute and, yes, that law then becomes redundant, dangerously so.

I ask members to support this legislation so that South Australia can have a rational, intelligent response to people who are terminally and hopelessly ill and who want to end their lives.

The council divided on the second reading:

AYES (9)

Dawkins, J. S. L.	Elliott, M. J.
Gago, G. E.	Gazzola, J.
Kanck, S. M. (teller)	Laidlaw, D. V.
Ridgway, D. W.	Roberts, T. G.
Sneath, R. K.	

NOES (8)

Evans, A. L. (teller)	Gilfillan, I.
Holloway, P.	Lawson, R. D.
Redford, A. J.	Stefani, J. F.
Stephens, T. J.	Zollo, C.

PAIR(S)

Cameron, T. G.	Lucas, R. I.
Xenophon, N.	Schaefer, C. V.

Majority of 1 for the ayes.

Second reading thus carried.

STATUTES AMENDMENT (EQUAL SUPERANNUATION ENTITLEMENTS FOR SAME SEX COUPLES) BILL

Adjourned debate on second reading.

(Continued from 23 October 2002. Page 1191.)

The Hon. G.E. GAGO: I seek leave to have inserted in *Hansard* the detailed explanation of the clauses which I did not have available when I moved the second reading.

Leave granted.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation.

Clause 3: Interpretation

This clause is formal.

PART 2

AMENDMENT OF PARLIAMENTARY SUPERANNUATION ACT 1984

Clause 4: Amendment of s. 5—Interpretation

This clause amends the interpretation section of the principal Act by inserting a definition of "putative spouse".

A "putative spouse" is a person who is a putative spouse within the meaning of the *Family Relationships Act 1975* (a spouse who is part of a heterosexual couple) or a person in a same sex relationship in respect of whom a declaration has been made by the District Court under section 7A of the principal Act (as inserted by clause 5).

Clause 5: Insertion of new section

This clause inserts new section 7A, which extends the meaning of the term "putative spouse" for the purposes of the *Parliamentary Superannuation Act 1974* to include de facto same sex relationships. Putative spouse status under the new provision is determined by a declaration of the District Court.

PART 3

AMENDMENT OF POLICE SUPERANNUATION ACT 1990

Amendment of s. 6—Interpretation

This clause amends the interpretation section of the principal Act by inserting a definition of "putative spouse".

A "putative spouse" is a person who is a putative spouse within the meaning of the *Family Relationships Act 1975* (a spouse who is part of a heterosexual couple) or a person in a same sex relationship in respect of whom a declaration has been made by the District Court under section 4A of the principal Act (as inserted by clause 7).

Clause 7: Insertion of new section

This clause inserts new section 4A, which extends the meaning of the term "putative spouse" for the purposes of the *Police Superannuation Act 1990* to include de facto same sex relationships. Putative spouse status under the new provision is determined by a declaration of the District Court.

Clause 8: Amendment of s. 32—Benefits payable on contributor's death

Section 32 of the principal Act relates to the benefits payable on the death of an old scheme contributor. Subsection (1aa) lists the categories of person entitled to a benefit on the contributor's death. Paragraph *(b)* of subsection (1aa) provides that, subject to certain criteria, a person who was cohabiting with the contributor at the time of his or her death as the lawful spouse or husband or wife *de facto* of the contributor is entitled to a benefit. This category of beneficiary does not include a person in respect of whom a declaration has been made by the District Court under section 4A.

This clause amends subsection (1aa) by adding as an additional category of beneficiary a person who was cohabiting with the contributor at the time of his or death as the putative spouse of the contributor.

PART 4

AMENDMENT OF SOUTHERN STATE SUPERANNUATION ACT 1994

Clause 9: Amendment of s. 3—Interpretation

This clause amends the interpretation section of the principal Act by inserting a definition of "putative spouse".

A "putative spouse" is a person who is a putative spouse within the meaning of the *Family Relationships Act 1975* (a spouse who is part of a heterosexual couple) or a person in a same sex relationship in respect of whom a declaration has been made by the District Court under section 3A of the principal Act (as inserted by clause 10).

Clause 10: Insertion of new section

This clause inserts new section 3A, which extends the meaning of the term "putative spouse" for the purposes of the *Southern State Superannuation Act 1994* to include de facto same sex relationships. Putative spouse status under the new provision is determined by a declaration of the District Court.

PART 5

AMENDMENT OF SUPERANNUATION ACT 1988

Clause 11—Interpretation

This clause amends the interpretation section of the principal Act by inserting a definition of "putative spouse".

A "putative spouse" is a person who is a putative spouse within the meaning of the *Family Relationships Act 1975* (a spouse who is part of a heterosexual couple) or a person in a same sex relationship in respect of whom a declaration has been made by the District Court under section 4A of the principal Act (as inserted by clause 12).

Clause 12: Insertion of new section

This clause inserts new section 4A, which extends the meaning of the term "putative spouse" for the purposes of the *Superannuation Act 1988* to include de facto same sex relationships. Putative spouse status under the new provision is determined by a declaration of the District Court.

Clause 13: Amendment of s. 38—Death of contributor

Section 38 of the principal Act relates to the benefits payable on the death of an old scheme contributor. Subsection (1a) lists the categories of person entitled to a benefit on the contributor's death. Paragraph *(b)* of subsection (1a) provides that, subject to certain criteria, a person who was cohabiting with the contributor at the time of his or her death as the lawful spouse or husband or wife *de facto* of the contributor is entitled to a benefit. This category of beneficiary does not include a person in respect of whom a declaration has been made by the District Court under section 4A.

This clause amends subsection (1a) by adding as an additional category of beneficiary a person who was cohabiting with the

contributor at the time of his or death as the putative spouse of the contributor.

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

[Sitting suspended from 5.58 to 7.45 p.m.]

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1295.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank honourable members for their contributions to this debate on the Criminal Law (Sentencing) (Sentencing Guidelines) Amendment Bill and I take this opportunity to address, first, the matters of detail raised by the Hon. Ian Gilfillan and the Hon. Andrew Evans. They were both concerned that the Aboriginal Legal Rights Movement has not been given the recognition that it deserves in the bill. The fact is that it has, and the bill was amended in the House of Assembly to give the Aboriginal Legal Rights Movement precisely the role that it wanted. Unfortunately, due to a clerical error, that amendment was not included in the print that was produced for this house. I understand that that problem has now been corrected.

The Hon. Ian Gilfillan opposes the bill. Of course, he has every right to do so. As the shadow attorney-general and the Hon. Angus Redford pointed out, the Labor Party went to the last election with this policy essential to its justice policy and, as the incoming government, has every right to pursue it. I cannot forbear to point out the irony, however, of the position following the speeches of the honourable members. The Hon. Ian Gilfillan castigates the government because he thinks that the government is seeking to meddle with judicial discretion. The shadow attorney-general castigates the government because he thinks that it is not doing anything significant at all. A good deal of the Hon. Ian Gilfillan's opposition to the bill has as its basis that tougher penalties at the present time do nothing to cure the crime problem. That argument is not to the point. As the second reading explanation to the bill points out, this bill is very carefully drawn so as to not affect the level of sentences imposed. The shadow attorney-general is astute to make this point, although he does not make it in our favour.

The Hon. Ian Gilfillan also opposes the bill because of his concerns with the separation of powers, and I argue that this concern is misplaced. The Attorney-General played a very significant traditional role in the criminal justice system, including that of chief prosecutor, until the advent of the notion of a fully professional and independent Director of Public Prosecutions in the mid 1980s. The Attorney-General retains the office of the first law officer of the Crown. The Attorney-General is responsible to the parliament and, through it, to the people of South Australia for the workings of the justice system as a whole. In the interests of setting the record straight about the position of the Attorney-General and the separation of powers and to rebut the arguments made by the honourable member comprehensively, I quote from the leading text written by Brad Selway QC who says, in part:

> The Attorney-General is a Minister, a member of Cabinet and of the Executive Council. Nevertheless, the office of Attorney-General carries with it common law functions and duties which has the effect that the Attorney-General's office is different from that of other ministers. In particular:
>
> (1) Her Majesty in right of South Australia cannot appear in her own Courts to support her interests in person, but is represented by the Attorney-General. . . . The Attorney-General remains responsible for the legal representation of the Crown in civil proceedings. The Crown Solicitor and the Solicitor-General are the officers responsible to him for the day to day provision of such representation.
>
> (2) The Attorney-General is the first law officer of the Crown. The Attorney-General is primarily responsible for the provision of legal advice to Government. In giving that advice, the Attorney-General is expected and required to act independently and in the best traditions of the profession. The Crown Solicitor and the Solicitor-General are the officers responsible to the Attorney-General for the day to day provisions of such advice.
>
> (3) The Attorney-General is legal adviser to the Parliament. In giving such advice the Attorney-General is expected and required to act independently and in the best traditions of the profession. The Parliamentary Counsel and, upon the specific instructions of the Attorney-General, the Crown Solicitor and the Solicitor-General are the officers responsible to the Attorney-General for the day to day provision of such advice.
>
> (4) The Attorney-General can and will accept instructions from a House of Parliament, unless there is some conflict of interest. It would be usual for the Attorney-General to represent the House in the prosecution before the House of an alleged contempt of Parliament.
>
> (5) The Attorney-General has a common law right to file a criminal indictment (which may be ex officio) and to end a prosecution by filing a nolle prosequi on any indictment. The exercise of these powers is not subject to judicial review. In exercising these functions, the Attorney-General is not subject to Cabinet direction although the Attorney-General may consult with his Cabinet colleagues. If Cabinet does purport to direct the Attorney-General in respect of a prosecution, the proper course is for the Attorney-General to resign and to inform the Parliament of the reasons for the resignation. The Director of Public Prosecutions has an independent statutory right to lay charges and to file a nolle prosequi.
>
> (6) The Crown as parens patriae is the protector of public rights. It is the function of the Attorney-General to sue for the protection of the public advantage enjoyed under the law as a common right. . .
>
> (7) The Attorney-General has the right to intervene in any litigation in this state involving the validity of a state law, or the extent of legislation or judicial power. At common law the Attorney-General had the right to intervene in any case where the prerogatives (see chapter 4.2) were in issue.
>
> (8) The Attorney-General has the right to intervene in any litigation anywhere in Australia where the interpretation of the commonwealth constitution is fairly raised.
>
> (9) The Attorney-General is head of the bar and has precedence over all Queen's Counsel. The pre-eminence of the Attorney-General before the court and his role as counsel and adviser to the Crown would seem to be the source of the expectations that the Crown will be a model litigant.
>
> (10) In appropriate cases, the Attorney-General may appear as amicus curiae with the leave of the court. The likelihood of this occurring (otherwise than at the invitation of the court) has been greatly reduced following the wide rights of intervention given to the Attorney-General by section 9 of the Crown Proceedings Act 1992.
>
> (11) The Attorney-General is responsible for advising cabinet and the Executive Council on judicial appointments. He advises the Governor directly on magisterial appointments.
>
> (12) The Attorney-General is responsible for advising cabinet and the Executive Council on the exercise of the prerogative of mercy. He is personally responsible for granting immunities from prosecution.

There is more, but it can all be summarised by the following statement:

> The Attorney-General is the only public officer apart from the Governor (and the Chief Justice, when acting as the Governor's deputy) who has constitutional powers and functions extending to the three aspects of the Crown: legislative, executive and judicial. He can properly perform these powers and functions only by reason of his constitutional independence. As was noted in the statement of the Commonwealth Law Ministers Conference held in Canada in 1977, that independence depends 'to a large extent upon the unimpeachable integrity of the holder of the office'.

It follows that the argument that this bill breaches the separation of powers cannot be seriously sustained.

I turn now to the contribution of the shadow attorney-general. I appreciate his concession that Labor is entitled to implement its election policy, although I cannot agree with his assessment that it will not achieve much. It appears that it will achieve too much for the Hon. Ian Gilfillan. Of course, it achieves a great deal. It does, essentially, three things:

1. It gives a voice in the setting of sentencing standards or sentencing guidelines to individuals and groups who have not had a voice before.

2. It gives firm legislative backing to the essential criminal justice tools of giving sentencing discounts for cooperation with the authorities in the timely plea of guilt.

3. It creates the ability to set sentencing standards or guidelines from time to time, free from the happenstance of any particular appeal.

These are major objectives that are well worth achieving. Unlike the honourable member, I will not enter the debate about sentencing as an instinctive synthesis in so-called 'two-stage sentencing'. The notion of instinctive synthesis is dying, if not dead, except in the more conservative parts of the High Court. The honourable member might wish to read the editorial in 2002, 26, *Criminal Law Journal*, page 5, on the subject. Of course, it does not mean that sentencing can, or should, be taken out of the hands of its traditional repository as a judicial power. From time to time there is a balance to be struck and from subject to subject, between parliament and judicial spheres of influence; that has always been so.

I note in passing that the honourable member appears to think that a bill recently released for consultation by the New South Wales government will provide for mandatory sentencing of some kind; it does no such thing. Judicial discretion is preserved. True, it suggests the creation of a Sentencing Advisory Council such as the honourable member is proposing (but we will come to that in committee). It is sufficient to note at this point that the New South Wales' proposal for a Sentencing Advisory Committee has been released in consultation form for a lengthy period of consultation. By contrast, the honourable member seeks to create a body of such significance by way of an amendment to the bill without, it seems, having consulted anyone.

The Hon. Angus Redford made an interesting and discursive contribution to the debate. I do not intend to traverse the same ground in reply. There are two minor points that arise from this speech that I need to address. The first is that the honourable member asked why it was that the court, in deciding a sentencing guideline, should be free from the normal rules of evidence. The answer is that, in unshackling the setting of a sentencing guideline from the fate of a particular offender, the bill sets out to establish a sort of advisory opinion procedure. There is, therefore, no need for the protection of the ordinary rules of evidence and every need for the court to seek relevant information from any source that it sees fit in order to do the job well. The court might, for example, seek statistical evidence about the prevalence of an offence or opinion evidence about the nature of offenders who commonly commit the offence.

The second point that I would like to make is that the honourable member speculated in his speech about whether the proposed Sentencing Advisory Council should be appointed by the parliament rather than by the Attorney-General. This kind of ruminating makes the point again very well. If there is to be a Sentencing Advisory Council, the details need to be thought out properly, and consultation with all interested parties should happen. That simply has not been done. The establishment of such important initiatives should not be decided on the off-the-cuff ruminations of individuals. I thank honourable members for their contributions. It appears that there will be interesting debates in committee, and I look forward to their principled resolution.

Bill read a second time.

In committee.

Clauses 1 to 3 passed

Clause 4.

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

Page 3, line 14—Leave out proposed subsection (1) of new section 29A insert:

(1) The Full Court may, by declaratory judgment (a guideline judgment), establish, vary or revoke sentencing guidelines.

This amendment establishes the nomenclature to be used in the amendments that I have foreshadowed later in the bill in connection with the establishment of the Sentencing Advisory Council.

The Hon. T.G. ROBERTS: I am advised that this is a drafting amendment to facilitate the opposition's amendment which follows. It is opposed on its own merits but, if what follows is successfully opposed, this amendment must also fail.

The Hon. IAN GILFILLAN: It is probably reasonable to indicate that we will be opposing the amendment. It is no secret that we oppose the bill in its entirety. Although there may be some argument for considering this matter of a sentencing advisory council, it is premature to do so and I still have profound doubts as to whether that actually fits into the ethos of sentencing which the Democrats support. I think it is fair enough to indicate to the committee that we oppose the amendment.

The CHAIRMAN: I propose to put the question: that the amendment be agreed to.

The Hon. A.J. REDFORD: Mr Chairman, is this a test for the subsequent amendments because, if it is, we need to debate that?

The CHAIRMAN: This, in fact, will be the test. If this one fails it seems to me the others collapse like a house of cards.

The Hon. R.D. LAWSON: A particular difficulty at the moment is that the Hon. Mr Cameron has expressed a view about this bill. I have had brief discussions with him but I am not in a position to indicate how he would vote in relation to this matter if it came to a test. I am anxious to advance the committee stage as far as is possible but, in light of the absence of the Hon. Mr Cameron, I wish to have the committee stage adjourned before any vote is taken.

The CHAIRMAN: Is there any agreement between the whips?

The Hon. CARMEL ZOLLO: Well, he normally indicates to us what he wishes to do, but he has not done that today, other than in respect of the Dignity in Dying Bill.

The Hon. A.J. Redford: He's sick.

The Hon. CARMEL ZOLLO: His office does contact him. We are in contact with him through his office, and through your whip as well.

The Hon. A.J. REDFORD: Given that the Hon. Carmel Zollo wants to intrude into this debate—

The Hon. Carmel Zollo: I am allowed to!

The Hon. A.J. REDFORD: Absolutely. In her capacity as whip, has the Hon. Terry Cameron given her any indication as to his viewpoint?

The Hon. CARMEL ZOLLO: The answer to that is no. The Hon. Terry Cameron has been in contact with me and the Hon. John Dawkins, as the opposition whip, on a regular basis as to how he wishes to vote. He has not done so on this occasion. He has told us which bills he wishes to be involved in, but this is not one of them.

The Hon. A.J. REDFORD: In her capacity as whip the honourable member said that the Hon. Terry Cameron is not interested in this bill: that is the implication. It is not as if he has a long-term illness. Even if we do not deal with one single bill this evening, our *Notice Paper* will fill less than half a page, which is an indication of the activity of this government. If we had a big backlog perhaps there would be some pressure—

The CHAIRMAN: Order! I am not here to stifle debate, but the committee is here to consider the bill and its clauses. Arguments about the running of the council are not part of the debate. The committee has the procedures before it to handle this matter, and there are procedural motions that need to be moved, and if there is any alteration to the order of proceedings there needs to be a motion, one way or the other.

The Hon. R.D. LAWSON: Under the circumstances, I reluctantly move:

That the committee report progress.

The committee divided on the motion:

AYES (10)

Dawkins, J. S. L.	Evans, A. L.
Laidlaw, D. V.	Lawson, R. D. (teller)
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (9)

Elliott, M. J.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Roberts, T. G. (teller)	Sneath, R. K.
Zollo, C.	

Majority of 1 for the ayes.

Motion thus carried.

Progress reported; committee to sit again.

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Part 2—Leave out part 2 (heading and clauses 4 and 5).

Clauses 4 and 5 seek to introduce amendments to the Criminal Law Consolidation Act, and my opening remarks will relate to both clauses. In moving this amendment, the effect of which will be to remove these amendments to the Criminal Law Consolidation Act, I want to emphasise once again that the Liberal opposition is committed to open and accountable government, and we will support any reasonable measure that is directed to achieving those objectives. What clause 4 seeks to do is to amend section 237 of the Criminal Law Consolidation Act by deeming to be a public officer certain persons who are patently not public officers.

It seeks to deem, as a public officer, a person who performs work for the crown, a state instrumentality or a local government body as a contractor or as an employee for the contractor. Whilst part 7 of the Criminal Law Consolidation Act contains a number of offences of a public nature, they are all offences which relate to the activities of a public officer. Public officers are defined to include 'a person appointed a public officer by the Governor, a judicial officer, a member of parliament, a person employed in the Public Service, a member of the police force, an officer or employee of the crown, a member of a state instrumentality, a member of a local government body, or an officer or employee of local government'.

This is a distinct class of individuals. If you ask any one of them, 'Are you a public officer?', without any need to refer to the Criminal Law Consolidation Act or any other definition, they would acknowledge that they are public officers. They are on the public payroll; they are employed on a day-to-day basis by the government or instrumentality of the government. However, what this amendment seeks to do is to deem other people who would not regard themselves as public officers to be public officers. It is a very serious thing because a breach of this legislation constitutes a serious criminal offence for which the maximum penalty is seven years imprisonment.

To say to an employee of a contractor, let us say, a cleaner in a school, who is a part-time, maybe casual, worker, someone who might be working for the one and only time that he or she works in this particular capacity, that by accepting that particular task they become a public officer and subject to particular requirements, is wrong in principle. We do not for a moment suggest that any such person is above the criminal law, far from it. If the person commits a criminal act or is engaged in some fraudulent behaviour, they are open to be prosecuted under the general provisions of the criminal law.

This amendment is simply too wide, by deeming certain people to be public officers, when neither they would know nor anyone else would suspect they are public officers. It is simply too draconian. If the government wants to ensure that people in this position are treated in a special manner by the criminal law, it would be appropriate to introduce provisions that apply to them, if the general provisions do not already apply to them. To deem them to be something that they are clearly not is bad policy, and it is especially so in relation to the criminal law, which imposes very heavy sanctions, as I have said.

The Hon. P. HOLLOWAY: The government defends the amendments in this bill. Many of the people who will be covered by this amendment formerly worked for government bodies. Those functions have now been privatised and/or outsourced. The important point to make is that these people are deemed to be public officers only for the very limited purposes of the work that is performed for the Crown. It is only in that sense that they are deemed to be public officers.

Essentially clause 5 extends the benefit to former public officers, but clause 4 brings in people from outsourced and contracted-out operations, and it provides that they must not secure a benefit for themselves and must not improperly use information that they gain by virtue of their public office; in other words, by virtue of their particular employment where they are performing work for the Crown. They are not allowed to improperly use that information with the intention of securing a benefit for themselves or causing injury or detriment to another person. That is essentially the offence that we are building.

Part 2 extends the definitions which are currently in the Criminal Law Consolidation Act and which apply to public officers, saying that they must not secure a benefit for

themselves, to people who perform work for the Crown, a state instrumentality or a local government body as a contractor or as an employee of a contractor or otherwise directly or indirectly on behalf of the contractor. That is the purpose of this bill. It is simply to extend to those people what is already a provision of the Criminal Law Consolidation Act. Clause 5 also extends the provision to former public officers. That is the extent of the bill.

This provision has been in the law for some years. It is obvious that members of the opposition feel that they have some problem with it. This is the argument that they have to deal with: if it is so bad now, why was it okay in its existing form in the act? As I pointed out in my second reading speech, there is no logical basis for distinguishing between a bus driver employed by TransAdelaide, doing work for the Crown, paid for by the taxpayer, a nurse employed in one of our public hospitals, a person employed at Yatala Labour Prison and an ASO2 on the reception desk, all of whom are already covered by the offence relating to public officers in the Criminal Law Consolidation Act and have been for years, and a public bus driver employed by Serco, an agency nurse working in a public hospital, a prison officer employed by Group 4 at Mount Gambier Prison and a temp receptionist, all of whom will be covered by the offences relating to public officers only as a result of the amendment.

The amendment to the definition of 'public office' ensures that there is no distinction before the criminal law in connection with the performance of work of a public nature. The focus is the public nature of the work being undertaken and not the status of the person who is doing the work or the type of work or its cost to government. As I said, those examples clearly illustrate the point. If a bus driver is employed by TransAdelaide, why should they be treated any differently from a bus driver employed by Serco, when they are performing the same work, paid for by the taxpayer?

The Hon. R.D. LAWSON: Our complaint concerns the offence created by section 251 of the Criminal Law Consolidation Act, that is, abuse of public office. To charge a person who is a part-time school cleaner with the offence of abuse of public office, when in no possible sense could you really regard the person as the holder of a public office, is a misuse of language. The person herself or himself would not regard—

The Hon. M.J. Elliott: Do you want to leave cleaners out of it?

The Hon. R.D. LAWSON: No, whether it is cleaners, a plumber, a contractor, the difference is that the person who is employed by the public is actually the holder of a public office, and if the person abuses that office—

The Hon. M.J. Elliott interjecting:

The Hon. R.D. LAWSON: No, this is an important distinction notwithstanding the interjections of the Hon. Michael Elliott. This affects not only the individual who is in the position of being deemed to be a public officer but also third parties who might be dealing with them. It is entirely appropriate that, if a third party threatens somebody with some reprisal or makes a threat, and if that person is the holder of a public office—if it is a judge, a member of parliament or a public servant—and the threat is made in the course of their employment, the person making that threat is liable to be prosecuted under section 248 for reprisal relating to the duties or functions of judicial proceedings, in that case, or bribery and corruption in relation to other public officers.

For a third party who commits an offence, that offence has a particular quality—seeking to bribe a public official. That is a separate offence. It is wrong in principle to deem somebody who is plainly not a public official to be a public official for that purpose. It is true that nobody should bribe another, nobody should threaten reprisals against another, but different considerations apply. One is an offence of a public nature and the other is a private offence, for which there is already ample sanction in the criminal law.

The Hon. A.J. REDFORD: During the second reading debate I asked the following question which was not answered: what course of conduct and what particular person in a descriptive sense is this provision aimed to catch that other sections are not aimed to catch? What does the government say is happening today or has happened in the past that ought to be the subject of criminal sanctions that is not already the subject of a criminal sanction?

The Hon. P. HOLLOWAY: It is a question of equality. It is a question of treating the people doing the same work equally. That is the principle involved. Secondly, like all law, it should have a preventative role. It should not only deal with crime, it should prevent crime.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: What about former public officers, for example? Clause 5 relates to former public officers.

The Hon. A.J. Redford interjecting:

The CHAIRMAN: The Hon. Mr Redford will desist from debating from his place when the minister is on his feet.

The Hon. A.J. REDFORD: It becomes extremely frustrating when you ask questions and you get this evasive response. If you are going to pass a law that imposes a serious—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: —yes, I understand that—criminal sanction on an individual, it is for those who advance that proposition, in a free and democratic society, to justify it. I ask for the third time: give me a scenario of behaviour on the part of—if I can use the term the honourable member wants to use—a former public servant who deserves the sanction of the criminal law but who currently does not get the sanction of the criminal law? The minister should make his case because he is not. Why does not the minister try to get past this political rhetoric and get some law-making done?

The Hon. P. HOLLOWAY: Contrary to what the Hon. Angus Redford said, I did, in a rather detailed second reading response. I gave an example and, for his benefit, I will repeat it:

> There is no doubt that a police officer who sells information about a person's criminal history (something that did happen in this state not so long ago), will have used that information improperly and is guilty of an offence of abuse of public office, yet as things currently stand, upon resignation for the sale of the same information—even the very next day—is not caught by that offence.

Essentially, that is the loophole that is sought to be corrected by—

The Hon. A.J. Redford interjecting:

The CHAIRMAN: I ask the Hon. Mr Redford to stop interjecting when the minister is on his feet. He can make a contribution at the appropriate time.

The Hon. P. HOLLOWAY: There are many instances where behaviour is covered by more than one offence. It is the public nature of the offence. In this instance we are talking about improperly using information for securing a benefit for himself or herself or other person, or causing injury or detriment to another person. Of course, it has a very

severe penalty, as the honourable member has pointed out, of imprisonment for seven years. Perhaps, if you take a document you may be guilty of an offence, but it may have a relatively minor penalty. If you did—as in the case of this police officer—actually sell information that could have a very significant detriment, and I think that most members in this parliament would regard it as a very serious offence.

Therefore, one would presume that an officer would be prosecuted under a provision such as this rather than just prosecute the officer under, perhaps, the Public Sector Management Act for taking a document. It is really about the seriousness of the offence. Quite clearly, abuse of public office is a very serious offence, and the penalty reflects that. It is aimed at that sort of severe behaviour that could be quite seriously detrimental to either individuals or to the community at large.

The Hon. M.J. ELLIOTT: In relation to the Hon. Mr Lawson seeking to strike out clause 4 of the bill, he has made his argument about private cleaners on contract. He might be able to make an argument about whether or not cleaners should or should not be covered by the act but, frankly, if two people are doing the same work and are able to get the same information, and one happens to be a public employee and one is a private contracted person, I cannot see how you treat them differently in terms of information they might gain. It might be true that cleaners do not pick up a whole lot and you might want to make a case for striking out cleaners from the act, but I do not think that the distinction between public and private is a reasonable one. That is what clause 4 is doing, and the Democrats will not be supporting a move to strike out clause 4 of the bill.

The Hon. R.D. LAWSON: There is a distinction. If someone is employed by Broken Hill Pty Ltd as a cleaner and commits an offence, that person can be prosecuted under the criminal law. If that person is employed in the public service—

The Hon. M.J. Elliott: We are not really talking about cleaners, let us be honest.

The Hon. R.D. LAWSON: The Hon. Mr Elliott says that there is no difference: there is a very great difference.

Members interjecting:

The CHAIRMAN: Order! Members will cease having a conversation.

The Hon. R.D. LAWSON: There is a very great difference between public and private employment. The fact that one's employer is a private company has a particular connotation. I would submit that a higher standard is to be expected of those who are employed in the public sector, especially in relation to bribery and threats made to people who are employed in the public sector—

The Hon. M.J. Elliott interjecting:

The Hon. R.D. LAWSON: I do not suggest for a moment that cleaners would be the subject of reprisals or threats, and I am sure that the Hon. Mr Elliott does not, but there is a difference (which is acknowledged in so many pieces of legislation) between, on the one hand, public employment and, on the other, employment by a private company.

The Hon. DIANA LAIDLAW: I would just like to ask the Hon. Mr Elliott to reconsider because he seems to be stuck on the issue of cleaners. He is trivialising the issue because—

The Hon. M.J. Elliott: He used the example of cleaners, not me.

The Hon. DIANA LAIDLAW: Wait a moment; just let me have a few words. I spoke about this matter at some length in my second reading contribution and gave some perspective to the issue. I can say to the Hon. Mr Elliott that, without doubt, contractors themselves do not wish to be regarded as public officers for the purpose of this act, as the Labor Party moved when last in government in respect of workers' compensation and a range of other issues. They do not want to be deemed as employees or public officers. They have a very different distinction and role in life and obligations as they see them and as the law respects them.

It is interesting to see this bill in the light of the industrial relations reforms proposed by the Hon. Mr Stephens, and I think that this was mentioned by the Hon. Angus Redford yesterday. The Labor Party has been in government only nine months and deeming that people from the public sector are employees of the government sector is again on the agenda. What we are seeking to remove here is a further example of that, but it is a more subtle one in the first bill that this government has introduced to this parliament.

I am not sure how widely this bill has been circulated for public comment, but I do recall that, some 10 years ago, the transport sector was up in arms to the degree that this parliament voted against contractors in the transport sector being regarded as employees or public officers. I believe the same arguments and the same distinctions have merit and should be respected on this occasion. This does not apply just to cleaners; it does not just apply to bus employees. It is not clear how broadly this is to apply. It is very sweeping, and I think deliberately so from the government, and without a care for traditional modes of employment in this state.

I was disturbed to note that the minister's reply in opposing the amendment was entrenched in the Labor Party's anti-privatisation language. It was again about bus drivers and, in terms of employment, whether privatised or outsourced, what is the difference, they are still working for the government. In fact, they are not: they are working now for and engaged by a contractor, and it is a very different type of employment. It is one of the reasons why the government hates it so much. It went to the election opposing it so strongly and that is why it will not even entertain public private contracts and partnerships in a range of areas. It has this fixation about public sector employment. They see it as different from private sector employment, but when it comes to this bill conveniently every contractor in the private sector is now regarded as a public employee. The distinction was obvious in the minister's reply; there is a difference that should be regarded, and this clause should be defeated.

The Hon. M.J. ELLIOTT: I fail to see why two people who are carrying out essentially the same responsibilities and have access to the same information and can potentially misuse it in the same way should be subject to different penalties. It is increasingly the case that people are coming in as contractors, being put into quite senior positions and having access to quite significant information which can be misused to their significant benefit. To suggest that they should suffer a lesser penalty than a public employee with the same information seems to me to be a nonsense. We are not talking about cleaners; we are talking about far more senior positions.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: That's not the amendment that's before us; the amendment is to strike it out.

The Hon. Diana Laidlaw: I know. It should be struck out.

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: The Hon. Diana Laidlaw is making a red herring out of this. One could put a very strong argument that, if anything, the presence of this clause actually provides some protection for contractors. It certainly puts them on the same plane. I do not see anything wrong with treating them equally with public sector employees when they are doing the same work. I repeat what I said in my second reading reply:

> . . . the amendment makes it an offence pursuant to section 250 of the Criminal Law Consolidation Act for a person to—

and I used the example cited by members opposite—

> to threaten a contract gardener at Naracoorte High School to ensure that a school shed filled with equipment is left open. Similarly, where an applicant for an executive position in the public sector offers a bribe to the employment consultant engaged by government to fill the position, the applicant would be guilty of an offence pursuant to section 253 of the Criminal Law Consolidation Act. . . [and] a person who threatens to harm the child of the consultant who is managing a tender process on behalf of the government (unless the person is awarded the contract) will, by virtue of this amendment, be guilty of an offence pursuant to section 250 of the Criminal Law Consolidation Act. If a third party engages in such behaviour towards a public sector employee, he/she is guilty of an offence. It should be no different where a contractor is performing the same work.

In other words, you should not be able to bribe or threaten a contractor. If those people are deemed to be public officers, as they would be under the government's amendment, they would get the same protection. Certainly they would be liable for the same offences, but they would also get the same protection as public servants. This in effect treats people who do the same work equally. So I do not think the Hon. Diana Laidlaw can sustain the argument that we are opposed to private sector employment. With these amendments we are simply seeking to treat people equally on the basis of the work they do. As a great champion of equal opportunity, I would have thought that the Hon. Diana Laidlaw would appreciate that.

Regarding a number of the other offences that have been included under this definition of things such as offering bribes, acting improperly, threats or reprisals against public officers, abuse of public office, demanding or requiring benefit on the basis of a public office, offences relating to the appointment of public office that are covered in this clause, in all of those cases there is the protection that would be given to people doing the same work in the private sector as to those in the public sector if this amendment is carried.

The honourable member also cited the example of cleaners. I guess I have covered one such case. I refer to clause 5, which seeks to amend section 251—abuse of public office. Cleaners may not be the main thrust of this bill, but if a cleaner was to gain information by virtue of their work and secure a substantial benefit for themselves and another person by taking that information, is that not a serious offence and should not that person be treated in the same way regardless of whether they are a public sector cleaner or a private sector cleaner? Should they not be subject to the same level of accountability at law?

This reminds me of another point. The Hon. Robert Lawson said that these people are already subject to the criminal law. What is the Criminal Law Consolidation Act if it is not the criminal law? We seek to amend that act so that these people can be treated equally.

The Hon. M.J. ELLIOTT: In her last contribution, the Hon. Diana Laidlaw said that perhaps we should apply it just to senior positions. I think quite junior positions could be affected. This is not a hypothetical case. When the Native Vegetation Branch needs to do an assessment of properties, sometimes it sends out its own officers and sometimes it uses contractors, but those officers are doing exactly the same work. If they decide there is a benefit to be had by making a certain assessment, whether they happen to be public or contract, surely they should suffer the same penalty. Similarly, if they go to a property and are threatened whilst doing an assessment (whether public officer or contract) surely they should have the same level of protection. They are not senior people, but they are making significant decisions and can be subject to threats and bribes. This is an example of a relatively junior position where I think the law should apply equally.

The Hon. R.I. LUCAS: I cite the example of an IT contractor. If a public servant is undertaking IT services for the government and becomes aware of the next round of IT contracts that are to be let, clearly there is not much that the IT public servant can do about that. Clearly, the IT public servant is working for the government and that sort of information is of no use to that person. If an IT contractor is doing the work instead of the IT public servant and becomes aware that a round of relatively small scale contracts or positions—not major contracts—is going to become available, is that person committing an offence? As they finish one six-month contract with the Department of Human Services they become aware of this information. They have been working in the department for six months, they become aware through DAIS or the Department of Human Services that there is another six-month contract going in education. The only way they can become aware of that is because they are actually working in human services and they have been talking to the IT people in DAIS. Does that amount to an abuse of public office under this particular redefinition?

The Hon. P. HOLLOWAY: The key point there is that you would have to improperly use the information.

The Hon. R.I. Lucas: Is that improper?

The Hon. P. HOLLOWAY: The key to it is what is actually done with the information. If a person applies in the ordinary way if the contract is made public—you would have to do an assessment of the circumstances to see whether or not the use was improper. Gaining the information by itself is not an offence; it is only the improper use of it to secure a benefit or to cause injury or detriment to another person.

The Hon. R.I. LUCAS: I cite a further example of a small contractor who works for six months in the Department of Human Services. This person becomes aware that something potentially is coming up in, say, education. They ring the IT person in education and say, 'I'm just finishing six months here; I'm available.' It is only a small contract worth $5 000 for two or three months' work.

So that particular department does not call for public tenders. It is able, under certain circumstances for small contracts, to make those sorts of decisions at a delegated level within the department. The only reason the contractor has become aware of it is the public sector work that he or she has undertaken. He or she has become aware of that information and has used that for a benefit—because they have been awarded the contract and it has not gone to public tender and the person in the department has agreed, 'Okay, you come highly recommended, so come over here and do six months' work'. Is that an improper use?

The Hon. P. HOLLOWAY: That turns on the question of whether it is improper. In my view, that would not necessarily be improper. It is a bit difficult to judge all the facts, and I can give you only a personal opinion, but there are others who are more involved with the law than I who

would determine that. Certainly, someone would have to understand the case law and so on, but I do not think that an ordinary member of the community would necessarily see that as improper use of information. But, again, you would need to know more facts in relation to that.

The Hon. R.I. LUCAS: I understand that the Leader of the Government cannot give a decision on the issue, but—

The Hon. P. Holloway: You are giving marginal cases as examples.

The Hon. R.I. LUCAS: Yes, that's right, but I guess the point being made by the opposition is that in those circumstances a contractor may not see it as being an improper use for his or her advantage. So the leader is at least conceding that it is possible that if action was taken against that person they may well be found guilty of a criminal offence. The leader cannot rule that out. I accept that he is not in a position to give a final decision, but he is saying that in those circumstances the contractor may well have a genuine belief that he or she has done nothing wrong.

However, we have seen in the public sector, for example, that the Auditor-General loves to use the phrase 'moral exemplar' in relation to the behaviour of public servants and public officers. There is an expectation that public officers have to perform in a way which is moral exemplar to the rest of the community. A number of recent reports by the Auditor-General and other such officers in the public arena have argued—and I can give examples in the electricity debate—that in the private sector such instances certainly would not be seen to be a criminal offence, an improper activity or anything like that, but the Auditor-General had a view that in the public sector a higher standard is required in terms of performance and activity.

I am saying that you may well have a contractor who operates in the private sector and undertakes a six month contract who may have a view that there is nothing improper in terms of the information that he or she has gained, but the leader has properly indicated that he is not in a position to say categorically that that person might not have committed this new offence—in the contractor's case—of abuse of public office. That is one of the difficulties—and there are many others—for people such as contractors who work perhaps predominantly in the private sector but who happen to undertake a public contract.

One of the examples given by the Hon. Mr Elliott and others, and to which the Hon. Mr Holloway referred, is contracting out or outsourcing where people have traditionally performed one task in the public sector and, because of outsourcing or privatisation, they continue the same work as private sector employees. But there are other examples of contractors, and the most common example is people who are predominantly private sector people who may work principally for the private sector and may occasionally carry out contracts for the public sector. In relation to the work that they do in this public office, which has now been deemed, there will be this requirement in terms of abuse of public office. So, I accept that the leader cannot rule it out: I just think it is one of the problems that you will have if you deem, and these are the sorts of issues that the Hon. Mr Lawson and others have been trying to highlight.

The Hon. P. HOLLOWAY: The first point I make in answer to that is that the current act in relation to the Public Service has been in existence for some time. So this is not new law: it is an extension of the law. But, regarding the use of 'improper', to go to the example that the honourable member gave, one would think that, if the information that the officer found was highly confidential and was not public, that would obviously impact on 'improper'. In the example the member gave, if someone has just applied for another job, that information should be public knowledge, and therefore how would it be improper? If the information is not highly confidential, then it is unlikely that the behaviour would be improper. How can you misuse public information? It really has to be secret, almost by definition, to abuse it.

The Hon. R.I. LUCAS: If it was confidential, it might be an offence on the part of the public servant to have leaked the information to the contractor. It might not be the contractor's offence. We are not talking about someone stealing it. It might be that someone has leaked the information. That may be an offence on the part of the public servant, but the contractor gets the information.

The Hon. P. HOLLOWAY: Maybe, but I guess then you are talking about whether there is a conspiracy. One could construct all sorts of scenarios, but the essential point is that the information would have to be improperly used and the information would almost automatically have to be confidential because, if it was public, how does one misuse it, because everybody has access to the same information? So how are you going to get a benefit from it if it is widely known?

The other point I make is that, under the definition of 'improperly', in most instances I suggest it is not difficult to determine whether the use of information was improper. But, for those few cases at the margin, the appeal provisions in the Criminal Law Consolidation Act provide safeguards in the event that a jury verdict is so unreasonable as to result in an improper conviction. Of course, that assumes that a person is charged in the first place. It is highly unlikely, in the scenarios that the leader gave, that a person would be charged. If a person is given a job in the Public Service as a computer operator without it having gone to tender, there might be issues in relation to that and breach of policy and so on, but that is not the concern of the contractor. But, if he is given that job, presumably it would be on the basis that he is capable of carrying out the work properly, and that is really as it should be.

So, I think the key argument in favour of the amendment proposed by the government, in my view, is that it seeks to place people in the same position if they are doing the same work for the government. Whether they are doing it as public servants or whether they are doing it as contractors for the government, they should be treated in the same way.

The Hon. R.D. LAWSON: There is also a very common situation that has not been touched on. Let us take the case of a building contractor and a subcontractor or an employee of a subcontractor. The employee is employed by a firm that wins a contract to work for Hansen Yuncken, for example, on a building project. The building project happens to be a public project. The employee of the subcontractor to the building company is deemed to be a public officer under this provision.

One of the important elements of the criminal law is that people know to which particular obligations they are subject. If you are a public servant, you receive a code of conduct issued by the Commissioner for Public Employment that tells you about the high standards that are expected of you as a public servant.

However, take the case of the carpenter who is working for a private sector company as a subcontractor to a building company and who has no knowledge at all that the Crown or the government is involved in this project. As far as he is concerned, he is an employee; he works for a private building

company that is working for Hansen Yuncken on this particular project; and he does not know that the Crown or the government is involved. In those circumstances, he is deemed to be a public officer.

Very importantly, the definition states 'public office has a corresponding meaning', which means that not only is he deemed to be a public officer but also his employment is deemed to be a public office. How absurd is that? He has no knowledge of the involvement of the government. He is unwittingly and unknowingly a public officer. There is a difference between that individual and a public servant who is employed within the public service and who is instructed in his obligations. That is an entirely unfair situation and is inconsistent with the principles of the criminal law.

The Hon. P. HOLLOWAY: In this division of the Criminal Law Consolidation Act, we are talking about very serious offences such as bribery or threatening behaviour. Is the deputy leader saying these persons do not know that they are not allowed to accept a bribe; that they do not know that they are not allowed to make threats or reprisals to receive benefit? These are the limited sorts of offences that we are talking about. However, I do not think it makes much difference who is paying these people at the end of the day, although, essentially, in all cases the government will be paying for the work they are doing, and the taxpayer will be paying for the work of everyone who is a public officer.

We are saying that if they offer bribes, or they make threats or reprisals, they should be treated the same as public servants. The deputy leader keeps coming back to this point: he is trying to distinguish between who they work for, but does it really matter? It is the type of the work that they do that is important—the work for the Crown.

I make the general point that if we are to have a situation where contractors are subject to a lower level of criminal sanction than public servants (and that is what the deputy leader is arguing), does that not create a greater risk profile for employing people from the private sector?

Earlier, the Hon. Diana Laidlaw said that we are opposed to employing people from the private sector. We are saying that they should be equal before the law in relation to these limited offences. If we have a situation where a greater risk is involved in employing private sector people because they are not subject to these sorts of sanctions, will that not push employment towards government employees, where the risk can be reduced, rather than towards the private sector? By making that risk equal for public sector employees and private sector employees, who are doing the same work, we are acting in a neutral manner towards the choice of either the private or public sector.

I refer to some comments that I made in my second reading speech. The government agrees that, whilst the amendments will serve to punish, they will not operate to lift and maintain standards of integrity in the public sector unless people are made aware of their obligations. I pointed out that consideration will be given to mechanisms by which contractors can be made aware of their obligations. That is certainly part of the process that the government is offering.

However, again I make the point that if we are treating people the same in relation to these matters, whether they work for the public or the private sector, that is certainly not in any way acting to the detriment of people in the private sector.

The Hon. R.I. LUCAS: In relation to section 5 of part 2 a former public officer, in the case of a former minister, Terry Groom, for example, or Annette Hurley, although she is not a former minister—

The Hon. A.J. Redford: She is a former member of parliament.

The Hon. R.I. LUCAS: —she is a former public officer, a member of parliament, or Graham Ingerson, and there are a number—

Members interjecting:

The Hon. R.I. LUCAS: She was a member of parliament. As former public officers, is the minister saying that this provision will mean that, for example, a Terry Groom, or someone like that, who goes into a consultancy and uses information that he has gained by virtue of his public office to secure a benefit—there are thousands of examples—the minister will not be able to say what is proper and what is improper because he will not be able to rule something as proper or improper?

You can think of a range of circumstances where as a minister one becomes aware of information, such as how a department operates or government policy on a particular issue which may not have been publicly announced (so it is not an issue of corruption or anything like that). Let us say that Terry Groom was aware that the premier and the cabinet of the day had a particular view on a policy issue but which was not known publicly, and then undertook a consultancy where he gained some benefit from that knowledge.

Under this legislation, would Terry Groom have committed a criminal offence as an abuse of public office, having improperly used information of which he became aware as a member of the government and the cabinet, knowing that that information was not public knowledge? Is that an improper use, or is that a proper use of information that a minister might have gained as a minister of the Crown?

The Hon. P. HOLLOWAY: I think the answer to that is that if the information were confidential and if a former public officer only became aware of that confidential information as a result of his or her employment and then used that information to gain a benefit, technically that does create an offence.

Of course, many former ministers perform very useful functions employing the skills that they have acquired whilst working in their former public office (and let us all hope that they continue to do so) but they do not improperly use that information. Using the skills that they have gained is one thing, but if they are improperly using information—that is, highly confidential information—that would be an abuse of public office if that information were highly confidential and if it were improperly used.

I think in the great majority of cases that the skills that are acquired by former public officers are properly used for the benefit of the community. But we are speaking there of skills and not highly confidential information. I think you would find numerous examples of former senior public officers who would, if they had consultancy work and were put in a conflict of interest situation, declare that and stand aside.

The Hon. R.I. LUCAS: I do not think this issue has been publicly canvassed: it might not even have been canvassed in the government's caucus. There are many former members of parliament and ministers, such as Annette Hurley, John Dawkins in the federal arena and, on the other side of politics, Peter Reith, who have taken up consultancies on leaving office. The minister referred to John Olsen. I am not sure why his name was mentioned as he is taking on another office and therefore is not a consultant. Stephen Baker is, I suppose, another example of someone who is—

The Hon. P. Holloway: Dr Wooldridge.

The Hon. R.I. LUCAS: Michael Wooldridge. Locally, there are several examples: Stephen Baker, Graham Ingerson and Frank Blevins.

The Hon. A.J. Redford: Annette Hurley.

The Hon. R.I. LUCAS: Annette Hurley and Terry Groom. There are a number of local politicians—

The Hon. A.J. Redford: Greg Crafter.

The Hon. R.I. LUCAS: Greg Crafter is a good example. So, there are a number on both sides of politics who have moved straight out of public office to take up a consultancy. I am sure their normal understanding would be that it is clearly paramount that cabinet confidentiality should be protected. They would have an understanding that they would not be able to breach cabinet confidentiality, or something like that, where they had gained information as a result of their position.

As the two ministers in this chamber would know, as a minister you become aware of a lot of information which is of a confidential nature but which is not bound up in cabinet confidentiality. One becomes aware of employment opportunities and contractual opportunities, and one is aware of the thinking of the government of the day.

The Hon. A.J. Redford: One might even perceive a business opportunity.

The Hon. R.I. LUCAS: One might see a business opportunity.

The Hon. A.J. Redford: But only on this side.

The Hon. R.I. LUCAS: No, on both sides, I think. It is not necessarily a matter of breaching cabinet confidentiality because, as a minister, one becomes aware of information that is confidential. If a minister then moves into a position of private consultancy, similar to the people I mentioned, it becomes incumbent upon the government and the minister to be specific and clear as to what constitutes an improper use of that information for future employment prospects.

This is not time limited either. Some of the restrictions talked about in recent times, in the federal arena, have proposed a limit of 12 months or two years on those who leave executive office before they can undertake employment of a certain nature. That places a specific time limit on the restriction of future employment. This provision is open-ended: it could be five or 10 years down the track that this provision is activated by an Auditor-General's inquiry.

A good example is that five or six years after the fact someone, all of a sudden, is trawling through a paper trail of information that exists and an Auditor-General may well, correctly or incorrectly, come to a view that something improper has been done. I say that advisedly because a paper trail does not always give a clear understanding of what might have occurred, as some recent inquiries have indicated. So, in this set of circumstances, an Auditor-General conducts an inquiry as a result of a parliamentary or political controversy and raises the issue of improper use of information by a member of parliament. It might be the Auditor-General's view of it being improper, and I say again, with the greatest respect, an Auditor-General's view of what is improper and perhaps everybody else's view as to what is improper, in relation to a public office, might not always be in agreement. The Auditor-General may well believe that there is a higher standard than that which is practiced in the private sector, or, indeed what most members of parliament and ministers might believe to be acceptable in public office.

The Hon. A.J. Redford: Or propriety.

The Hon. R.I. LUCAS: Or propriety. So, in those circumstances, totally unlimited, we could have former members of parliament, but more likely former ministers, potentially being charged with an abuse of public office, as they go about their future employment of being a consultant in a particular area. I seek a response from the minister in relation to this. I question whether he accepts that, in the circumstances that I have outlined, he could not rule out the fact that a former minister might be charged with an abuse of public office offence under this new provision in the government's legislation.

The Hon. P. HOLLOWAY: I do not know that Dr Wooldridge was actually charged—I do not believe he was—but there was some question about whether the information that he used had been acquired improperly in relation to him obtaining a benefit. I suppose it is a case somewhere at the margin. Certainly, cases can be—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The value of information will obviously decline with time. The more time that goes by, the less valuable the information will be. Those of us who have been ministers are well aware of all the oaths that we swear in relation to cabinet confidentiality. Senior public servants and chief executives have contracts which have a lot of these provisions and codes of behaviour and so on in them. I guess there are also other public officers with high level positions who may well not be covered by such provisions. The Public Sector Management Act probably has some general provisions in it, but I do not think they would be as comprehensive as these.

Nevertheless, the information that those people get might be very valuable just after they resign. The case I gave earlier related to a police officer, and there are other cases of police officers selling information. One day a police officer might be found guilty of misusing information in relation to the criminal record of another person but, if that person has resigned from the police force, what is to the stop them misusing that information the day after their resignation? I think that is a very good example of why there is a need to close off that particular offence.

I do not think we should get too hung up about issues in relation to ex-ministers. All ex-ministers already, in a sense, have to deal with the oaths and responsibilities that they have signed covering the use of this information anyway. I guess there is a fine line and judgment is needed. I think there are very few ex-ministers who have been charged and very few who are likely to be charged.

The Hon. R.I. Lucas: This is a new provision.

The Hon. P. HOLLOWAY: They presumably could be charged already. I would have thought the cabinet oath requires you to not use information gained while serving as a minister. I presume, when you swear that oath, that applies not just for the time that you are a minister but afterwards as well. That is my understanding of it, anyway. Perhaps I have got it wrong—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I know, but the point I am making is that there are other people who have similar levels of information and who, potentially, could misuse that information. It does not say that people cannot obtain employment: it does not say that people cannot use the skills that they acquire as members of parliament. All it says is that they cannot misuse that information.

The Hon. R.I. LUCAS: I will give an example. As the Hon. Mr Redford has indicated, it is not necessarily just

ministers. For example, it may be members of parliamentary committees, whether the Public Works Committee, the Industries Development Committee or whatever. Let us say that a member of parliament or a minister has left office, has gone into private sector consultancy work and a particular issue arises. I have to say that, as an individual member of parliament, I do not always remember. Regarding something that has been highly confidential and controversial and has gone to cabinet, you clearly understand it has gone to cabinet, but a thousand other things go through your mind and you cannot remember exactly where that information came from. It might have come from a confidential briefing in your party or from a confidential discussion on the Economic and Finance Committee.

A range of pieces of information go into your head as a member of parliament and as a minister. In relation to the things that are highly controversial, in most cases, you would hope that you would remember them: they are in cabinet and, obviously, you are sworn to confidentiality. I put them to the side. I am not talking about that. However, a range of other confidential pieces of information come up. Four years down the track, when you are working as a consultant, your partners might say to you, 'We are about to contract with the government on an IT contract.' Or it might be a defence contract or something such as that. You say, 'Yes, my recollection is this, this and this', and whatever else it is. You do not breach cabinet confidentiality, but you have had confidential information either on a parliamentary committee or from a departmental sense, or something along those lines. You do not recall whether it was provided to you in that particular way but you are trading in your new business.

We have had recent examples of this where the Auditor-General, as a result of a parliamentary controversy, trawls over what you did and said six years ago or four years ago. The Motorola issue hung on events of 1994, and that was an issue last year—seven years down the track. I remember at that time talking to some of the key players and they were being asked what was said at a particular meeting seven years beforehand. I thought to myself that I would have no idea in relation to having thousands of meetings as a minister, then being asked what was said and who said what to whom at a particular meeting seven or eight years before. It is not that we on this side of the fence are wishing to see this government in office for eight years but, believe me, if you have been in office for eight years, it is hard enough to remember what happened two years ago, let alone six or seven years ago.

There is an Auditor-General's inquiry into Motorola, or something such as that, from six or seven years ago. The Auditor-General does his desktop audit of whatever it is, and his view of what, in some way—and some other members in another place will recall—was improper, for example, in relation to whether or not you should be a soccer ambassador, was certainly different from many other people's views in relation to at least that aspect of the inquiry. I do not want to enter the whole debate about that, but it related to whether or not a member of parliament should be an ambassador for soccer and what improper actions arose from that as a result of a member's taking on that responsibility.

In those circumstances, if you have an Auditor-General who trawls over everything and six years later says, 'That is improper behaviour by a member of parliament or a minister', you are then in a position in the private sector as a consultant potentially facing, under this provision, an abuse of public office. It is not for me to advise the Leader of the Government about internal matters for the government, but I hope that a number of his colleagues are aware of this provision and the future potential impact on them should they find themselves in the unfortunate circumstances that I have outlined. Okay, it is rare but, believe me, if you happen to be the one who is trawled, because of the numbers in the parliament or because of the actions of the Auditor-General, through an inquiry which goes back six or seven years, I can assure you that you will not be in a position to be able to say categorically to the Auditor-General,'This is exactly the nature of the conversation that went on at that time, and I can categorically assure you of this, this and this.'

I can assure members, as we have seen in recent examples, that people's recollections of the same meeting vary—and that is through no malicious intent of the people at the meeting. The Auditor-General, of course, then says, 'The minister said this and the private sector person said that. On balance, I accept the views of the private sector person' or 'I accept the views of someone else—the public servant who happened to be at the meeting.' He can make that judgment as the Auditor-General, but there is nothing to say that his judgment is right when people are trying to recall the same meeting that happened seven years ago. There is no time limit at all in relation to this. I thought it might attract the attention of the minister and some of his colleagues but, obviously, the same arguments can be made for former public officers as for senior public servants.

Everyone accepts that, if something is cabinet confidential or if something is just explicit, you know you cannot trade that information. I am not arguing that someone should go from office one day to a private sector job the next day and clearly do something which is wrong, but I am just warning the government—and if it has the numbers to rush this through the parliament in both stages, let the warning be on the public record—that, at some stage—and they are the ones who are in government at the moment and, obviously, in their offering Rory McEwen seven year deals they believe that they will be there for seven years—its members may well be the recipients of the problems under this provision as it relates to them as public officers.

The Hon. P. HOLLOWAY: I think we have just about covered every possible aspect of this bill but, in relation to Motorola, first, no-one was charged; and, secondly, essentially it was a question about whether or not the then Premier misled parliament. It was about the statements at the time: it was about whether or not what he said in 1994 was correct—

The Hon. A.J. Redford interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: Certainly, the investigation went back—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, that is right. We could go back into that, but I suggest that the argument is not relevant to abuse of office: it is a completely different case. In relation to past officers, I do not necessarily disagree with many of the things the leader said. Yes, certainly the longer you hold these positions, obviously the more your memory fades, but also, at the same time, the less relevant the information becomes. What was said or done many years ago in terms of improperly using that information that you had years ago becomes less and less likely to happen. The honourable member is correct: it does put on record a new offence, and public officers such as ourselves will have to be more careful. However, I do not believe that there will be a whole lot of prosecutions. Quite clearly, it will apply only to

gross abuses of information and it is pretty obvious where they lie.

Whatever law you are dealing with, you never cover every single case that might arise. We have to use words such as 'improper' because there is simply no alternative. We cannot devise or construct a law that will cover every single contingency, and that is why we have to have faith in our judicial system that it will determine what is proper and what is improper, and the record shows that it can do that.

The Hon. A.J. REDFORD: There is nothing in this clause that says gross abuse. He is making it up as he goes along.

The CHAIRMAN: That is disrespectful.

The Hon. A.J. REDFORD: Assuming this bill becomes law, is it possible to be charged with an offence of aiding and abetting abuse of public office, pursuant to proposed section 251?

The Hon. P. HOLLOWAY: I cannot be certain. My advice is that you could probably be charged with aiding and abetting for any offence, not necessarily this offence, with the caveat that we have not checked it out, but that is my broad understanding of the law.

The Hon. A.J. REDFORD: I will take that as a yes. Let me put a set of circumstances to the minister. Let us say that a former member of parliament enters into a contract with the government of the day on the basis that that former member of parliament, having been here for a period of eight years and having lost other skills, only has the skills and knowledge that he has developed whilst he has been in parliament. Let us assume that the *Advertiser* has run a campaign saying that that is very bad, very poor, that it is improper, to the point that it is contrary to the standards of propriety generally and reasonably expected by ordinary, decent members of the community. Then the government, the minister or the Premier would be liable to be charged with an offence of aiding and abetting an abuse of public office. Would the minister agree that that is theoretically possible?

The Hon. P. HOLLOWAY: I am told that the principal offence has to be committed but section 238 applies a number of restrictions on that. Section 238(2) of the Criminal Law Consolidation Act provides:

> A person will not be taken to have acted improperly for the purposes of this Part unless the person's act was such that in the circumstances of the case the imposition of a criminal sanction is warranted.
>
> (3) Without limiting the effect of subsection (2), a person will not be taken to have acted improperly for the purposes of this Part if—
>
> (a) the person acted in the honest and reasonable belief that he or she was lawfully entitled to act in the relevant manner; or
>
> (b) there was lawful authority or a reasonable excuse for the act; or
>
> (c) the act was of a trivial character and caused no significant detriment to the public interest.

The Hon. A.J. REDFORD: In the scenario that I have outlined, which specific provision applies?

The Hon. P. HOLLOWAY: The point is that some person has to be convicted of the first offence before you would get to the act of aiding and abetting.

The Hon. A.J. REDFORD: You can be charged with aiding and abetting without necessarily the main offence being proved and convicted. If I am wrong, I would be interested to hear the authority.

The Hon. P. HOLLOWAY: I will check that. I suppose one could be charged but whether one could be convicted I will leave to the legal minds. I am not sure that we are advancing debate on this clause.

The CHAIRMAN: I am anxious to advance the debate. We have been one hour and 40 minutes on this clause and, with the greatest of respect, I do not think there are many further connotations that we can put on this. However, I will take the Hon. Mr Redford and then propose to move on.

The Hon. A.J. REDFORD: In the circumstances that I am talking about, would it be possible to charge conspiracy to abuse a public office by involving a former public officer?

The Hon. P. HOLLOWAY: Theoretically, conspiracy can apply.

The Hon. A.J. REDFORD: Any government that is cautious will never seek the advice of a former member of parliament under this measure, and I just hope that members in your caucus understand exactly what this clause is about.

The CHAIRMAN: That is comment and is not necessary.

Clause passed.

Clauses 5 to 7 passed.

Progress reported; committee to sit again.

WEST BEACH RECREATION RESERVE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

> That this council, pursuant to section 13(7) of the West Beach Recreation Reserve Act 1987, grants its approval to the West Beach Trust granting a lease or licence for a term of up to 50 years over each of the areas within the reserve within the meaning of the act identified as 'BB', 'Y' and 'Z' respectively in the plan deposited in the General Registry Office numbered GP 496/1999.

This will enable discussion on the matter to progress. I understand that members on the other side of the chamber have not been briefed but, after I make my contribution, I encourage members to avail themselves of a briefing so that we can progress the motion. I have spoken to members on the other side of the house who are not aware of the detail of the motion, so I will not be pushing for a vote on it.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: I will be seeking some advice myself but in moving the motion I hope to progress the issue. Based on the information given to me, I understand that the leases are in respect of the commercial area of the boat haven that is part of the Holdfast Shores development, which is attached to the West Beach Caravan Park. It is part of the boat launching area.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: I am familiar with the area; I inspected the area with a previous committee. The reasons to renew existing leases—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The level of conversation is getting a little high; I want to hear the minister.

The Hon. T.G. ROBERTS: Approval has been given by previous ministers to negotiate leases. Some are 20-year leases and some are 40-year leases. I understand that some negotiations are occurring—not to extend the area, as I understand, but to increase some of the levels of activity within the area for commercial operations associated with the ramp area. There is a need, according to advice, to move those negotiated leases out to 50-year leases. I suppose that is the criteria set by commercial interests in relation to security and making application for bank loans. It is always used as a reason for extending lease times.

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

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1321.)

The Hon. CARMEL ZOLLO: As a member of the Statutory Authorities Review Committee during the last parliament, one of the most interesting inquiries I believe the committee undertook was into animal and plant control boards and soil conversation boards. It was probably the most substantive inquiry the committee undertook whilst I was a member, with the committee taking 85 written submissions and hearing evidence from 96 witnesses. In the course of that inquiry the committee travelled to the South-East and the Coorong.

Mr Acting President, I think that you would have been a member of that committee also. On its visit to our RAMSAR-listed Coorong, the committee was shown examples of wetlands conservation, alley farming and local action planning committee projects. In the South-East the committee was shown examples of dryland salinity, clay spreading, drainage projects and successful land management practices. The sites visited by the committee were good examples of drainage projects in particular and highlighted the importance of that work to the overall environmental health of the South-East area.

The bill provides for a scheme to predict and improve the environment and agricultural production in the Upper South-East through the proper conservation and management of water, and the initiation or implementation by the government of the state of works, environmental management programs and other initiatives. It is estimated that 250 000 hectares (about 40 per cent) of productive farmland in the Upper South-East are already degraded by salinisation caused by high ground water levels and flooding, and a further 200 000, including approximately 40 000 hectares of high value wetlands and native vegetation, which are considered to be at risk of degradation.

It must be expected that the South-East is a priority region for action to address its salinity and water quality issues. The South-East is also the region that has been ear-marked for further expansion of our dairy and agricultural sectors. None of this expansion can enjoy the success it deserves if underlying factors, such as degradation by salinisation, are not tackled. The recent report by the newly formed Economic Development Board, titled 'The State of the State', identifies two key tasks of government: the preparation of a status report on the state of the South Australian economy; and the preparation of a strategic plan for the economic development of South Australia.

The achievement of economic reform requires improvement of international competitiveness and increasing economic growth prospects, industry stability and ability to respond to the rapidly changing national and global markets. So, issues such as food safety, sustainable development, product integrity, trade policies, as well as environmental and social responsibility, are currently being addressed on the international, national and state fronts. It is clear that the program advocated by this bill will provide significant environmental, economic and social benefits for the region.

To alleviate the problems facing the Upper South-East, the Upper South-East Dryland Salinity and Flood Management Program has been initiated with four main elements: drainage; vegetation protection enhancement; salt land agronomy; and wetland enhancement and management. However, the need to negotiate additional funding and gain certainty of access and management of drains and wetlands in the region has meant that the future of the Upper South-East Dryland Salinity and Flood Management Program is under threat.

One of the factors preventing this program's progress relates to the lack of specific legislation to enable the promulgation of the program, and difficulties in applying existing legislation that, in part, have apparently allowed landholders to construct and control drainage works and refuse access across their land, together with detrimental implications for upstream landholders, as well as native vegetation and wetland habitats. The provisions of this bill are applicable only to the Upper South-East at this time. The legislation clearly identifies corridors of land that have been assessed as being required to implement the drainage aspects of the program, with a number of these alignments already being negotiated with existing landholders.

By force of this legislation, as is currently the case with existing drainage schemes (with a few exceptions), the land will be acquired at no cost. It is the intention of the government that when the project is completed excess land within the 200 metre corridors will be transferred back to the appropriate party. Other than the few exceptions, to date landholders have freely donated land in recognition of the environmental and productivity benefits the drainage works provide. I understand that 80 per cent of land owners have already given their land for the scheme, no doubt in recognition that economic productivity will double once the drainage scheme is able to address environmental degradation.

To ensure that the work is completed quickly, the legislation also provides control over the drainage works of private individuals to ensure that the government drainage scheme has priority and that private works cannot conflict with the government program. Under licence from the minister, complementary work can however be carried out. In relation to levies raised from land owners, this bill gives the minister the flexibility to initiate negotiations with individual landholders, where they will be encouraged to offer up biodiversity trade-offs, such as protecting native vegetation under management agreements in exchange for the removal or reduction of their levy obligations.

It is hoped that the bill before us will enable the government to deliver the Upper South-East Dryland Salinity and Development Management Program in an effective way for the benefit of all those with a stake in the program—the local landholders as well as the broader community—who have an interest in maintaining the environmental, economic and social values of the region. This bill allows for a review in four years when hopefully the drainage works will have been completed. It is believed that this review will allow the identification of other outstanding matters which need to be addressed with the intention subsequently to repeal the proposed act.

In relation to the Statutory Authorities Review Committee's inquiry, which I mentioned earlier in my contribution, the committee heard evidence that South Australia is regarded as a national leader in natural resource management. The bill before us is another example of that leadership and the recognition that our environment is everybody's concern and that its future is bigger than individual interests. Degradation cannot continue to be tolerated because particular persons or groups believe their interests should come first.

This is strong legislation confined to this area, as I said, for historic reasons or, should I say perhaps, for a particular

reason. The minister has demonstrated enormous leadership with this legislation to ensure certainty for the works by giving the minister the necessary functions and powers to enhance both agricultural land and the natural environment in the South-East, and I am pleased to add my support to this legislation.

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

TRAINING AND SKILLS DEVELOPMENT BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The Training and Skills Development Bill is the product of a long period of review and consultation, by both the previous and current governments.

This bill retains the key provisions of the bill that received bipartisan support in 2001, namely—

- it establishes a new body to be known as the *Training and Skills Commission* (the Commission), to be the peak government advisory body on vocational education and training, the apprenticeship system, adult community education, and non-university higher education in the State; and
- it provides the legislative basis for assuring the quality of vocational education and training and non-university higher education in the State; and
- it underpins the apprenticeship and traineeship system in South Australia.

Within that framework, further development of the bill has occurred to—

- emphasise that members of the Commission and its Committees are to be appointed on the basis of their expertise rather than to represent particular interests; and
- support attempts to achieve greater consistency in the way the vocational education and training (VET) sector is regulated across Australia; and
- give effect to the government's commitment to use legislative means to improve the recognition of skills and qualifications gained by people overseas; and
- enable matters affecting employers and apprentices and trainees who are parties to contracts of training to be referred to the Industrial Relations Commission and other bodies, where appropriate.

The purpose of the bill is to support the development of a high quality education and training sector that is responsive to the current and future skill formation needs of government, business/industry and the community at large.

It will assist in ensuring the strategic and effective use of public funds for education and training to support employment and economic growth and social development.

It will promote the development of a culture of lifelong learning through adult community education and other means.

The new Commission will provide advice on priorities and funding for vocational education and training and adult community education, to ensure that the workforce skills required to implement the government's economic and social development strategies are available. The planning work of the Commission will complement the work of the government's Economic Development Board in that regard.

The Commission will also be responsible for—

- quality assurance in vocational education and training and higher education, including education offered to post secondary overseas students in South Australia;
- advising on the recognition of skills gained by people trained overseas;
- developing an overview of publicly funded vocational education and training and adult community education activity in the State, and reporting on those matters to the Minister;
- providing leadership for business and the community generally on training matters and encourage increased involvement and investment by the business sector;
- promoting equity and participation in and access to education and training, and pathways between schools, VET/TAFE, universities and adult community education.

The Commission will consult with industry stakeholders, and relevant government and community bodies in the performance of its functions, and with the State's universities in matters involving degree courses and qualifications.

The bill gives effect to new national quality standards for vocational education and training and higher education. This will enable South Australian training organisations such as Institutes of TAFE, to compete in the national training market. It will also ensure that competencies and qualifications gained by South Australians will be recognised throughout Australia.

The bill provides greater flexibility in the apprenticeship and traineeship area. It will continue to recognise traditional trades and declared vocations, but it will also enable the contract of training system to be extended to other occupations.

The bill provides improved protection for clients of the training and education system by establishing a *Grievances and Disputes Mediation Committee* to hear disputes between students and training organisations and between apprentices/trainees and their employers.

In summary, the bill will underpin a high quality training and education sector in South Australia that is responsive to the State's needs for a skilled workforce and the community's need for high quality training and education.

I commend the bill to the House.

Explanation of Clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

The clause elaborates on the objects of the measure.

Clause 4: Interpretation

This clause contains definitions of words and phrases used in the measure.

Clause 5: Declarations for purposes of Act

The Minister may make a declaration by publishing a notice in the Government Gazette declaring—

- an institution to be a university for the purposes of this measure; or
- declaring an occupation to be a trade or a declared vocation for the purposes of this measure.

PART 2: ADMINISTRATION

DIVISION 1—STATE TRAINING AGENCY

Clause 6: Minister to be Agency

The Minister is the State Training Agency contemplated by the *Australian National Training Authority Act 1992* of the Commonwealth (the Commonwealth Act).

Clause 7: Functions of Minister as Agency

The functions of the Minister as the State Training Agency relate to providing advice to, and developing plans in conjunction with, the Australian National Training Authority established under the Commonwealth Act (ANTA) in respect of vocational education and training and adult community education needs and the funding implications of those needs and the management of the State's system of vocational education and training and adult community education.

Clause 8: Delegation by Minister

The Minister may delegate to the Commission, or any other person or body, or to the person for the time being occupying a particular office or position, a function of the Minister as the State Training Agency or any other function or matter that the Minister considers appropriate.

DIVISION 2—TRAINING AND SKILLS COMMISSION

Clause 9: Establishment of Training and Skills Commission

The *Training and Skills Commission* (the Commission) will be established by this measure and will consist of not more than 9 members appointed by the Governor on the nomination of the Minister. The Commission will include persons who together have the abilities and experience required for the effective performance of the Commission's functions.

Clause 10: Commission's functions

The Commission's general functions will be—

1. to assist, advise and make recommendations to the Minister on the Minister's functions as the State Training Agency and other matters relating to the development, funding, quality and performance of vocational education and training and adult community education; and
2. to regulate vocational education and training and higher education (other than that delivered by a State university (that is, a university established under a South Australian Act).

The measure also lists other functions of the Commission.

Clause 11: Ministerial control

Except in relation to the formulation of advice and reports to the Minister, the Commission is, in the performance of its functions, subject to control and direction by the Minister.

Clause 12: Conditions of membership

A member of the Commission will be appointed for a term of up to 2 years and on conditions specified in the instrument of appointment, and will, at the expiration of a term, be eligible for reappointment.

Clause 13: Commission's proceedings

This clause sets out the proceedings for meetings of the Commission.

Clause 14: Validity of acts

An act or proceeding of the Commission or a committee of the Commission is not invalid by reason only of a vacancy in its membership.

Clause 15: Immunity

A member of the Commission or a committee of the Commission incurs no liability for anything done honestly in the performance or exercise, or purported performance or exercise, of functions or powers under this measure. A liability that would, but for this clause, attach to a member attaches instead to the Crown.

Clause 16: Minister to provide facilities, staff, etc.

The Minister must provide the Commission with facilities and assistance by staff and consultants as reasonably required for the proper performance of the Commission's functions.

Clause 17: Report

The Commission must present to the Minister each year a report on its operations for the preceding calendar year and the Minister must cause copies of it to be laid before each House of Parliament.

DIVISION 3—REFERENCE GROUPS

Clause 18: Establishment of reference groups

The Minister must establish—

- a reference group to advise the Commission in relation to the performance of the functions assigned to the Commission under Parts 3 and 4; and
- a reference group to advise the Commission in relation to the performance of its functions relating to adult community education.

The Minister may establish other reference groups as the Minister considers necessary to advise the Commission in relation to the carrying out of its functions or particular matters relating to its functions.

DIVISION 4—GRIEVANCES AND DISPUTES MEDIATION COMMITTEE

Clause 19: Establishment of Grievances and Disputes Mediation Committee

The *Grievances and Disputes Mediation Committee* will be established as a committee of the Commission with the functions assigned to the Committee under Parts 3 and 4.

The Minister must appoint a member of the Commission to chair proceedings of the Committee and the Committee will be constituted of the member appointed to chair proceedings and at least 2 but not more than 4 other persons selected in accordance with Schedule 1.

The Committee is not subject to control or direction by the Commission and (subject to an exception) the Commission has no power to overrule or otherwise interfere with a decision or order of the Committee under Part 4.

The exception is that if the Commission, on the direction of the Minister, requests the Committee to review a decision or order of the Committee under Part 4, the Committee must review the decision or order and may, on the review—

- confirm, vary or revoke the decision or order subject to the review; or
- make any other decision or order in substitution for the decision or order.

The Committee may, at any one time, be separately constituted for the performance of its functions in relation to a number of separate matters.

PART 3: HIGHER EDUCATION AND VOCATIONAL EDUCATION AND TRAINING

Clause 20: Registration of training organisations

The Commission may, on application or of its own motion, register a person as a training organisation—

- to deliver education and training and provide assessment services, and issue qualifications and statements of attainment under the policy framework that defines all qualifications recognised nationally in post-compulsory education and training within Australia entitled *Australian Qualifications Framework* (the AQF), in relation to higher education or vocational education and training, or both; or
- to provide assessment services, and issue qualifications and statements of attainment under the AQF, in relation to higher education or vocational education and training, or both.

The Commission may, on application or of its own motion, register a person as a training organisation for the delivery of education and training to overseas students.

An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 21: Conditions of registration

Registration of a training organisation is subject to—

- the conditions determined by the Commission as to what operations the organisation is authorised to conduct by the registration; and
- the condition that the organisation will comply with the standards for registered training organisations; and
- if guidelines have been developed by the Commission and approved by the Minister—the condition that the organisation will comply with the guidelines; and
- any other conditions determined by the Commission.

Clause 22: Variation of registration of training organisations

The Commission may, on application, vary the registration of a training organisation. An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 23: Criteria for registration, etc., of training organisations

The Commission must, in determining whether to register, or renew or vary the registration of, a training organisation, and in determining conditions of registration—

- apply the standards for registered training organisations and the guidelines (if any) developed by the Commission and approved by the Minister; and
- have regard to the standards for State and Territory registering/course accrediting bodies; and
- have regard to the prior conduct of the organisation or an associate of the organisation (whether in this State or elsewhere), and any other matter that the Commission considers relevant.

The Commission may not register, or renew or vary the registration of, a training organisation in relation to vocational education and training—

- if the organisation is registered as the result of a determination by some other registering body; and
- unless the Commission determines (according to such criteria as the Commission thinks fit) that this State will be the organisation's principal place of business as a training organisation in relation to vocational education and training.

Clause 24: Accreditation of courses

The Commission may, on application or of its own motion, accredit a course or proposed course, or renew the accreditation of a course, as a course in higher education or vocational education and training. An applicant must provide the Commission with any information required by the Commission for the purposes of determining the application.

Clause 25: Conditions of accreditation

Accreditation of a course is subject to—

- the condition that the course will comply with the standards for accreditation of courses; and
- if guidelines have been developed by the Commission and approved by the Minister—the condition that the course will comply with the guidelines; and
- any other conditions determined by the Commission.

The Commission must consult with the State universities before determining an application for accreditation of a course in relation to which a degree is to be conferred.

Clause 26: Criteria for accreditation of courses

The Commission must, in determining whether to accredit, or renew the accreditation of, a course, and in determining conditions of accreditation—

- apply the standards for accreditation of courses and the guidelines (if any) developed by the Commission and approved by the Minister; and
- have regard to the standards for State and Territory registering/course accrediting bodies.

Clause 27: Duration of registration/accreditation and periodic fee and return

Subject to this measure, registration or accreditation remains in force, on initial grant or renewal, for a period (which may not be longer than 5 years) determined by the Commission. The holder of registration or accreditation must, at intervals fixed by regulation—

- pay to the Commission the fee fixed by regulation; and
- lodge with the Commission a return in the manner and form required by the Commission.

The penalty for an offence against this clause is a fine of $2 500 but the offence may be expiated on payment of $210.

Clause 28: Grievances relating to registered training organisations

A person with a grievance relating to—

- the delivery of education and training, provision of assessment services, or issue of qualifications and statements of attainment under the AQF, in relation to higher education or vocational education and training; or
- the provision of education and training to overseas students,

by a registered training organisation, may refer the grievance to the Grievances and Disputes Mediation Committee for consideration.

The Committee must inquire into a matter referred to it under this clause and may, if it thinks fit, make a recommendation to the Commission about what action (if any) the Commission should take as a result of the inquiry. The Commission may, without further inquiry, accept and act on any recommendation of the Committee under this clause.

Clause 29: Commission may inquire into training organisations or courses

The Commission—

- may, at any time; and
- must, at the request of the Grievances and Disputes Mediation Committee,

inquire into a training organisation or course whether registered or accredited or the subject of an application for registration or accreditation.

The Commission may inquire into—

- a training organisation the registration of which was, or is to be, determined by some other registering body; or
- a course the accreditation of which was, or is to be, determined by some other course accrediting body,

at the request of or after consultation with the relevant registering body.

The holder of, or applicant for, the registration or accreditation must provide the Commission with any information required by the Commission for the purposes of an inquiry (penalty $2 500).

Clause 30: Commission may cancel, suspend or vary registration or accreditation

If the holder of registration or accreditation contravenes this measure or a corresponding law or a condition of the registration or accreditation (whether the contravention occurs in this State or elsewhere), the Commission may do one or more of the following:

- impose or vary a condition of the registration or accreditation;
- cancel or suspend the registration or accreditation.

The Commission may not take such action in relation to a training organisation the registration of which was determined by some other registering body except to impose conditions preventing the organisation from operating in this State or restricting the organisation's operations in this State.

The Commission may, subject to the regulations, cancel the registration of a training organisation the registration of which was determined by the Commission if the Commission determines (according to such criteria as the Commission thinks fit) that this State is no longer the organisation's principal place of business as a training organisation in relation to vocational education and training.

The Commission may not take action under this section unless the Commission first—

- gives the holder of the registration or accreditation 28 days written notice of the nature of the action the Commission intends to take against it; and
- takes into account any representations made by the holder of the registration or accreditation within that period; and
- in the case of cancellation of the registration of a training organisation in relation to vocational education and training—consults the registering body in each State and Territory where the organisation operates.

Any action to be taken under this clause—

- must be imposed by written notice to the holder of the registration or accreditation; and
- may have effect at a future time or for a period specified in the notice.

Clause 31: Provision of information to other State or Territory registering/course accrediting bodies

The Commission may provide to another registering body or course accrediting body any information obtained by the Commission in the course of carrying out its functions under this measure.

Clause 32: Cancellation of qualification or statement of attainment

The Commission may cancel a qualification or statement of attainment issued by a registered training organisation (the issuing registered training organisation) if the Commission is satisfied that the qualification or statement of attainment was issued by mistake or on the basis of false or misleading information.

Cancellation must be imposed by written notice to the holder of the qualification or statement of attainment and the issuing registered training organisation.

Clause 33: Appeal to District Court

An appeal to the Administrative and Disciplinary Division of the District Court may be made (by a person within 1 month of the making of the decision appealed against) against a decision of the Commission—

- refusing an application for the grant or renewal of registration or accreditation; or
- imposing or varying conditions of registration or accreditation; or
- suspending or cancelling registration or accreditation; or
- cancelling a qualification or statement of attainment.

Clause 34: Offences relating to registration

A person must not claim or purport to be a registered training organisation in relation to higher education unless registered as a training organisation in relation to higher education.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to higher education unless

- the person is a State university; or
- the person is registered as a training organisation under Part 3 and is operating within the scope of the registration of the organisation.

A person must not claim or purport to be a registered training organisation in relation to vocational education and training unless registered as a training organisation in relation to vocational education and training.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to vocational education and training unless the person is—

- registered as a training organisation in relation to vocational education and training; and
- operating within the scope of the registration of the organisation and complying with the conditions of the registration.

A person must not claim or purport to be able to deliver education and training that will result in the issue of a qualification or statement of attainment by another person if the person knows that the other person is not lawfully able to issue the qualification or statement of attainment.

The penalty for an offence against this clause is a fine of $2 500.

This clause does not apply to the Commission.

Clause 35: Offences relating to universities, degrees, etc.

A person must not claim or purport to be a university unless the person is a State university, an institution declared to be a university under clause 4, an institution or institution of a class prescribed by regulation or the person has been exempted from the operation of this subclause by the Minister.

A person must not offer or provide a course of education and training in relation to which a degree is to be conferred unless the person is registered as a training organisation, and the course is accredited as a degree course, under Part 3.

A person must not offer or confer a degree unless the person is registered as a training organisation under Part 3 and the degree is in relation to successful completion of a degree course accredited under Part 3.

The penalty for an offence against any of the provisions of this clause is a fine of $2 500.

Subclauses (3) and (4) do not apply to—

- a State university; or
- an institution declared to be a university under clause 4 that is authorised by the Commission to provide such a course or confer such a degree; or
- an institution or institution of a class prescribed by regulation.

PART 4: APPRENTICESHIPS/TRAINEESHIPS

Clause 36: Interpretation

This clause contains definitions for the purposes of Part 4.

Clause 37: Training under contracts of training

An employer must not undertake to train a person in a trade except under a contract of training (penalty $2 500). An employer may undertake to train a person in any other occupation under a contract of training.

An employer must not enter into a contract of training unless the employer is an approved employer or the contract is subject to the employer becoming an approved employer (penalty $2 500.)

A contract of training must—

- be in the form of the standard form contract; and
- contain the following conditions:

37.0.0.1 a condition that the apprentice/trainee will be employed in accordance with the applicable award or industrial agreement (which must be specified in the contract);

37.0.0.2 a condition specifying the probationary period for a contract for the relevant trade, declared vocation or occupation;

37.0.0.3 if the contract is in respect of a trade or declared vocation—the standard conditions for a contract for the trade or declared vocation;

37.0.0.4 a condition that the apprentice/trainee will be trained and assessed in accordance with the training plan (to be agreed between the employer, the apprentice/trainee and a registered training organisation chosen jointly by the employer and the apprentice/trainee);

37.0.0.5 any other conditions that have been agreed between the employer and the apprentice/trainee after consultation with the registered training organisation.

An employer under a contract of training must comply with the employer's obligations specified in the contract (maximum penalty: $2 500).

An apprentice/trainee under a contract of training must comply with the apprentice's/trainee's obligations specified in the contract.

An employer must permit an apprentice/trainee employed under a contract of training to carry out his or her obligations under the contract (maximum penalty: $2 500).

No person is disqualified from entering into a contract of training by reason of his or her age.

Clause 38: Minister may enter contracts of training

The Minister may enter into a contract of training, assuming the rights and obligations of an employer under the contract, but only on a temporary basis or where it is not reasonably practicable for some other employer to enter into the contract of training.

Clause 39: Approval of employers for training of apprentices/trainees

The Commission may, on application or of its own motion, grant approval of an employer as an employer who may undertake the training of an apprentice/trainee under a contract of training.

Approval may be granted to an employer in relation to the employment of a particular apprentice/trainee or apprentices/trainees generally and be subject to conditions determined by the Commission.

The Commission may withdraw an approval if—

- there has been a contravention of, or failure to comply with, a condition of the Commission's approval; or
- the circumstances are such that it is, in the Commission's opinion, no longer appropriate that the employer be so approved.

Clause 40: Terms of contracts of training

The Commission may in relation to a contract of training for a trade or declared vocation make determinations about the term of the contract.

Clause 41: Approval of contracts of training

An employer must, within 4 weeks after entering into a contract by which the employer undertakes to train a person in a trade, apply to the Commission for approval of the contract (maximum penalty $2 500).

An employer must, within 4 weeks after entering into a contract with a person that is intended to be a contract of training under this Part, apply to the Commission for approval of the contract (maximum penalty $2 500).

The employer must provide the Commission with any information required by the Commission for the purposes of determining an application for approval of a contract as a contract of training.

The Commission may decline to approve a contract as a contract of training in certain circumstances.

Clause 42: Alteration of training under contract of training to part-time or full-time

The Commission may alter a contract of training so that it provides for part-time training instead of full-time training, or full-time training instead of part-time training, if to do so is consistent with the award or industrial agreement under which the apprentice/trainee is employed.

Clause 43: Termination of contract of training

A contract of training may not be terminated or suspended without the approval of the Commission. However, a party to a contract of training may, after the commencement of the term of the contract and within the probationary period specified in the contract, terminate the contract by written notice to the other party or parties to the contract.

If a contract of training is terminated during the probationary period, the employer under the contract must, within 7 days of the termination, notify the Commission in writing of the termination (maximum penalty $2 500).

Clause 44: Transfer of contract of training to new employer

A change in the ownership of a business does not result in the termination of a contract of training entered into by the former owner but, where a change of ownership occurs, the rights, obligations and liabilities of the former owner under the contract are transferred to the new owner.

Clause 45: Termination/expiry of contract of training and pre-existing employment

If a contract of training is entered into between an employer and a person who is already in the employment of the employer, the termination, or expiry of the term, of the contract of training does not of itself terminate the person's employment with the employer.

Clause 46: Disputes and grievances relating to contracts of training

If a dispute arises between parties to a contract of training, or a party to a contract of training is aggrieved by the conduct of another party, a party to the contract may refer the matter to the Grievances and Disputes Mediation Committee.

If the Commission suspects on reasonable grounds that a party to a contract of training has breached, or failed to comply with, a provision of the contract or this Act, it may refer the matter to the Grievances and Disputes Mediation Committee.

The Grievances and Disputes Mediation Committee must inquire into a matter referred to it. If, after inquiring into a matter, the Committee forms the opinion that the matter is one that should be dealt with by an industrial authority (which is defined so as to have the same meaning as in the *Industrial and Employee Relations Act 1994*), the Commission or some other body, the Committee must refer the matter to the industrial authority, Commission or other body.

The Committee has a discretion to exercise (by order) one or more of the powers listed in subclause (3) in relation to a matter before the Committee.

Clause 47: Relation to other Acts and awards, etc.

This measure prevails to the extent of any inconsistency over the *Industrial and Employee Relations Act 1994* and any regulation, award or other determination, enterprise agreement or industrial agreement made under that Act or an Act repealed by that Act.

Despite subclause (1), a provision of an award or other determination, enterprise agreement or industrial agreement made under the *Industrial and Employee Relations Act 1994* or an Act repealed by that Act requiring employers to employ apprentices/trainees under contracts of training in preference to junior employees remains in full force.

Clause 48: Making and retention of records

An employer who employs a person under a contract of training must keep records as required by the Commission by notice in the *Gazette* (maximum penalty: $2 500).

PART 5: RECOGNITION OF COMPETENCY

Clause 49: Commission may issue qualifications or statements of competency

The Commission may assess, by such means as the Commission thinks fit, the competency of persons who have acquired skills or qualifications otherwise than under the AQF and, in appropriate cases, having regard to the standards and outcomes specified in accredited courses or training packages, grant, or arrange for or approve the granting of, qualifications or statements certifying that competency.

PART 6: MISCELLANEOUS

Clause 50: State register

The Commission must establish a State register for the purposes of this measure.

Clause 51: Maintenance of registers

The Commission must ensure that the State register or the National register (as the case requires) records registration and accreditation under this Act and any variation, cancellation, suspension or expiry of registration or accreditation (whether by the making, variation or deletion of entries in the register).

Clause 52: Powers of entry and inspection

For the purposes of Part 3 or 4, a member of the Commission, or a person authorised by the Commission to exercise the powers conferred by this section, may—

- enter at any reasonable time any place or premises in which education and training is provided; and
- inspect the place or premises or anything in the place or premises; and
- question any person involved in education and training; and
- require the production of any record or document required to be kept by or under this measure and inspect, examine or copy it.

Clause 53: False or misleading information

A person who makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this measure is guilty of an offence and liable to a penalty of $2 500.

Clause 54: Evidentiary provision relating to registration

In proceedings for an offence against Part 3, an allegation in the complaint that—

- a training organisation was or was not at a specified time registered; or
- the registration of a training organisation was at a specified time subject to specified conditions; or
- a registered training organisation was at a specified time acting outside the scope of the registration of the organisation,

will be accepted as proved in the absence of proof to the contrary.

Clause 55: Gazette notices may be varied or revoked

A notice published in the *Gazette* by the Commission under this measure may be varied or revoked by the Commission by subsequent notice in the *Gazette*.

Clause 56: Service

A notice or other document required or authorised to be given to or served on a person under this measure may be given or served personally or by post.

Clause 57: Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this measure.

SCHEDULE 1: Grievances and Disputes Mediation Committee

This Schedule provides for the constitution of the Grievances and Disputes Mediation Committee for the purposes of Part 3 or 4 of the measure.

SCHEDULE 2: Repeal and Transitional Provisions

This Schedule provides for the repeal of the *Vocational Education, Employment and Training Act 1994* and for various transitional matters consequent on the repeal of that Act and the passage of this measure.

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

STAMP DUTIES (GAMING MACHINE SURCHARGE) AMENDMENT BILL

The House of Assembly agreed to the amendments suggested by the Legislative Council without any amendment.

LEGISLATION (REVISION AND PUBLICATION) BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

OMBUDSMAN (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 10.02 p.m. the council adjourned until Thursday 21 November at 2.15 p.m.