LEGISLATIVE COUNCIL

Wednesday 4 December 2002

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

TAIL DOCKING

A petition signed by 240 residents of South Australia, concerning tail docking and praying that this council will move to defeat any bill to ban tail docking until such time as evidence that meets accepted scientific standards is provided and appropriate consultation is undertaken, was presented by the Hon. R.D. Lawson.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Police Superannuation Board—Report, 2001-02

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2001-02—
Education Adelaide
Local Government Grants Commission—South Australia
Activities of the Supported Residential Facilities Advisory Committee Report for the period July 2001 to December 2001.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 17th report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 18th report of the committee.

Report received.

INFORMATION AND COMMUNICATION TECHNOLOGY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement on future ICT service provision to government made by the Deputy Premier in another place.

EYRE PENINSULA WATER RESTRICTIONS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement on water restrictions on Eyre Peninsula made by the Minister for Government Enterprises in another place.

EXCEPTIONAL CIRCUMSTANCES

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I rise today to report to the chamber that two applications were forwarded last evening to the commonwealth Minister for Agriculture, Fisheries and Forestry, the Hon. Warren Truss MP, for assessment of the declaration of exceptional circumstances, or EC. The areas sought for declaration are:

- The Central North East pastoral region, comprising the northern Flinders Ranges and North East pastoral soil conservation districts, and parts of the eastern districts, central Flinders Ranges and Maree Soil Conservation Districts; and
- The Murray-Mallee Region comprising the Hundreds of Bowhill, Vincent, Wilson, McPherson, Hooper, Marmon Jabuk, Molineaux, Auld, Billiatt, Kingsford, Peebinga, Pinnaroo, Parilla, Bews, Cotton, and part of Price.

Pastoralists in the central North East of South Australia have suffered a series of adverse events including flood, ineffective rainfall patterns, locust and grasshopper plagues, and now severe drought. Farmers in the Murray Mallee of South Australia have suffered from severe frost damage to crops in 2000 and 2001, followed by the drought of this year. In both cases it is considered that the exceptional circumstances criteria have been met, and the commonwealth minister has been urged to give speedy deliberation on the applications so that these farmers and graziers may receive additional urgently required support.

In South Australia we have attempted to adhere to the National Drought Policy of 1992, and avoid confusing farmers through drought or other forms of declaration. However, to ensure SA farmers and graziers are not discriminated against through a recent change in the commonwealth requirements in applying for EC, I have formally endorsed the areas proposed in the applications to be in drought, for the purposes of exceptional circumstances. I have done this on the predication that such a declaration does not infer any other commitment to this state nor will be used in any other manner than in meeting the commonwealth's requirement.

In submitting the applications for commonwealth consideration, I have also advised minister Truss of the substantial assistance package to drought affected farmers in this state as announced by Premier Rann on 12 October 2002. While much of South Australia has had quite reasonable seasonal conditions leading up to this drought, farmers in the two areas proposed for declaration have had one or more adverse years and were not in a position to prepare for the severe conditions of 2002 through their normal risk management processes.

Senior officers from the Primary Industries and Resources Department are due to meet their federal counterparts tomorrow in Canberra to progress negotiations concerning South Australia's two EC applications. I also wish to advise members that, following a recent request from the Community Services Committee of the South Australian Farmers Federation and the South Australia Association of Rural Counselling Services, I have approved a one month extension to allow the state's farmers and graziers to apply for individual business support grants under the state government's drought assistance package. The closing date for applications for individual business support is now 28 February 2003.

In addition to my prepared statement, let me say that I hope all members of the council will support these applications. In a spirit of bipartisanship, I will offer a briefing to the shadow minister and to the Australian Democrats in relation to these applications as soon as possible.

HOSPITALS, INFECTION

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on infection control review made by the Minister for Health today in another place.

STATUTES AMENDMENT (ANTI-FORTIFICATION) BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a ministerial statement on the Statutes Amendment (Anti-Fortification) Bill made by the Attorney-General today in another place.

CITIZEN'S RIGHT OF REPLY: Ms M. BAWDEN

The PRESIDENT: I have to advise that I have received a letter from Ms Matilda Bawden requesting a right of reply in accordance with the sessional standing order passed by this council on Wednesday 8 May 2002. In a letter of 29 November 2002 Ms Bawden considers that she was misrepresented in her views and beliefs in the Legislative Council on Wednesday 27 November 2002.

Following the procedure set out in the sessional order, I have given consideration to this matter and I believe that it complies with the requirements of the sessional standing order. Therefore, I grant her request and direct that Ms Bawden's reply be incorporated into *Hansard*, as follows:

In reply to comments made by the Hon. Angus Redford in this place on Wednesday 27 November 2002, I wish to offer the following:

I condemn all forms of violence including intimidation or harassment by any group, unequivocally.

I support every individual's right to publicly demonstrate against perceived injustices in a public place according to law.

The Hon. Angus Redford grossly misrepresented comments made by me regarding the Black Shirts when he suggested that I supported any unlawful conduct by this particular group. My comments concerning the Black Shirts' right to lawful protest specifically arose from one segment of *A Current Affair* days earlier. Any critical and objective analysis of this particular program would show that the story failed to provide evidence of any improper behaviour by the group. In short, I shared an opinion about the story in the form of a critique of the journalistic style, and formed the opinion that the story was sensationalist and without substance.

My comments also came following a press release issued by the President of the Joint Parenting Association condemning the Black Shirts for alleged urban terrorism and vigilante tactics.

I believe that people have a right to the presumption of innocence before being publicly condemned and that the laws of this state are sufficient to deal with unlawful conduct by extremist or anti-social groups and/or individuals, without government seeking to 'outlaw' the rights of groups and individuals to organise and protest.

At no time in any communications outside of any election campaign have I made reference to my membership or candidacy to the Australian Democrats. In the specific letter referred to by the member, I did not purport to represent any group. The entire correspondence made extensive reference to the cause of civil liberties and human rights movements, and used several historical and global examples of this particular 'cause in common'—a cause I trust all elected members of this parliament will share with me, and work faithfully to advance and uphold. Accordingly, I stand by my views, opinions and interpretation of history as expressed in the said correspondence.

My position in all correspondences in this matter and on this very issue was crystal clear and could not have been interpreted in the manner implied by the Hon. Angus Redford. Accordingly, the Hon. Angus Redford has misrepresented my position to the Parliament of South Australia.

(Signed)

Matilda Bawden.

QUESTION TIME

NO REDUNDANCY POLICY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Treasurer a question about no redundancy.

Leave granted.

The Hon. R.I. LUCAS: A confidential briefing paper provided to the Treasurer upon the government's assuming office, which has been provided to the opposition under freedom of information legislation, makes the following comment in relation to no redundancy:

A no redundancy policy applies to South Australian government employees. The South Australian condition is more generous in comparison to other states and the Australian Public Service. Apart from the New South Wales government, all other jurisdictions have the capacity to involuntarily retrench public sector employees. The South Australian policy is a substantial benefit for public sector employees. This policy makes the separation of surplus employees expensive and reduces the flexibility and management of the work force.

I have been advised by a contact within Treasury that that department, since providing this confidential briefing to the Treasurer in March, has continued work in looking at options in relation to the removal of the no redundancy policy. I am advised also that there have been discussions with other elements of other government departments that have a policy and function role in relation to the issue of the government's no redundancy policy. I am also advised that the Australian Labor Party, prior to the election, made a number of commitments to the Public Service Association that the no redundancy policy would be protected by a Labor government, should it be elected to office. My questions are:

1. Can the Treasurer confirm that Treasury and other government departments have been authorised to look at the option of the removal of the no redundancy policy as it applies to South Australian government employees?

2. Can the Treasurer confirm that the Australian Labor Party, when in opposition, made specific policy promises to the Public Service Association, to public sector employees and to anyone else who inquired that it would continue with the no redundancy policy for South Australian government employees?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): If I heard the leader's question correctly, I think he said that a document had been supplied to the Treasurer just after he came to office, and I assume that was the basis on which the honourable member asked his question. I do not know whether or not he is suggesting that the Treasurer requested any documents, but I will refer that question to the Treasurer and seek a response.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE

The Hon. CAROLINE SCHAEFER: Does the Minister for Agriculture, Food and Fisheries stand by the media statement attributed to him on Friday 29 November in regard to SARDI job cuts claiming that agricultural research throughout the state will not suffer as a result of job cuts?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The context in which I made that statement was that this government had found an additional $12 million for the Plant Functional Genomics Centre. It was

money that was not provided in the budget that the Leader of the Opposition brought down as treasurer. As has been made quite clear since the budget there will be some areas—

The Hon. R.I. Lucas: That is untrue.

The Hon. Caroline Schaefer: We are used to untruths.

The Hon. P. HOLLOWAY: I beg your pardon?

The Hon. R.I. Lucas: That is untrue.

The Hon. P. HOLLOWAY: What, that you hadn't provided the money for it?

The Hon. R.I. Lucas: Yes, that is untrue. You know it is untrue.

The Hon. P. HOLLOWAY: We'll see. You made promises about money that was not there. They made all sorts of promises but there was no provision in the estimates. That is my understanding of the situation.

The Hon. R.I. Lucas: Now you qualify it: 'It is my understanding.'

The Hon. P. HOLLOWAY: We will have a look at the documents, but let us not be distracted from the question.

The Hon. R.I. Lucas: You have been told it is untrue, too.

The Hon. P. HOLLOWAY: What, by you? The next thing they will be telling us is that they also had money for TEISA, for the National Heritage Trust, for fisheries compliance officers after next year, and for FarmBis after 30 June next year. Let us return to the question.

The Hon. R.I. Lucas: You don't stand by that statement, do you?

The Hon. P. HOLLOWAY: What are you talking about? Let me return to the question.

The PRESIDENT: Order! Interjections are out of order.

The Hon. P. HOLLOWAY: I was asked a question on radio a couple of times and I explained that within SARDI there would be some job losses, although it should be pointed out that there will also be some job gains in SARDI. Because it gets funding from industry, as it does from time to time, additional jobs will be created in SARDI, and even from transfers within government, for example, from within the aquaculture sector. I have just reminded myself that another area that was not funded for the future was aquaculture.

This government has put money into the aquaculture budget. Some of the extra money that we have put into the aquaculture part of the budget will feed through into SARDI, because SARDI will do some of the assessments in relation to that. In that particular part of SARDI, as a result of that money coming through, additional jobs will be available in that area. One will need to look at the net position of SARDI. Certainly, there will be some losses within targeted areas but there will also be gains in some other areas.

The point I was making in that interview was that, while I conceded that some voluntary packages would be offered in some of those areas, if one looks at the overall picture of agricultural research in this state: firstly, an additional $1 million is going to Advanced Grain Technologies through the new company that has been set up in collaboration with SARDI; secondly, with the Grain Research and Development Corporation and the University of Adelaide, clearly more jobs will come from that; and, thirdly, of course the plant functional genomics centre, which the government has put $12 million into, clearly will be of benefit to the rural sector in terms of research. I was making the point, and I am happy to make it again, that if one looks at the overall picture of rural research in the state as a result of the budget, while there might be losses in some areas, overall, the position will be strengthened, and I do not resile from that point.

MOBILONG PRISON

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about workplace bullying.

Leave granted.

The Hon. R.D. LAWSON: Following a recent investigation, the Employee Ombudsman, Gary Collis, has found that significant levels of bullying and harassment of staff have been occurring at the Mobilong gaol. The view taken by Mr Collis is that these are not isolated incidents, but that there is an endemic situation in that institution. My questions are:

1. Will the minister confirm that complaints of bullying and harassment have been made at Mobilong gaol?

2. What action has the minister taken to address this issue?

3. Have any officers been counselled or disciplined in relation to workplace bullying at Mobilong?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question, and indeed the question is a relevant one in relation to bullying at Mobilong. It has been a concern for some considerable time and steps are being taken to deal with it. It seems that bullying has been a part of a section of Mobilong's prison, and an investigation was carried out when it was first reported to me. In response to the incidents, the department engaged Mr Greg Stevens, ex Deputy President of the South Australian Industrial Relations Commission—

Members interjecting:

The Hon. T.G. ROBERTS: It is because he does such a good job at whatever task he sets himself. We asked Mr Stevens to conduct an investigation. His report, a copy of which has been provided to staff at Mobilong Prison, identifies issues for both management and staff to deal with. As a result, a review panel was formed consisting of senior departmental staff, a senior officer from the Public Service Association and staff representation to develop and implement recommendations to address the issues raised in the report. The chief executive is considering recommendations made to him by the review panel. I understand that counselling has taken place and is continuing to take place, and a number of programs have been devised to try to deal with the problem.

AGRICULTURAL AND VETERINARY CHEMICALS

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Agricultural and Veterinary Products (Control of Use) Act.

Leave granted.

The Hon. G.E. GAGO: Earlier this year—

The PRESIDENT: Does this relate to the bill currently before the council?

The Hon. G.E. GAGO: No; this was a long time ago. Earlier this year the parliament passed the Agricultural and Veterinary Products (Control of Use) Act 2002. This act and its corresponding regulations provide a regulatory framework for the use of agricultural and veterinary chemicals, which generated a great deal of interest amongst particular individuals and groups within the South Australian community. It has been watched with great interest. Will the minister provide an update on the response to this act by stakeholders and members of the rural community?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Of course, agricultural chemicals are an issue of some concern to the community. I know that, looking at today's *Notice Paper*, the Hon. Sandra Kanck is moving a motion in relation to chemical sensitivity, and so on. It is an area in which governments and communities need to work together to address these problems. The Agricultural and Veterinary Products (Control of Use) Act passed both houses of parliament in August this year. The act, which aims to encourage more responsible use of agricultural and veterinary chemicals, has received general support from the community and from interstate stakeholders.

The detail of the principal regulations has been largely negotiated through a discussion paper process in three areas: veterinary chemicals; agricultural chemicals; and fertilisers. All respondents (and I am advised that, to date, there have been more than 50) have been very supportive of the proposals with only minor observations about changes they feel should be made to the regulations. The expectation is that the act and the regulations will be ready for proclamation by June 2003 and operative shortly thereafter. This will represent a major and beneficial change over the current act which dates back to 1955 and which will be repealed in the process.

SEXUAL ASSAULT COUNSELLING

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the Status of Women, a question about support to women who have been sexually assaulted.

Leave granted.

The Hon. SANDRA KANCK: A distressed constituent recently contacted my office with concerns about the ongoing effects of being raped two years ago and the lack of appropriate services offered. She expressed frustration at the legal process and lack of resolution to her case; and it was clear from her telephone call that she required urgent professional assistance. On her behalf, my office contacted the Women's Information Service, the Dale Street Women's Health Centre, Women's Health Statewide and Yarrow Place seeking immediate counselling assistance. No counselling was available and the next available appointment was weeks away.

A telephone counselling session would have been available, but there was no likelihood of any continuity of care and, understandably, the prospect of divulging personal information to one person and then another was not acceptable to the constituent. Service providers expressed sympathy to my office for the distressing situation in which this woman found herself, but there was no firm indication of how long the woman would have to wait for a counselling appointment due to the first priority always being the most recent sexual assault case. Each of the services contacted stated the reason for the lengthy wait to receive counselling as being insufficient funding. I note, also, the announcement yesterday of the Premier's Council for Women and the government's apparent concern for matters involving women. My questions to the minister are:

1. Does he consider that the level of funding for women's sexual assault support services is adequate?

2. Why can women who need help more than six weeks after a sexual assault not access immediate counselling? What number of cases are there in this unmet need category for counselling?

3. What are the current funding arrangements for the Women's Information Service, the Dale Street Women's Health Centre, Women's Health Statewide and Yarrow Place?

4. Does he consider that individuals and society incur additional costs, such as extra GP visits, medication costs and Centrelink payments when service waiting times for appropriate services aggravate anxiety conditions

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

PRISONS, DRUG USE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about South Australian prisons.

Leave granted.

The Hon. A.L. EVANS: In a recent radio interview, the President of the Public Service Association, Jan McMahon, was asked to respond to a question concerning the movement of drugs in our state prisons. She responded by saying that due to staff shortages there is no rigorous regime operating in prisons to block the flow of drugs into our prisons. I understand that this is a particular problem in the women's prison at Northfield. Upon further investigation, my office was informed by the PSA that the management of the women's prison has a generally relaxed tolerance to the issue of drugs.

Quite simply, prison officers have the OK to turn a blind eye to drugs coming into and circulating in the prison itself. This virtual tolerance to drugs has meant that random searches are no longer conducted. I have been told that this practice stopped five years ago and that if and when a random search is conducted it is usually initiated through information being obtained regarding a prisoner or prisoners and that this practice is not proactively pursued by management. I am also told that the dog squad has been reduced so that it is much easier for visitors to carry drugs in for inmates.

Some months ago we were told of a device that can easily detect drugs, but I understand it is still sitting on the shelf gathering dust because of red tape. My questions are:

1. Will the minister confirm and explain the situation regarding the 'soft on drugs' management policy in the women's prison at Northfield?

2. Will the minister advise the number of officers directly working with inmates in our state prisons and the range of strategies in place to increase staffing numbers in our state prisons to meet any shortfall?

3. Will the minister advise on current management practices specifically aimed at reducing the level of drugs in each of our state prisons?

The Hon. T.G. ROBERTS (Minister for Correctional Services): With regard to correctional services numbers overall, the Community Corrections Division of the department currently has a staff complement of 218.9 full-time equivalents of whom 85 per cent are engaged in offender management or case management support. The division manages over 10 000 community based orders per year and prepares 4 000 reports for the courts and the Parole Board. There are a number of officers employed in relation to probation, parole and home detention.

The numbers of officers in our community prisons are regarded by the government in relation to its management

practices as inadequate to service the needs and requirements of the prisons system, but we are facing this problem as well as the problems of capacity and overcrowding. One of the problems with the women's prison is overcrowding. We are trying to deal with this problem by making extra beds available. At the same time, we are trying to deal with some of the problems which many of the women who come into the prison have in that not only have they broken the law but they also have drug and alcohol problems related to their personal circumstances.

The government does not have a policy of being soft on drugs in prisons. As I have explained on previous occasions, the inadequacies of the treatment programs that are run inside prisons are probably the same as the inadequacies of dealing with the issue of drugs in the broader community. This debate needs to be carried into the community, and I thank the honourable member for promoting that in his question. There is probably a double tragedy if a drug affected prisoner is a mother and her children are incarcerated with her—and if she is a single mother it is a double whammy—because the children are also impacted upon. There are a lot of tragedies associated with the women's prison and the way in which we deal with those issues, and community corrections becomes a complementary factor that we have to deal with and fund.

The official position is that drugs are not allowed in prison, and the government tries, as much as it can, to manage the problem associated with detection. Staffing levels is always an issue in relation to dealing with not only the detection of drugs but also the issues associated with rehabilitation, and they are always issues that we are dealing with. So, I hope I have allayed the fears of those who believe that there is an official position directed at the managers of prisons. That is not the case. We are trying to keep drugs out of prisons using searches and the Drug Squad.

In relation to the other question about the device, it may be a helpful tool for the management and prevention of drugs in prisons. I will seek some advice from my departmental officers, because I have not been made aware of that device. If the use of that device to detect and find drugs inside prisons is being held up by bureaucratic red tape, I will certainly bring back a report to this place.

If the honourable member needs further information, I am prepared to organise a visit to the various prisons, because I think members of parliament from time to time should avail themselves of that opportunity and talk to the people directly and familiarise themselves with the difficulties that we face in pulling together a policy for the future. So, I thank the honourable member for his question and his interest, and the invitation to visit the prisons goes to any other member who would like to do so.

SOCIAL INCLUSION

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation—who is also the Minister for Correctional Services and Minister Assisting the Minister for Environment and Conservation—representing the Minister Assisting the Premier in Social Inclusion, a question about social inclusion.

Leave granted.

The Hon. D.W. RIDGWAY: Recently, I looked at the web site of the South Australian Branch of the Australian Labor Party for its policies—which did not take very long, I might add—under 'social inclusion'. I noted with interest a paragraph which states:

> Because this is one of Labor's key priorities the Social Inclusion Initiative will be given six months to examine, report and recommend a plan of action for cabinet and the wider community to embrace.

Further, it states:

> Instead of throwing money at problems, our Social Inclusion Initiative will examine the causes of problems and then recommend a positive program of action, including specific time lines that must be achieved.
>
> Rather than just producing reports that are announced, published, shelved and ignored, the initiative will make recommendations that will be backed by hard and fast targets.

It is interesting that, 10 months later, when I look at the web site of the Minister Assisting the Premier in Social Inclusion, I find some striking similarities. It states:

> Instead of throwing money at our problems our Social Inclusion Initiative will examine the causes of problems and then recommend a positive program of action, including specific time lines that must be achieved.

It goes on:

> Rather than just producing reports that are announced, published, shelved and ignored, the initiative will make recommendations that will be backed by hard and fast targets.

My questions are:

1. Why has the time blown out from six months to 10 months and we still do not have an answer?

2. What budget allowances have been made to accommodate the no doubt imminent recommendations?

3. Given that this was one of the Labor Party's key priorities, when can we expect some positive announcements?

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

GOVERNMENT CONSULTANTS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question about consultants.

Leave granted.

The Hon. A.J. REDFORD: Prior to the last election, the then leader of the opposition, now Premier Mike Rann, was a vocal critic of the Liberal government's use of consultants. Indeed, on 5 June last year, Mr Rann stated to this place the following:

> This government's spending on consultants has rightly become an issue of public outrage.

Mr Rann made the following pledge, were Labor to win the next election:

> Labor will be cutting the Liberals' consultants, waste and duplication and putting money into health and education.

I note that on 8 February this year the Premier made a number of other comments in relation to consultants. On 5AA, he said:

> I am taking $20 million cuts for consultants and putting it into health and education.

Not satisfied with that, on the same day, on ABC Radio, he said:

> What we promise for hospitals is 100 new beds, and we are funding those out of cutting consultants and advertising.

Indeed, he was on a roll. On the same day, he was on the Leon Byner show and he said:

> What we promise for hospitals is 100 new beds, and we are funding those out of cutting consultants and advertising.

Earlier this year, I issued a freedom of information application, in which I sought any documents or materials relating to the following:

> . . . consultancies and, in particular, (a) any letter or other documents terminating or ending any existing consultancies; (b) copies of all statements prepared by agency CEOs concerning proposed consultancies between March this year and October this year.

I fell off my chair when I received a response from the accredited FOI officer, as follows:

> A search was performed of all the records management databases within the Department and Office of the Premier, and no documents relevant to your request were found. Further requests were sent to all divisions within the Department and Office of the Premier for any information they may hold, and again no documents relevant to your request were found.

The only conclusion that anyone can possibly draw from that is that not one consultancy has been terminated, cancelled, stopped or changed since this government took office. So, in light of that, my questions are:

1. Where will the $20 million come from, given that the government has failed to cut consultants?

2. Will the government renege on its promise of 100 new beds, given that it has failed to make any cuts in the consultancy expenditure that was being incurred by the government in the last financial year?

3. Can the Premier confirm that, despite the pre-election rhetoric, no existing consultancies have been terminated?

4. Will the Premier apologise for this clear breach of his election promise?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member seems to be suggesting that the government cancel existing contracts. I am sure the honourable member, as a lawyer, would know that if we were to cancel existing contracts, there would be, depending on the terms of the contract, significant penalties involved. In relation to reducing consultancy costs, that was part of the budget process. The government announced it and, indeed, the detail is there on page 30 of the Portfolio Statements of my department, which I have been asked about over the last few days. There is an amount there representing a $687 000 reduction in consultancy fees: that is the primary industries department's share of it. What has happened is that reductions in consultancy fees have been transferred right across government. Of course, within government there are many consultancies but we do not have the sort of consultancies that the previous government had—which added up to $110 million—in relation to ETSA. Only a very special government—

Members interjecting:

The Hon. P. HOLLOWAY: —would be able to find that sort of money for consultancies. Within government—

The PRESIDENT: Order! All members will contain their enthusiasm.

The Hon. P. HOLLOWAY: —there are many minor contracts of relatively short duration, anything from a few days or weeks up to several months. There is, of course, the odd contract that goes over a longer period, but most consultancies within government can be relatively short and can be obtained for relatively low amounts of money. So, of course, the government has achieved the cuts in the consultancy budget simply by reducing the number of consultancies that the government is involved with. More work is done in-house within the government. That is how the savings have been achieved, not by actions which would breach the government's contractual obligations.

The Hon. A.J. REDFORD: How does the minister reconcile the pre-election statement that there would be a $20 million cut in consultancies and yet, in this year's budget, there was only a $10 million cut in consultancies expressed?

The Hon. P. HOLLOWAY: The Leader of the Opposition has asked a number of questions about consultancies. As I have pointed out on those occasions when he has raised the issue, because the previous government was well aware of the attack it was under over the outrageously large amounts of money it had spent on consultants, and because it knew it was in trouble politically, it sought, towards the end its term of government, to cut back massively on consultants. It knew that the Labor Party campaign in this area was biting hard out there with the public so there were some reductions over the previous 12 months under that government. The targets that we have put in place were based on those reduced amounts.

YEAR OF THE LIBRARY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Year of the Library.

Leave granted.

The Hon. CARMEL ZOLLO: I understand 2003 has been designated the Year of the Library, and that earlier this week a major marketing campaign was launched by the Minister Assisting the Premier in the Arts. Can the minister advise what initiatives are planned to improve the perception of libraries in the Year of the Library?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question and the importance that she has placed on the subject by asking it in this place. We are in for a very exciting year next year in relation to those who are supporting their local libraries. The libraries of South Australia—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.J. Stephens: I haven't renewed my library card!

The Hon. T.G. ROBERTS: You haven't renewed your library card? Have you brought your books back? For most of us it will be a very exciting year. For the Hon. Terry Stephens, it will not be a very exciting year because he has not renewed his membership. I would suggest that, if he wants to join in the celebrations, he goes straight down to his local library and pays the subscription, and also takes back the books that he has borrowed which are now outstanding.

The libraries of South Australia will embark on an ambitious strategy to modernise the image of libraries and their staff. It will be a big year for South Australian libraries, particularly the State Library, with the completion of its $41 million redevelopment. Leading Australian satirist Bryan Dawe has generously agreed to be the patron of the campaign, and he will feature in television, radio and print advertising for the libraries. The campaign is intended to bolster community support for libraries and update their image and staff for the 21st century.

The 'Year of the Library' campaign is supported by all public, TAFE, school, university, government and special libraries and the State Library. The campaign has been designed to respond to issues raised in market research

commissioned for the state's 137 public libraries. The State Library also undertook market research early this year as part of a performance agreement with the government. The research revealed that the State Library attracted almost 600 000 visitors in 2001-02, with a high loyalty factor among users, a high level of satisfaction with library staff, and a willingness to use the library services via the web site, which received around 330 000 hits. Some 96 per cent of South Australians surveyed were satisfied with the library's customer service.

I am pleased to inform the council that this government has appointed the Adelaide-based author Peter Goldsworthy to be the new chair of the State Library Board. I also pay a tribute to those in country areas who do such a good job with the resources they have in providing a central focus for learning and leisure reading in those areas.

WATER SUPPLY, CLARE VALLEY

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for the River Murray, a question relating to a filtered water supply to the Clare Valley.

Leave granted.

The Hon. IAN GILFILLAN: This morning's *Advertiser* carried an article on page 36 with the heading 'Filtered Water for the Clare Valley.' I will quote a couple of paragraphs from it, as follows:

> A pipeline will be built to take River Murray water to the Clare Valley, giving families access to filtered household water for the first time. Up to 8 000 megalitres of water will be pumped from the Murray each year.

Mr Rann said the additional water would lead to increased horticulture and irrigation activities but would not mean any additional water being extracted from the Murray. In the article, government enterprises minister Patrick Conlon is quoted as saying:

> This upgrade will bring reliability of supplies allowing for the development of new vineyards as well as protecting existing vineyards.

Some eyebrows have been raised, I might say, with the fact that filtered water will be required for new vineyards and existing vineyards. Although one does not deny households filtered water, it does seem to be rather extravagant to be delivering full potable household water for the irrigation of vineyards either new or old.

On the basis that there is a national campaign to show responsibility in respect of the use of water from the Murray River—in fact, strong pressure to reduce the take of water from the Murray River—I ask the minister: was the allocation of this water, the equivalent of 8 000 megalitres, bought on the open market, possibly from irrigators upstream, perhaps even interstate? Was some of that water allocated from the program which has been exercised in the dairy farms in the lower Murray area swamps where water has been planned to be saved through more efficient use of irrigation and upgrading of the whole of the system at that part of the Murray?

Since there is a COAG meeting on Friday about water reform, does the minister believe that other states will see this particular increased use of Murray water by the South Australian government at this time as hypocrisy when, at the same time, this state is pushing for upstream interstate restraint—in fact, a substantial reduction in water use?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his very topical and important question and I will refer it to two ministers in another place, the Minister for Government Enterprises and the Minister for Environment and Conservation, and bring back a reply.

PARTNERSHIPS 21

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, questions on Partnerships 21.

Leave granted.

The Hon. T.G. CAMERON: The government recently announced changes to admissions and withdrawals of schools from the Partnerships 21 scheme. From next year public schools will be able to appeal to pull out of funding arrangements involved with Partnerships 21. The move follows discussions between the government and the teachers union last week. The parties also agreed that no new schools would be admitted to P21 in 2002 without the government consulting both the Australian Education Union and the Public Service Association.

Earlier this month the government released the 229-page Cox report into the Partnerships 21 system of school management introduced by the previous Liberal government. The review recommended a single system of local management for schools and a series of improvements to the scheme. Following the report's release, the education minister stated publicly that the government welcomed the report's recommendations and said that the task now is 'not to turn back the clock but to move forward'.

The AEU, however, took the matter to the Australian Industrial Relations Commission, claiming schools were not adequately consulted about the review. AEU State President, John Gregory, said last week that there would be a moratorium on new admissions to the scheme and the government was committed to consulting with the AEU and the PSA before making any changes in local management. However, a spokesman for the Department of Education and Children's Services said that it was not a moratorium but that the department had committed to consult with the unions about allowing more schools to join the scheme.

Mr Gregory also said that a defined withdrawal procedure would be in place to allow P21 schools to opt out, but the department spokesman said that the exit clause applied only to funding arrangements. Over 90 per cent of schools have so far opted into Partnerships 21. The scheme relies on local people making decisions that best fit their school, their students and their local communities. My questions are:

1. Will the minister clarify just who is making decisions for public education students in this state? Is it the government, the AEU or the Education Department?

2. Considering that the government is so enthusiastic about consultation with regards to P21, would it also commit itself to ensuring that local school communities are consulted before any changes to P21 are implemented?

3. Will there or will there not be a moratorium on new school admissions to the P21 scheme, and is a defined withdrawal procedure, which is John Gregory's quote, to be put in place to allow schools to opt out of P21, or is the exit clause to apply only to funding arrangements?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Without referring it to the Minister for

Education and Children's Services, I can answer the first question by saying that the government is responsible for the management of the public education system in this state, although the minister delegates certain functions to the department under the Education Act. In relation to the latter specific questions in relation to Partnerships 21, I will refer them to the minister for her response. I note that when we had debate the other evening on the Education (Charges) Amendment Bill, a number of questions were asked about the Cox report and I indicated then that the report has been publicly released and the government was seeking submissions from the public in relation to that report.

If I recall correctly, I undertook to get a response to the Hon. Angus Redford about when that closed. Hopefully that response will be in the mail to him fairly shortly, and I am relying on the officer from the education department to do that. The point is that the government is seeking submissions in relation to that report at this time, and that will be part of any decision making. I will refer the question to the Minister for Education and Children's Services for a more detailed response.

GAMING MACHINES, SUPERTAX

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, questions about the supertax on poker machines.

Leave granted.

The Hon. J.F. STEFANI: On 31 July 2002, the Treasurer (Hon. Kevin Foley) was interviewed by Matthew Abraham and David Bevan on ABC Radio. The interview dealt with the proposals, which had been announced by the government, to impose a supertax on hotel venues that had achieved a high level of profit through the operation of poker machines. The media monitoring service provided by the Department of Premier and Cabinet selectively quoted the interview and sanitised an important comment made by the Treasurer in relation to the preparation of the state budget. In fact, the South Australian Government Media Monitoring Service sanitised a statement made by the Treasurer in which he said:

> . . . because when the budget was formulated we only had eight months data to work from.

On 26 August 2002, I asked a series of questions in relation to the preparation of the budget by the Treasurer in another place. In a response to my questions and other questions raised during the debate on the gaming tax bill, the Minister for Agriculture, Food and Fisheries provided me with the following answers:

> The Deputy Premier and Treasurer has provided the following information:
>
> · Work on the state budget effectively began on Wednesday 6 March 2002, the day on which this government came into office. The budget was formulated during a number of meetings of the Expenditure Review and Budget Cabinet Committee following a series of bilateral meetings held between ministers and the Treasurer. Cabinet approved the budget on Thursday 6 June 2002.
>
> · Work continued from that date on preparation of the budget documents with the final documents, including any adjustments made by the Treasurer within the terms of cabinet's approval of 6 June 2002, completed on 8 July 2002 when key documents were settled for printing.

I was further advised that the revenue collected from poker machines was paid to the government on the seventh day following the previous operating month for the period commencing from January 2002 to June 2002. The total poker machine tax collected by the South Australian government for this period amounted to $106.233 million. Given the comments made on ABC Radio by the Treasurer my questions are:

1. Does the Treasurer acknowledge that, when he was interviewed on 31 July 2002, he misled Matthew Abraham, David Bevan and the listeners by saying that when the government formulated its budget it had only eight months data to work from?

2. Will the Treasurer now correct the statement which he made at that time and concede that all the revenue from gaming machine taxes for the year 2001-02 had been totally collected by the government by 7 July 2002, which is one day before the key documents were settled for printing for the state budget which he had formulated?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): This was an issue that was addressed in some detail by the Leader of the Opposition asking me a series of questions. When the gaming tax bill—

Members interjecting:

The PRESIDENT: Order! Members on my left will come to order.

The Hon. P. HOLLOWAY: When the gaming tax bill was before the parliament, I well recall being asked a series of questions by the Leader of the Opposition in relation to the time that was available for the data, and I think most of that information was put during the committee stage of that debate when, with the assistance of advisers from the Treasury department, we answered many of those questions as to what the timing was for data from poker machines.

Of course, a number of questions are involved. The government, in preparing its budget, certainly did have a very short time within which to come up with a budget this year, because the government was not sworn in until 6 March. I am not sure, from the context of that information, whether the Treasurer was talking specifically about information in relation to gaming machines. As I said, that question was comprehensively—

The Hon. J.F. Stefani interjecting:

The Hon. P. HOLLOWAY: Okay, that is helpful for answering the question. The honourable member has clarified the question to which the information related. Again, that just makes the point that, during committee on the gaming tax bill, these questions were asked by the Leader of the Opposition in detail, and I provided a number of answers at that time. I will refer the questions to the Treasurer in another place and, if further information is available that was not covered in those answers during the debate on that bill, I will provide it to the honourable member.

TRANSPORT TICKETING SYSTEM

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the transport ticketing system.

Leave granted.

The Hon. DIANA LAIDLAW: The ticketing system across Adelaide's bus, train and tram network was commissioned in 1987 from the French company Crouzet (now known as Ascom Monetel) and is now 15 years old. I recall that a feasibility study undertaken in 1998 found that the existing system could be cost effectively retained in operation until this year (2002), while a further evaluation of the system's performance extended the useful life of the Crouzet

system until 2004-05—some 18 months away. To meet the 2004-05 replacement timetable I also recall that last financial year, as Minister for Transport and Urban Planning, I approved expenditure of $1.9 million to enable the Passenger Transport Board to begin the planning and implementation of a new smartcard ticket system with tenders to be called this calendar year.

Specifically, it was proposed that the tenders be called for a trial of a smartcard system, starting initially with two barrier gates at the Adelaide Railway Station. The overall capital cost of a replacement ticketing and fare collection system across Adelaide's public transport network is in excess of $20 million. I note that last year the Sydney public transport system approved a consortium for a new smartcard system in that city, and that Brisbane City Council has recently done the same for the greater Brisbane area.

Certainly, in terms of our gaining a good price, both those contracts would offer many cost benefit advantages or opportunities if we were able to link into one or both those systems in terms of installing a new smartcard ticket system across the Adelaide public transport network. My questions to the minister are:

1. What is the current estimated life of the Crouzet fare collection and ticketing system? If it is still 2004-05, why has the government not yet called tenders for a replacement system, at least on a trial basis?

2. What is the current estimated cost of a new smartcard system?

3. What budget bid is the minister now seeking for next financial year and in forward estimates to provide for a new ticketing system?

4. What is the reliability rate for the Crouzet equipment per ticket validations last financial year compared with the previous year, and what proportion of faulty tickets were reported and/or replaced last financial year compared to 2000-01?

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

CRIME PREVENTION

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question about crime prevention programs in Upper Spencer Gulf and Eyre Peninsula.

Leave granted.

The Hon. T.J. STEPHENS: On 16 August and 27 August I asked the then Minister for Regional Affairs questions relating to the Labor government's $800 000 cuts in funding for crime prevention officers. In particular, I asked about cuts to crime prevention programs in regional centres such as Port Lincoln, Port Augusta, Port Pirie and Whyalla. I pointed out that, in addition, the roving crime prevention function which greatly assisted the community of Ceduna had ceased. I specifically asked the minister whether he would assist these communities to provide alternative funding for these important crime prevention programs. On 19 August, the minister replied:

> The government is expending quite a bit of effort, energy and money to turn around the situation in Port Augusta. A strategy has been put together, which includes all sections of the community, and there has been a lot of cooperation by the community in putting together a whole range of programs.

The minister also said:

> I hope to have a report in the very near future on the situation in Port Augusta in relation to the success of the other programs. A whole suite of programs was being put together.

Further, on 22 August the minister replied:

> I have asked for a report to differentiate between the centres where successful programs were being run and why they were successful. We may be able to use police more effectively, and there may be other ways in which we can carry out crime prevention within the existing budget. I will do a comparison between the country and city based programs and what programs we can run within the existing budget services to cover the gaps for those programs which have run successfully and which would be high on the priorities for local government officials within those country areas. I will take those questions on notice and bring back a reply.

Three months have now passed and the minister still has not brought back a reply. Given the fact that there are over 25 000 additional visitors in Ceduna right now, it is timely to seek an update from the minister on crime prevention in the Eyre Peninsula and Upper Spencer Gulf regions. My questions are:

1. Will the minister now report on the new strategy for crime prevention situations in relation to Port Augusta and give us an update on the suite of alternative crime prevention programs that has been put in place?

2. Will the minister now report on which city and country based crime prevention programs were being successfully run prior to the cuts and which of those programs have been able to continue under the decreased crime prevention budget or through alternative funding regimes?

3. Which crime prevention officers in the regions survived this purge?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I apologise to the honourable member for not being able to get back to him with the answers to the previous questions—if that is the case. I will certainly make sure that those questions are answered. Regarding his new questions in relation to crime prevention programs currently being considered, attempts have been made in some of the regions where the results of the cuts have been shown by those communities to have impacted on them to try to get local government to pick up the responsibility for those programs which were working if local government has assessed those programs as requiring support and funding.

I also understand that local government is having problems with finding funds from within their budgets to be able to pick up those programs. Again, I give the honourable member an undertaking regarding the new questions that he has asked in relation to the current position that I will consult with other ministers in another place and get back to him as soon as possible.

POLICE COMPLAINTS AUTHORITY REPORT

The PRESIDENT: I lay on the table the report of the Police Complaints Authority 2001-02 pursuant to section 52(1) of the Police (Complaints and Disciplinary Proceedings) Act 1985.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to enable me to move a motion without notice concerning the appointment of a member to the Environment, Resources and Development Committee.

Motion carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. S.M. Kanck be appointed to the committee in place of the Hon. M.J. Elliott, resigned.

The Hon. DIANA LAIDLAW: I wish to speak to the motion and acknowledge the service that the Hon. Mike Elliott has given to the Environment, Resources and Development Committee and, through that committee, to this parliament. The current reference that the committee is looking at in terms of urban development and, in particular, an interim report on stormwater, has gained a lot from the questioning and input from the Hon. Mike Elliott. As a member of that committee, I acknowledge that many of the issues that are being debated and talked about by the committee today were raised by the Hon. Mike Elliott in this place over a number of years. We may not all have listened to him well enough—he may, in fact, have not been forceful enough—but it is interesting that more of us are now listening more often. I thank the member for his persistence in raising a lot of issues on the environmental front, and I acknowledge his efforts and thank him for his work on that committee and, in general, wish him the best.

Motion carried.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to enable me to move a motion without notice concerning the appointment of a member to the Statutory Officers Committee.

Motion carried.

STATUTORY OFFICERS COMMITTEE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. I. Gilfillan be appointed to the committee in place of the Hon. M.J. Elliott, resigned.

I hope that before this parliament rises, either later this evening or tomorrow, we will have an opportunity to acknowledge the contribution that the Hon. Mike Elliott has made.

Motion carried.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to enable me to move a motion without notice concerning the appointment of a member to the Occupational Safety, Rehabilitation and Compensation Committee.

Motion carried.

OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION COMMITTEE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. I. Gilfillan be appointed to the committee in place of the Hon. M.J. Elliott, resigned.

Motion carried.

MATTERS OF INTEREST

HORTICULTURAL MEDIA AWARDS

The Hon. CARMEL ZOLLO: On Friday 1 November it was my pleasure to represent the Premier at the second HMA Laurels (the Horticulture Media Australia awards) for 2002 and to present the prestigious Golden Laurel. The event took place at the Riverbank Rooms at the Adelaide Convention Centre and was timed to coincide with the Horticulture Media Australia 2002 Symposium, which was also held at the Adelaide Convention Centre, and with the Adelaide Rose Festival.

The awards dinner was a wonderful way to recognise the outstanding work of the many people involved in the horticultural media. The Laurels are awards for excellence and pay tribute to the work of writers, photographers, educators and broadcasters who have demonstrated exceptional creativity. They are judged by a panel of industry professionals as the top horticultural media communicators of the previous two years. This year, a new award was introduced specifically for those who work in the electronic media. The inaugural Australian Horticulture, Media Information Technology Laurel was won by Kay Gee for her Global Garden web site.

The awards evening was organised by Horticulture Media Australia, a national organisation whose members aim to communicate creatively the benefits and joys of gardening to the public. This event was coordinated by Ms Chris Steele-Scott for the South Australian Awards Organising Committee. The 2002 Laurels was the first year that horticultural journalists, photographers, writers, authors and presenters from New Zealand have entered the awards. The award winners were:

- HMA Paper Laurel: Michael McCoy, writing for *The Age*, outstanding achievement in communicating through print media, (magazine or newspaper);
- HMA Book Laurel: Dr Peter Valder, *Gardens in China*, original book by an Australian or New Zealand writer published between 1 August 2000 and 30 June 2002;
- HMA Image Laurel: Chris Jones, *Your Garden* magazine, outstanding achievement in communicating through visual means (photography, illustration, and camera work) judged on a single image or series or images or segments;
- HMA Information Technology (IT) Laurel: Kay Gee, outstanding achievement in communicating through a web site or CD-ROM;
- HMA Radio Laurel: Stephen Ryan, radio station 3LO, (AM band 774) outstanding achievement in communicating through a radio program, segment or series;

- HMA Television Laurel: Jamie Durie, *Backyard Blitz*, outstanding achievement in communicating through a television program, segment or series;
- HMA Educational Laurel: Michele Adler and Rod McMillan (Adland Horticultural), outstanding achievement in communicating specific horticultural education;
- HMA Silver Laurel: Tim North, Hall of Fame Award for outstanding contribution to communicating and encouraging a love of gardening to the public;
- HMA Special Award, Judy Horton, *Yates Garden Guide*, the all-time best selling Australian book;
- HMA Gold Laurel: Michele Adler and Rod McMillan, (Adland Horticultural), most outstanding communicator for the last two years; and
- Laurel of Commendation: Melissa King, *Gardening Australia*, young achievers award.

I again congratulate all the prize winners. The HMA Laurel Awards are not only a wonderful way of showcasing the creative talent in the horticultural media but also a unique opportunity for those involved to exchange ideas with the experts, to network with colleagues and to open the door to new opportunities within their respective media.

The success of the inaugural HMA Awards held in Adelaide in 2000 set a benchmark for the future and, as a result, the SA branch of HMA was invited to host and coordinate the 2002 HMA Laurel Awards for Horticulture Media Australia again in 2002. They are the only awards for the horticultural media in the southern hemisphere.

Some very respected horticultural writers, editors, broadcasters and publishers were keynote speakers at the AMA symposium, and I had the pleasure of meeting a number of them, including Roger Phillips, a UK writer and editor, and the international horticultural journalist, Helena Pizzi, from Italy. The evening was one of great celebration, camaraderie and good humour. I also congratulate the HMA SA Awards Organising Committee, particularly Ms Chris Steele-Scott.

EDUCATION, BOYS

The Hon. T.G. CAMERON: I rise once again to talk about boys and education. For some time, I have been advocating that boys are missing out at school. One half of our young population cannot read or do maths as well as the other half and is less able to express itself verbally, and fewer boys are going on to university. Their earning capacity is adversely affected and without financial security their prospects of marriage, home ownership and children all seem difficult.

Thirty years ago you would have thought that I was talking about girls: no, today, I am referring to boys. These disadvantages, once thought to be inherently a problem for females, are now much more the problem of young boys. Why? Because the education of boys has declined significantly over the last two decades. The recent release of the results of the federal parliamentary inquiry into boys' education has confirmed what I and many others have been saying for some time.

The report states that as a result of the pendulum swinging towards girls, boys have been disadvantaged by changes to the way in which they are taught in schools. Boys are achieving at far lower levels than girls in all areas of the assessed curriculum—at primary, secondary and tertiary levels. Teenage boys are doing worse in literacy tests than they were 25 years ago. They are over-represented in the bottom quintile for educational performance, they have significantly lower completion rates and they make up 80 per cent of students in school disciplinary programs. Less than 12 per cent of primary school teachers are male, and only 13 per cent of those training to be teachers are male.

I consider these to be very alarming statistics that need to be addressed as a matter of urgency. If these trends continue, if we sit on our hands and do nothing, the socioeconomic consequences could be catastrophic for a small state such as South Australia. There is no point in sticking our heads in the sand, as the teachers union seems to be doing with comments such as, 'It is part of a world crisis in masculinity,' or, 'Boys' problems are being over-emphasised.' We did not say that when the complaints concerned females.

We need to acknowledge that girls and boys think and learn differently. It is a simple biological and physiological fact that their brains are wired differently. Boys tend to flourish in environments where learning is practical and structured, and where they can utilise their spatial intelligence, whereas girls excel in verbal areas and favour linguistic learning styles.

The changes in education over the decades have meant that teaching is less instructional and less structured and is conducted in an atmosphere where the classroom culture is skewed in favour of girls at the expense of boys. It is no wonder that boys are exhibiting a level of frustration which is often manifested in loud disruptive behaviour, but which is, in fact, often a cry for help. One asks: who is listening?

The report goes on to recommend more male teachers, who are better role models and can relate to boys, and younger teachers who are not operating with pedagogy that is 25 years old. What we do not need in our education system is more gender equity policies serving only to reinforce the gender stereotypes of old, that is, big bully boys versus poor quiet girls.

Rather than a crisis in masculinity, we are facing a crisis in pedagogy. The education of boys is not just a boys' problem, it is a systemic problem. Education needs less crippling ideology and more commonsense. We need a system that understands gender differences and creates teaching and learning practices that are suited to both boys and girls.

HIV/AIDS STRATEGY

The Hon. G.E. GAGO: As was highlighted in response to a question at the beginning of last week, last week was AIDS Awareness Week. The activities included the launch, which the Hon. Lea Stevens conducted, at which the minister also launched the fourth South Australian HIV strategy for 2002-05. The activities also included a women's lunch for HIV positive women, as well as a red ribbon badge day. I was pleased to see that a number of members here wore their ribbons on that day. Last Sunday, a picnic in the park was also organised.

The AIDS Council of South Australia (ACSA) is a remarkable organisation which, in conjunction with a number of other groups, coordinated and organised the week's activities. ACSA is made up of dedicated people who both work and volunteer to be part of an organisation that strives to improve the health and wellbeing of people with HIV and those who are risk or affected by HIV/AIDS. ACSA strives to prevent the transmission of HIV and, like all of us, ultimately would like to see the world free of HIV.

As was also mentioned last week, the number of people newly diagnosed with HIV in South Australia has increased slightly during 2000-01. It is important that we continue with existing strategies and develop further strategies to limit the transmission of HIV and other blood-borne and sexually transmitted diseases.

An example of one of the many invaluable services that ACSA provides is the clean needle program via South Australian Voice for Intravenous Education (SAVIVE). This is the only primary clean needle program in South Australia, and it is funded by the Drug and Alcohol Services Council. The main SAVIVE program is situated at the Norwood ACSA site. Clean needle programs are provided throughout South Australia through various organisations, and the programs involve the provision and collection of injecting equipment, education on issues surrounding the use of intravenous drugs, safe sex education and condoms. The program also acts as a referral service to other services such as rehabilitation and medical care as well as legal and social services.

The program commenced in Australia in 1986 as a response to the discovery of HIV. The programs are now an established public health measure to reduce the spread of bloodborne viruses, such as Hep C and HIV, within the IV drug using community and, in turn, within the wider population. It is internationally recognised that the low incidence of HIV in Australia is, in large part, due to the prompt and sustained clean needle and syringe programs. The implementation of such harm minimisation strategies in the 1980s did not come without political cost. It was a courageous policy that was undoubtedly the right policy. The government of the day, and it just so happens to have been a Labor government at the time, had the foresight to see that although such policies would come at short-term political cost to the government, this cost was far outweighed by the long-term gain of reducing the spread of HIV.

The December 2002 AIDS epidemic update, put out by the United Nations AIDS organisation, UNAIDS, and the World Health Organisation, states that, currently in the US, AIDS-related illness is the leading cause of death for African-American men aged 25 to 44 years and is the third leading cause of death for Hispanic men of the same age group. That is a disgraceful statistic. Further, Australia and New Zealand have less than a quarter of the incidence of HIV infection in comparison to North America. It is believed that a contributing factor to this disturbing statistic is the United States unsuccessful zero tolerance policy, and other regressive drug policies such as their drug use laws, prohibiting the possession of injecting equipment, along with a ban on the use of federal funding for harm minimisation strategies such as clean needle programs.

We must be realistic about HIV, and we must not place moral judgments on those individuals and communities that the disease is prevalent within, but rather work with those communities to develop ways in which the disease can be controlled and, hopefully, some day eradicated. Nobody deserves HIV and, as the slogan for the 2002 AIDS Week states: 'HIV/AIDS does not discriminate. . . people do'.

SPANISH FIESTA

The Hon. J.F. STEFANI: Today I wish to speak about the Spanish community and the annual Spanish Fiesta, which was celebrated at the Semaphore Foreshore Reserve on Sunday 24 November 2002. I was privileged to receive an invitation and attend the special event where the Spanish-speaking communities of South Australia were celebrating their colourful fiesta. This year, the Spanish Fiesta was also attended by the Spanish Consul-General from Melbourne, Mr Frederico Palomera Guez, as well as the Honorary Consul of Spain, Mr Joaquim Artacho, who has been actively involved with the South Australian Spanish community for many years.

Apart from exploration of the Pacific region, the Spanish contribution to Australia began through the introduction of Spanish merinos in 1797. In 1812, a further contribution was made with a consignment of 10 000 pounds worth of Spanish dollars or 'pieces of eight reales', which arrived in Sydney because of the scarcity of coinage in the colony of New South Wales. The first Spanish free settler was Mr J.B.L. De Arriveta, who arrived in 1821 and was granted 2000 acres of land at Morton Park. He died in 1838 and his memory is perpetuated by the name of Spaniards Hill near Camden.

The Spanish influence continued through the arrival of Bishop Rosendo Salvado and a few Spanish settlers who were seeking their fortunes in the Victorian goldfields in 1853. A Spanish restaurant was opened in Bourke Street, Melbourne, in 1860. Other Spanish settlers migrated to Queensland and the sugarcane fields, working as cane cutters. By 1921, there were 270 Spaniards in Queensland and about 500 Spanish born people in Australia. This number slowly increased to about 1 000 by 1947. A much greater number of Spanish people migrated to Australia in the 1950s and 1960s, and the number reached almost 15 000. From 1959 to 1982, some 28 000 Spanish settlers came to Australia.

Spanish migrants made significant contributions and have been employed as tradespeople, production and process workers, labourers, and in the manufacturing industries. Many Spanish settlers are represented in business and the professions. Many individuals of Spanish background have also achieved prominence in Australia and we find the names of Franco Gallego, Emilio Robles and Maribelle De Vera as prominent figures as journalists and publishers for the Australian press. Many Spanish community organisations have also been established in each state and in Adelaide, the Spanish Club of South Australia Inc. has been a focal meeting place for many Spanish migrants.

In South Australia, we are all proud of our diversity and we recognise the importance of multiculturalism and the enormous benefits which had been brought to our state, by the many migrants who have made South Australia their home. The richness of our diversity is reflected in everyday life. It is reflected in the tradition, culture and national identity of the Spanish speaking people who have shared their heritage with the broader community, through the celebration of the Spanish Fiesta.

I wish to pay a special tribute to the work of the organising committee and the many volunteers who, each year, work tirelessly to stage the Spanish Fiesta. I also acknowledge the special work of Cristina Descalzi, the president of the Spanish Club, who has shown great commitment to the Spanish community. Finally, I take this opportunity to wish members of the Spanish community in South Australia continued success for the future.

EYRE PENINSULA REGIONAL STRATEGY

The Hon. D.W. RIDGWAY: I rise today to speak about the wonderful progress being made through the Eyre Peninsula Regional Strategy, in particular the growth and

advancement of the agricultural sector. Six years ago, after a run of bad seasons, the Eyre Peninsula task force was set up by the then minister Mr Dale Baker. The task force was charged with coming up with a regional strategy which would ensure the long-term viability and sustainability of agriculture on Eyre Peninsula. I am pleased and proud to remind members that this task force was chaired by my friend and colleague the Hon. Caroline Schaefer. The Eyre Peninsula task force focused on empowering the rural community to take ownership and responsibility for longer-term plans.

The task force established the Eyre Peninsula Regional Strategy, under the Rural Partnerships Program, which was jointly funded by state and federal governments. Additional funds were made available through the National Land Care program, as part of the National Heritage Trust, and also through the Rural Adjustment Scheme. Over the past six years, the Eyre Peninsula strategy has given high priority to promoting opportunities and training programs which would improve farm business management.

By providing farmers with advanced management skills, it was envisaged that they would be better equipped to manage adverse events such as drought, and be prepared for the year-to-year fluctuations in production caused by these events. There has been huge response to training opportunities provided by the Farmbis improvement program, with farmers keen to enrol in courses such as managing soil erosion, desalination, farming to lands capability, property management planning and top crop. These courses and the application of new knowledge and new technology has really paid off over the years.

A recent article in the *Stock Journal* of November 21 2002 drives home the benefits of undertaking this important best practice farming and advanced management courses. There has been a large shift to reduced tillage systems, a strong move into clay spreading to improve the production of non-wetting sands and noticeable shift to cropping to soil type, with associated strategic fencing, revegetation and wider crop selection. All agricultural practices have taken a giant step forward in the past 10 years. On average, 70 per cent of the land on Eyre Peninsula farms is now cropped, with about a 3 per cent increase in yields every year for a number of years.

Water use efficiency has been a measure of farm productivity for a number of years. Water use efficiency is measured by comparing the annual rainfall with the average yield of grains per hectare. This has increased from 1.43 tonnes per hectare in 1979-84 to 2.84 tonnes per hectare in 1997-2001, when there was actually less rainfall throughout that period. The *Stock Journal* gives a breakdown in water use efficiencies on Eyre Peninsula as follows: 1979-84, 37 per cent; 1985-90, 61 per cent; 1991-96, 65 per cent; and 1997-2001, 90 per cent. While there are still opportunities for better water use efficiency, some farmers with better management are now getting near the optimum. The *Stock Journal* article correctly attributes this turnaround in performance to the high uptake of management and best practice programs by farmers on Eyre Peninsula. The high uptake of property management planning of 49 per cent was 2.5 times higher than the state average. Participation in the top crop and better soil activities has also been a very high 41 per cent, almost double the state average.

It is very pleasing to note that this farming revolution on Eyre Peninsula took place largely under the guidance of the former Liberal government and its primary industries ministers (the Hon. Dale Baker, the Hon. Rob Kerin and, of course, the Hon. Caroline Schaefer). I am sure that similar significant advances in farming techniques and practices and water use efficiency have been made right across South Australia through the application of this best practice technique. But farmers still need continuing research, continued educational support and true recognition for the contribution they make to the economy and to conservation.

The present Labor government needs to look very closely at its priorities and rethink its ill-conceived cuts in funding for FarmBis and SARDI, and also its half-baked drought assistance offering. Because now, more than ever, better management strategies and changes need to be adopted by farmers and graziers if they want to survive any drought in the years to come.

BAWDEN, Ms M.

The Hon. A.J. REDFORD: I rise today to make a couple of comments about the use of the right of reply by Matilda Bawden earlier today. Matilda Bawden was referred to by me last week, and in my reference to her I advised members that she had made a number of comments on a web site concerning the black shirts. I also understand, based on the right of reply, that she has not denied that those statements were indeed—

The PRESIDENT: Order! Under standing orders, members are not to stray into debate in their contributions. That does not prevent the Hon. Mr Redford from raising the matter of the right of reply in a general sense as a matter of public interest. It is clearly a matter of public interest; that is why it is there. However, I must rule that, if you want to debate the issue, you would be breaching standing orders. If the honourable member would remember that when making his observations with respect to this matter, it would be appreciated.

The Hon. A.J. REDFORD: Just so I am clear, Mr President, and we did have a conversation about this immediately prior to lunch—and I am doing this at your suggestion—at what stage and what have I said to date that could be construed as debating the issue?

The PRESIDENT: You were starting to refer to the comments made by Ms Bawden, and I am just advising you that it would not be appropriate for you to debate the issue. I suggested to you during our private conversation that, if you want to make a personal explanation at some time, I would accept that.

The Hon. A.J. REDFORD: Mr President, I have to say that your ruling is as clear as mud to me. I do not understand why I cannot make some comments about what she has said on the record in *Hansard*. What standing order prevents me from commenting on what she has said on the record in *Hansard*?

The PRESIDENT: The honourable member may continue, but if he is debating—

The Hon. A.J. REDFORD: I am not trying to defy you, Mr President, and I am not trying to breach standing orders. If you can identify exactly what I have said to this point that might be in breach of standing orders, I will accept your ruling, but I do not understand what you are suggesting.

The PRESIDENT: I am suggesting that you appear to be starting to debate what Ms Bawden said in her reply, which I understand you have had the opportunity to read. I am asking you to be careful that you do not enter into debate on what she said you said, because the standing orders do not provide for that. There is a standing order that I note you agreed with on the day that it was passed.

The Hon. A.J. REDFORD: I will proceed and we will see how far we can get. If you want to sit me down, then I will be sat down. I am still not clear what I have done that has infringed the standing orders. I am sure if I do you will point it out and I will perhaps better understand what you are driving at. In any event, as I was saying before I was interrupted, in my statement last week I made a number of comments about one Matilda Bawden and I referred to some statements she made on the internet concerning her support for the black shirts. In that statement, she referred to the Victorian Labor Attorney-General as behaving in a more criminal fashion than the black shirts. On any analysis, I think that could only be described as an outrageous statement. We have had previous experience in this parliament with one Matilda Bawden. This Matilda Bawden—

The PRESIDENT: I am sorry, but you are now debating the issue. I ask you to desist in light of the standing order. You may raise this issue with me in my office at a later time.

The Hon. A.J. REDFORD: In this contribution, Mr President, I am not making any reference to the right of reply or to what I said last week. If you can point out what standing order I have or am about to breach, please by all means point it out and I will sit down and desist. But if this is just a general approach to gag me, then I will take it that way.

The PRESIDENT: I take offence at the suggestion that it is a gag. We are trying to comply with the standing order that was passed by this parliament this year with your concurrence and that of the rest of the council. The standing order gives those people who feel that they have been misrepresented or defamed by actions within this council a clear opportunity to make a statement. The standing order is clear that that is not to be the subject of debate.

The Hon. A.J. REDFORD: But I have not debated it, Mr President. If you can point to one word I have said where I have debated it, I will sit down. But I have not debated it.

The PRESIDENT: You are now starting to talk about the record. In justifying the statements you have made in respect of this matter, you have mentioned the person in question and you have started to talk about past references and past activities. I clearly take that as being a debate and justification of the position you took, and I do not feel—

The Hon. A.J. REDFORD: There is nothing to forbid me from doing that, unless I challenge your ruling. With the greatest respect, Mr President, if I challenge your ruling you have every right to sit me down. I am not seeking to challenge your ruling, but I am entitled to speak generally on anything I like, provided I do not breach the standing orders. With the greatest respect—

The PRESIDENT: Order! There is a sessional standing order which says that her statement will not be debated—

The Hon. A.J. REDFORD: I am not debating her statement. I have moved right away from it. All I had said when you pulled me up was, 'This is not the first occasion that I have had the opportunity to deal with this woman,' and you sat me down at that point. I would be delighted to know what particular standing order, rule or tradition I have sought to breach by making that statement, Mr President.

The PRESIDENT: On this occasion, Mr Redford, you are stretching the standing orders, the protocols and the dignity of this council, I suspect, in that you are cleverly twisting the standing orders—and in a sense you have a right to do that—to try to apply a meaning that was never the intention of this particular standing order in respect of the right of members of the public to make a statement to this chamber without further debate on the issue. I accept that there is no standing order as such, but this sessional order was passed by this council, and it is in charge of its own destiny, and it states clearly that there should not be debate. I will allow you to continue but, if I come to the opinion that, by your referring to this woman's past activities, you are doing so in justification of what you said in parliament the other day, I will sit you down. You may continue.

The Hon. A.J. REDFORD: As I was saying before I was interrupted, this is not the first occasion that I and indeed you, Mr President, had dealings with Ms Bawden. Mr President, you may recall that Ms Bawden, the champion of parliamentary privilege, on this occasion and on a previous occasion gave evidence to the Legislative Review Committee. You may well recall, Mr President, that on that occasion, Ms Bawden, having completed giving her evidence, tabled a stack of documents, and they were about a foot deep if I recall correctly. In good faith, we accepted those documents and they were tabled. As a consequence of the tabling of those documents—

The PRESIDENT: Order! Mr Redford, you are debating the issue. You are testing past activities against this and I ask you to desist. Call on the business of the day.

The Hon. A.J. REDFORD: So I cannot make any comment about Ms Bawden for the rest of my parliamentary career? I fail to understand why what I am about to talk about has anything to do with what transpired either last week or this week.

The PRESIDENT: It is clear to me and probably to most other members that you are talking about past activities in a way—

The Hon. A.J. REDFORD: As to past activities in so far as Ms Bawden is concerned, are you ruling that I am not allowed to raise them?

The PRESIDENT: I am of the opinion that you, Mr Redford, are entering this line of discussion in an attempt to debate the statement by Ms Bawden. On this occasion I will ask you to desist. Call on the business of the day.

The Hon. A.J. Redford: Mr President—

The PRESIDENT: I am not going to enter into any further debate.

CHICKEN MEAT INDUSTRY BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to provide for the stabilisation of the chicken meat industry; to repeal the Poultry Meat Industry Act 1969; and for other purposes. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

This bill repeals the Poultry Meat Industry Act 1969 and replaces it with a modern, more pro-competitive, regulatory scheme that will enable owner-farmers in the chicken meat industry to engage in collective negotiations with chicken meat processors supported by compulsory mediation and arbitration at the request of either party. The bill will also provide efficient farmers with a greater degree of security than under the present deregulated environment and, further, provides an exemption for the collectively negotiated agreements from the operation of the restrictive trade practices rules in Part IV of the commonwealth's Trade

Practices Act 1974 and in the Competition Code that applies in South Australia by authority of the Competition Policy Reform (South Australia) Act 1996.

Before describing the scheme proposed by the bill and addressing the structural adjustment issues facing the chicken meat industry, and the political issues arising from the introduction of the bill, I will first traverse the history of legislation in this industry. Beginning in 1969 with the Poultry Meat Industry Act, there has been a long history of legislative intervention in the chicken meat industry. The basis of this intervention has been concern at the significant imbalance in bargaining power between growers and processors and, consequently, the power imbalance in the contractual and other ongoing relationships between those two sectors of the industry.

This imbalance in bargaining power exists because processors are able to obtain significant market power at the processor-grower functional level of the market through the strength they obtain through vertical integration and because there is no auction market for meat chickens. On the other hand, the growing sector of the industry is characterised both by a requirement for significant infrastructure investment and by sunk costs.

The nature of the industry is that growers are essentially 'tied' to a particular processor; that is, because of structural factors, biosecurity concerns and commercial factors in this industry, growers have traditionally had an exclusive relationship with one processor. A grower does not own any birds but simply agists the birds owned by the processor. A grower must be geographically located no further than two hours' drive from the processing works, or else the bird-loss factor becomes significant. Further, growers cannot use their sheds for any other types of animal husbandry, and the last five-year period has seen a significant decline in the sale price and demand for chicken farms, making it very difficult for growers to sell their farms and exit the industry.

There have been several attempts by various governments to provide an appropriate response to this imbalance in bargaining power and the related issues in this industry, with significant amendments to the 1969 act in 1976 and, a decade later, in 1986. The 1969 act (together with its amendments) was essentially a model law that was in force in all Australian states that had a chicken processing industry. This model forms the basis for legislation still in force in New South Wales and in Western Australia. Victoria has a similar act, but has stayed its operation for a period of at least three years. Queensland has a more recent scheme; one that formed the starting point for the proposed South Australian bill.

In 1987, following a dispute concerning entry into the South Australian industry by a new grower, the then minister for agriculture requested a review of the 1969 act. Green and white papers were released for comment in 1991 and 1994 respectively. The outcome of this process was a decision by the then South Australian government to repeal that act in 1996. However, the government of the day did not proceed with the repeal when, reacting to grower concerns at their exposure to the bargaining power of the processors, the Labor Party in opposition and independent MLCs signalled their intention to oppose the bill. In July 1997, the then minister convened a meeting of industry and parliamentary representatives, thus commencing a process to address growers' concerns that culminated in the bill before the house today. Since the mid-1990s, there have also been competition law and policy issues that have had an impact on the 1969 act. The Poultry Meat Industry Committee ceased to function from about 1996 and, since then, the 1969 act has essentially been moribund.

The main reason why the committee ceased to function was that, since the competition code commenced to apply to its members as individuals who were also industry participants and competitors, those members would have been at risk of contravening the restrictive trade practices rules in the competition code. Those rules have the same effect as the restrictive trade practices rules in part IV of the commonwealth's Trade Practices Act 1974, except that the Trade Practices Act itself is essentially restricted to trading and financial corporations.

Further, the South Australian government is obliged to conduct a legislation review of the 1969 act under clause 5 of the competition principles agreement, which is one of the national competition policy inter-governmental agreements. There are several elements in the 1969 act which are not considered capable of passing the scrutiny of the National Competition Council which assesses the states' compliance for the purpose of obtaining competition payments. Those elements are the function of the committee to 'approve' new farms and growing contracts, and the requirement that no new grower entrants will be allowed if there is spare capacity amongst existing growers.

Since 1997, the major processors have engaged in collective negotiations with growers under an authorisation from the Australian Competition and Consumer Commission (ACCC) pursuant to part VII of the Trade Practices Act. Steggles Enterprises Limited (now Bartter Enterprises Pty Ltd) has now ceased processing in South Australia, but Inghams Enterprises Pty Ltd has sought an extension of that authorisation for a further five years.

As part of the development of the scheme proposed by the bill, the Department of Primary Industries and Resources has undertaken a broad program of consultations with all industry parties. A consultation paper and consultation draft of the bill were made available for some 11 weeks. Ministerial meetings took place with both grower and processor industry leaders on several occasions, and departmental officers also had several meetings with them. There has been a continual flow of correspondence and submissions from both processors and growers, even after the formal consultation period ended, and that correspondence continues.

These consultations were part of the national competition policy legislation review that was completed prior to the introduction of this bill into parliament. The review concluded that there was a net public benefit from the bill. The review considered that there was little opportunity for either growers or processors to pass on costs to end consumers—

- because of competition between processors; and
- because of competition in South Australia from chilled and frozen product imported from other states; and
- because chicken products compete with other white and red meat products and with fish at the retail level.

Given that growers and processors are mutually dependent, both have a vital interest in maintaining the efficiency and price competitiveness of the industry.

While the government is committed to the introduction of this bill, it will consider all reasonable submissions and propose amendments to the bill prior to passage if it believes that any such amendment is needed to advance the objectives of the bill or to assist the practical operation of the scheme.

Growers who fall within the ACCC authorisation have indicated that, while they are able to engage in collective negotiations with Inghams, in reality they have little leverage.

They describe the collective nature of the negotiations as of benefit only to Inghams and not to its growers. Growers use the expression 'take-it-or-leave-it' when describing the negotiations for a new contract. The current price paid to growers in South Australia per bird is between 5¢ and 7¢ lower than the price paid in other states. In fact, in real terms, the growing fee has declined over the past five years. However, growers' concerns go beyond the issue of price and extend to a number of non-price matters, including the nature of their relationship with the major processor.

For their part, processors consider that the scheme proposed by this bill is unnecessary and that, if it comes into operation, it will increase costs in the industry, resulting in a decline in processing in South Australia and, thus, also in the growing sector. Processors claim that the compulsory arbitration of unresolved disputes will result in less than 'best practice' outcomes, slower adoption of new technology, lowering of bird husbandry levels and delays while matters are progressed through arbitration. Processors object to compulsory arbitration and claim that it will force them to deal with growers with whom they no longer wish to deal. Processors described this as losing 'their ultimate right to determine the strict conditions that they need in place to protect their interests and to keep driving down costs' (from the processor submission dated November 2002).

The government disagrees. In fact, the very reason for introducing this bill is to enable both sides of the industry, not just processors, to have a fair opportunity to negotiate appropriate growing contracts supported by the discipline provided by the prospect of compulsory mediation and arbitration. The bill is silent as to the content of growing contracts and does not require that any particular terms be adopted, although, in the interests of transparency, the contracts must be in writing. It leaves the terms of the contract to the parties and for matters that are unresolved or in dispute to be determined by a mutually agreed mediator or by an independent arbitrator.

Rather than address the processors' concerns in detail, I will outline how the scheme proposed by the bill will operate in practice, which, in the government's view, will provide a complete answer to the processors. However, it is appropriate, first, to refer to some of the difficulties facing this industry, difficulties that need to be managed through the processes established by the bill.

One of South Australia's major processors, Bartter Enterprises Pty Ltd (previously Steggles), decided in the late 1990s that, rather than invest in new processing facilities in South Australia, it would expand its facilities at Geelong in Victoria. That meant that, by early 2002, a considerable number of ex Bartter growers were without a contract. Anticipating that Bartter would lose retail market share in South Australia, other South Australian processors offered growing contracts of various duration to ex Bartter growers. Contrary to expectations, Bartter appears to have maintained its 25 to 30 per cent share of the South Australian retail market. However, there has been a growth in production in South Australia because now some 30 per cent of South Australian processed meat is exported to the eastern states or overseas. Thus, processors in South Australia are sensitive to grower efficiency issues and price as well as to transport economics. It should be noted that Inghams is currently replacing two older processing works in Queensland with a new $50 million facility near Brisbane.

Other structural adjustment issues concern the type of technology that should be adopted for growers' shedding and how the investment risk should be shared. Traditionally, South Australian growers have had small farms of between two and three sheds. Now, the preferred size is between four and 10 sheds, with sheds being up to some 2 900 square metres and costing about $280 000 with appropriate tunnel ventilation. Farms should be located on suitable land; in particular, not high value land or metropolitan land but land that can include an appropriate buffer zone and fencing for biosecurity reasons, access to appropriate water supply and three-phase power, and that allows compliance with zoning regulations.

The long-term health of the chicken meat industry in South Australia requires that these structural adjustment issues be addressed, together with the exit from the industry of the least efficient farms and the least competent growers until the supply of growing services is in equilibrium with the demand for those services by processors. The long-term health of the industry, however, also requires that efficient growers be given the security of contracts in writing for a reasonable term of years and a knowledge that, if they continue to perform and fit within their processor's required level of growing services, there will be a continued relationship with that processor to support the grower's investment.

On the part of the processor, there should be no impediment to the establishment of 'home farms' if they consider that to be efficient. There should be no impediment to encouraging and contracting with new entrants, even at the expense of the least efficient of the growers with whom they were previously contracted. However, there can be no arbitrary and unreasonable refusal to deal with an efficient grower when there is a need for a level of growing services that can accommodate that grower. It is the least efficient grower, objectively assessed, who should be most at risk.

The bill establishes a scheme that achieves these outcomes. Arbitration under parts 5, 7 and 8 of the bill 'must take into account the need to promote best practice standards and fair and equitable conditions in the chicken meat industry and the need for the industry to be dynamic and commercially viable' (clause 5(2)(b)). Clause 28(3) sets out additional factors that arbitration must take into account in relation to arbitrating a dispute between a processor and a grower. These requirements are expressly aimed at achieving the outcomes previously mentioned.

The government does not accept the processors' prediction that the scheme proposed by the bill will cause an increase in costs. If the decision to process in South Australia remains simply a commercial decision, the bill should have no adverse consequences for the industry in this state. The government does accept, however, that there will be structural adjustment, whether or not the bill comes into operation. The bill does not stand in the way of change in this industry. The government considers that, if the industry in South Australian is to remain healthy for the long term, it must be dynamic and growers as much as processors must be subject to competitive pressures, including the pressures provided by new entrants and requirements to adopt new technology and improved standards.

As stated previously, the bill does not set out any of the requirements that parties should include in their growing contracts, nor does it 'approve' contracts; it leaves that entirely to the parties. Instead, the bill establishes a structure within which the parties can negotiate on a more equal basis than at present, and within which an arbitrator is able to impose reasonable and commercially sound awards if the parties cannot resolve their own disputes. In that regard, all

parties in this industry acknowledge that they are mutually dependent. There is no incentive for the grower community to seek more than the industry can reasonably bear.

The bill also supports growers by enabling them to seek advice from consultants and experts when engaging in collective negotiations with their processor. I shall now outline the structure of the scheme proposed by the bill. The critical factor on which the scheme depends is the requirement that each processor has a 'tied' or 'exclusive' relationship with particular growers for the term of their contract. Even if the contract does not specify an exclusive relationship, the nature of all but the most ad hoc of processor/grower arrangements will have that effect.

A 'tied' agreement includes the concept of 'switching' whereby a contracted grower is 'loaned' to another processor in order to balance capacity requirements between them. That should be regarded as an efficient outcome for all concerned. Exclusivity allows processors to manage their requirements for growing services over the longer term, ensures that the biosecurity (for example, cross-infection) of a processor's birds is not adversely affected, and ensures that the processor can adequately control the micro-management issues that arise during the growing cycle, such as shed maintenance, infrastructure standards and the supply of services such as medicines, feed, etc.

If the processor requires or will, in fact, achieve a tied relationship, the processor must give the grower a statutory notice inviting the grower to commence negotiations for a contract. The grower then has the option—

- of agreeing to negotiate on an individual basis with the processor; or
- of joining a collective negotiating group of all the other growers contracted, or chosen by the processor to be contracted, to that processor.

If the grower chooses to negotiate individually, that grower is essentially unregulated (except for the transparency requirement that all growing agreements must be in writing). There is a penalty included in the scheme for the purpose of requiring a processor to comply with the process of giving the statutory notice. That then allows the grower to choose whether to negotiate collectively or individually. Part 6 of the bill provides for an exemption under section 51 of the Trade Practices Act and under the Competition Code of South Australia for the giving by processors of the statutory notice, and for certain specified activities concerned with the collective negotiations, and the making of, and the giving effect to, growing agreements.

The exemption relates to activities between each individual processor and those growers who are recorded on the register as members of that processor's collective negotiating group. The activities include—

- the processor requiring the 'tied' relationship with the grower; and
- market sharing by growers of their available growing capacity; exclusive dealing arrangements imposed by the processor on growers relating to feed, medications and vaccines, sanitation chemicals, veterinary services, shed maintenance, harvesting and transport services, etc; and
- pricing arrangements, including price reviews.

In place of the previous Poultry Meat Industry Committee, the proposed scheme simply has a registrar appointed by the minister, whose task is to maintain the register and undertake certain functions in relation to the number and election of growers' representatives, the calling of meetings of the negotiating group to vote on a contract, and in relation to referring a dispute to mediation or arbitration. In this way, it is intended to keep the administrative costs of the scheme to a minimum. Those costs may be recovered by a fee levied on industry participants.

As previously indicated, the terms of any growing agreements are left to be negotiated by the relevant parties, the processor and the growers. Compulsory arbitration at the election of either the processor or the growers is available if any dispute cannot be resolved. At any time, a grower may elect to leave a collective negotiating group and deal individually with a processor. Mediation and arbitration are available at the election of either processor or grower during the term of a contract if there is a dispute as to the obligations of either of them under a collectively negotiated growing agreement.

This would include a dispute on the terms to be agreed on a variation of any contract under a previously agreed variation clause. Part 8 of the bill provides a mechanism to ensure that a grower is not arbitrarily and unreasonably excluded from a future contract. As described above, there are factors that an arbitrator is required to take into account that preserve the commercial interests of the processor, while protecting the efficient grower at the expense of the less efficient grower. In particular, a grower cannot be excluded simply because that grower has a profile as a grower negotiator, or more generally, as a grower representative.

The bill contains the usual administrative provisions relating to the conduct of arbitration, provision for the appointment of a registrar and consequent delegations, a requirement for an annual report and provision for an annual fee to recover the cost of the registrar's operations. There is also a requirement for the minister to review the operation of the act, and to lay a copy of the report before parliament within six years of the commencement of the act. This will allow a period that reflects the traditional five-year contract and the negotiation of the next round of contracts.

The bill contains a scheme for transitional arrangements that deems all existing growing agreements, whether oral or written, as being arrived at through the collective negotiating process and, hence, includes all growers initially in collective negotiating groups. While these existing contracts will continue to operate according to their terms, disputes arising as to their operation and disputes as to the exclusion of any of the growers from further contracts are subject to the mediation and arbitration provisions of the scheme. Without the deeming transitional provision, many growers would not come within the scheme for up to five years.

Once a grower is a member of a negotiating group, the grower may at any time elect to leave and thus become unregulated. The transition arrangements do, however, allow the registrar, on application from either processor or grower, to exclude growers with certain types of contracts from each processor's negotiating groups. First, growers with 'probationary' contracts may be excluded. These are contracts that operate from batch to batch and do not follow on from a fixed-term contract between the grower and the same processor. A batch to batch contract may specify a single batch or a small number of batches, such that it is not, in effect, a contract for a fixed term.

Secondly, 'individual' agreements may be excluded. This is a contract that is of such a nature that it would be unlikely that it would have been negotiated collectively if the bill had been in operation at that time; that is, if the grower had been given a choice of collective or individual negotiations following receipt of the statutory notice, the grower would

have chosen individual negotiations. Such a contract will show significant differences from all other growing agreements with the relevant processor in relation to its period of operation or other principle terms and conditions.

For example, it is anticipated that a long-term contract (say, for 10 years) to support a new entrant with new investment with a pricing formula that was considerably different from the usual price range offered by that processor, reflecting the size and efficiencies of the new infrastructure, would usually be negotiated individually, not collectively, under the proposed scheme. However, contracts that have been signed recently which are artificially differentiated by period or other factors but which essentially retain the core of a processor's standard terms will not be regarded as 'individual' and thus excluded from a negotiating group whether or not the contract was in fact individually negotiated.

Prior to the scheme coming into operation, it is entirely predictable that growers desperate for a contract will be 'picked off' by processors anxious to exclude as many of their growers as possible from the operation of the scheme. Finally, it should be reiterated that there has been a considerable consultation program to support the development of this bill. While significant changes have been made to the scheme, the government considers that compulsory mediation and arbitration (even though opposed by the processors) is central to ensuring that the collective negotiations are genuine negotiations and not the present style of 'take it or leave it' negotiations under the ACCC authorisation.

That is not, of course, the fault of the ACCC; it is simply the fact that there is such an imbalance in bargaining power between processors and growers that collective negotiations per se do not provide growers with any significant counterweight to the processors. Without that right to mediation and arbitration there would be, essentially, no difference between the effect of the bill and the effect of the ACCC authorisation and no justification for the bill. I commend the bill to the council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains definitions of words and phrases necessary for the interpretation of the legislative scheme proposed in this measure.

In particular, meat chicken means a chicken (a bird of the species *Gallus gallus* that is not more than 16 weeks old) grown under intensive housing conditions specifically for human consumption as meat after processing. A growing agreement is an agreement between a grower (*ie* a person who grows meat chickens under a growing agreement) and a person who carries on a business of processing meat chickens (a processor) that provides for the growing in SA by the grower of boiler chickens owned by the processor and the return of the chickens to the processor for processing in SA.

A growing agreement is a tied growing agreement if it has the effect of tying the grower to the processor by restricting the grower's freedom to grow meat chickens for processing by a processor other than the processor party to the agreement.

Clause 4: Exemptions

The Governor may exempt a person or a class of persons from the operation of the whole or particular provisions of the measure.

PART 2: INTENTION OF ACT

Clause 5: Intention of Act

This measure is in response to—

- the structural arrangements in the chicken meat industry;
- growers' sunk investments in their chicken farms;
- the processors' requirements for growing arrangements that tie growers to processors;
- the general imbalance in bargaining power between processors and growers.

It is the intention of this measure—

- that equity between processors and tied growers be promoted by allowing for collective negotiations and arbitration of disputes and by the appointment of a Registrar with functions including the facilitation of collective negotiations between processors and growers; and
- that arbitration under Parts 5, 7 and 8 of this measure take into account the need to promote best practice standards and fair and equitable conditions in the chicken meat industry and the need for the industry to be dynamic and commercially viable.

PART 3: REGISTRAR

Clause 6: Appointment of Registrar

A Public Service employee will be appointed by the Minister to be the Registrar for the purposes of this measure.

Clause 7: Registrar's functions

This clause sets out the Registrar's functions.

Clause 8: Delegation

The Registrar may delegate powers or functions under this measure.

Clause 9: Fee for Registrar's operations

Each processor and grower must pay the fee (to be prescribed and which may be differential) to the Registrar each financial year.

Clause 10: Annual report

The Registrar must, on or before 30 September in every year, forward to the Minister for tabling in the Parliament a report on his or her work and operations for the preceding financial year.

PART 4: REGISTRATION

Clause 11: Interpretation

This clause provides for interpretation mechanisms for Part 4.

Clause 12: Registration

The Registrar must maintain a register containing certain information about processors and growers to allow for the legislative scheme proposed to be administered.

Clause 13: Notification of information required for register

A processor must provide the Registrar with certain up-to-date information about growing agreements and the growers with whom the processor has a growing agreement.

PART 5: GROWING AGREEMENTS

DIVISION 1—GENERAL PROVISIONS

Clause 14: Growing agreements to be in writing

A growing agreement made after the commencement of this clause is of no effect except to the extent that it is recorded in writing.

Clause 15: Offence to attempt to tie grower to processor

It is an offence for a processor who is negotiating or party to a growing agreement with a grower to, by words or conduct, attempt to tie the grower to the processor. (Maximum penalty: $100 000.) However, this does not apply to—

- negotiations commenced under Part 5 for a tied growing agreement, or for a variation of such an agreement; or
- the making or enforcement of a tied growing agreement the negotiations for which were commenced under Part 5; or
- the enforcement of a tied growing agreement made before the commencement of this clause.

DIVISION 2—COMMENCING NEGOTIATIONS FOR TIED GROWING AGREEMENTS

Clause 16: Commencing negotiations for tied growing agreements

A processor must not commence to negotiate a tied growing agreement with a grower unless the processor has, within the preceding 3 months, given the grower a written notice, in the prescribed form—

- stating that the processor proposes to commence negotiations with the grower for a tied growing agreement; and
- inviting the grower to indicate, within 4 weeks, by written notice—
  - if the grower is not a member of a negotiating group with the processor, whether the grower wishes to be a member of a negotiating group with the processor; or
  - if the grower is a member of a negotiating group with the processor, whether the grower no longer wishes to be a member of a negotiating group with the processor.

(Maximum penalty: $100 000.)

DIVISION 3—COLLECTIVELY NEGOTIATING TIED GROWING AGREEMENTS

Clause 17: Negotiating group's role

A negotiating group may collectively negotiate (personally or through agents, advisers or other consultants) and agree with the processor a tied growing agreement, or a variation of a tied growing agreement, between the members of the negotiating group and the processor.

Clause 18: Grower negotiators for negotiating groups

The Registrar must appoint grower negotiators (not exceeding 4 in number) for a negotiating group to conduct collective negotiations on behalf of the group for a tied growing agreement with the processor. When determining the number of grower negotiators, the Registrar must take into account the size of the negotiating group, the varying interests of the members of the negotiating group and any other relevant factor.

A person appointed as a grower negotiator must be a member of the negotiating group determined in accordance with nomination and election processes approved by the Registrar.

Clause 19: Decision making by negotiating groups

This clause sets out how agreements are reached by negotiating groups.

Clause 20: Arbitration

If a negotiating group fails to agree a tied growing agreement with the processor within a time fixed by the Registrar, the matter in dispute must be referred to arbitration if the processor or a majority of the members of the negotiating group vote in favour of the matter being referred to arbitration. A dispute referred to arbitration in accordance with this clause will be taken to have been so referred with the agreement of the processor and all members of the negotiating group. Schedule 2 applies in relation to the reference of the dispute to arbitration and the arbitration of the dispute.

DIVISION 4—OPERATION OF TIED GROWING AGREEMENTS

Clause 21: Operation of tied growing agreements

A tied growing agreement collectively negotiated between the members of a negotiating group and the processor under Part 5 expires on the fifth anniversary of the day on which agreement was reached or an earlier day specified in the tied growing agreement. However, a tied growing agreement collectively negotiated thus will continue to bind the processor and a grower for a further period (not exceeding 5 years) if the processor and the grower so agree before the expiry of the growing agreement. A provision of a tied growing agreement collectively negotiated under Part 5 prevails over any other agreement between the processor and a member of the negotiating group to the extent of any inconsistency.

PART 6: TRADE PRACTICES AUTHORISATION

Clause 22: Trade practices authorisation

The following are authorised for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth, as in force from time to time, and the *Competition Code of South Australia*:

- giving notices to growers of a proposal to commence negotiations for a tied growing agreement under Part 5;
- engaging in collective negotiations for a tied growing agreement under Part 5;
- in the course of collective negotiations for a tied growing agreement under Part 5, making or giving effect to an agreement by members of the negotiating group to refuse or restrict the provision of their services as growers;
- making a tied growing agreement collectively negotiated under Part 5;
- giving effect to a tied growing agreement collectively negotiated under Part 5.

The authorisation applies in relation to a tied growing agreement only in so far as the agreement—

- has the effect of restricting the freedom of a grower to grow meat chickens for processing by a person other than the processor; or
- has the effect of restricting the freedom of a grower to obtain feed, medication, vaccines, sanitation chemicals, etc., from a person other than the processor or a person nominated by the processor; or
- provides for the sharing among growers of the right to provide their services as growers; or
- provides for a common pricing scheme, including a discount, allowance, rebate or credit, for the provision by growers of their services as growers.

PART 7: DISPUTES ARISING FROM PROCESSOR OR GROWER OBLIGATIONS

Clause 23: Interpretation and application

Part 7 applies to a dispute between a processor and a grower or former grower if the dispute relates to the obligations of either or both under a tied growing agreement collectively negotiated under Part 5.

Clause 24: Mediation

The Registrar must, if asked by the processor or grower, and subject to a number of considerations by the Registrar, refer a dispute to mediation.

Clause 25: Arbitration

Subject to certain considerations, the Registrar must, if asked by the processor or grower, refer the dispute to arbitration if, in the case of a dispute that has been referred to mediation under Part 5, the mediation has been terminated without resolution or, in any other case, the Registrar considers that it is highly unlikely that the dispute would be resolved through mediation.

Schedule 2 applies in relation to the reference of the dispute to arbitration and the arbitration of the dispute.

PART 8: DISPUTES RELATING TO EXCLUSION OF GROWERS

Clause 26: Interpretation and application

Clause 27: Mediation

Clause 28: Arbitration

Part 8 is very similar to Part 7 except that the mediation and arbitration procedures apply to a dispute between a processor and a grower or former grower if—

- the grower is or was party to the tied growing agreement last collectively negotiated with the processor under Part 5; and
- the dispute relates to the grower's exclusion from the group of growers given notice by the processor of a proposal to commence negotiations for a further tied growing agreement under Part 5.

PART 9: MISCELLANEOUS

Clause 29: General penalty

The general penalty for a person who fails to comply with a provision of this measure is a fine of $25 000.

Clause 30: Prosecutions

A prosecution for an offence against this measure cannot be commenced except by a person who has the consent of the Minister to do so.

Clause 31: Service

This clause provides for the service of any documents required to be served under this measure.

Clause 32: Regulations

The Governor may make regulations for the purposes of this measure.

Clause 33: Review of Act

The Minister must, within 6 years after the commencement of legislative scheme proposed by this measure, cause a report to be prepared on its operation and a copy of the report to be laid before each House of Parliament.

SCHEDULE 1: Repeal and Transitional Provisions

The schedule contains the repeal of the *Poultry Meat Industry Act 1969* and a transitional provision.

SCHEDULE 2: Arbitration

This schedule contains provisions setting out the arbitration procedures for the measure.

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

STATUTES AMENDMENT (MINING) BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to amend the Mines and Works Inspection Act 1920 and the Mining Act 1971. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

This bill has been introduced as part of this government's commitment to transparency and accountability. The bill is required to give effect to certain recommendations made by Mr Hedley Bachmann in his recent review of the South Australian uranium mining industry (the Bachmann report). The Bachmann report, which was released to the public on 17 October 2002, specifically recommends:

In order to allow the release of information about incidents which may cause, or threaten to cause, serious or material environmental

harm or risks to the public or employees, the government should revise and appropriately amend the secrecy/confidentiality, etc. clauses in the legislation referred to in appendix B.

Appendix B lists, among other legislation, section 14 of the Mining Act 1971 and section 9 of the Mines and Works Inspection Act 1920. Section 9 of the Mines and Works Inspection Act 1920 currently operates to prevent inspectors from reporting information gathered in relation to mining matters except in an official report to the inspector's superiors, or when giving evidence in a court, or subject to subsection (1a). Subsection (1a) permits the chief inspector to release information relating to a mining accident only where that information is a statement of fact (rather than an opinion or conclusion of an inspector), and where the release is approved by the minister.

The Bachmann report identified this section as seriously limiting transparency and accountability in relation to incidents involving radioactive leaks at uranium mines as well as accidents at other mines. This bill repeals section 9 of the Mines and Works Inspection Act 1920 and substitutes a provision that allows for the release, subject to the Freedom of Information Act 1991 and, where relevant, the Ionizing Radiation Regulations 2000, of all information obtained in the administration of the act, except information relating to trade processes or financial information. The proposed section further sets out when certain information relating to trade processes and financial information can be released, namely:

- as authorised by this bill (or regulations under this bill); or
- with the consent of the person from whom the information was obtained, or to whom the information relates; or
- in connection with the administration or enforcement of this bill, or a prescribed act; or
- for the purpose of legal proceedings arising out of the administration or enforcement of this bill, or a prescribed act.

Information other than that relating to trade processes and financial information could, as a consequence of this bill, be obtained pursuant to the Freedom of Information Act 1991. The proposed provision is consistent with similar confidentiality provisions, in particular section 121 of the Environment Protection Act 1993, and provides for the release of information regarding incidents which may affect the safety of both the public and the environment.

Section 14 of the Mining Act 1971 deals with the misuse of certain information for personal gain by persons employed in the administration of that act or in the Department of Mines. Whilst this section does not fall directly within the categories of secrecy or confidentiality, this bill repeals the provision as this type of conduct is properly covered by division 4 of part 7 (and in particular section 251) of the Criminal Law Consolidation Act 1935, a division dealing with the abuse of public office.

Mr Hedley Bachmann consulted with a wide range of industry and environmental/conservation groups, together with state and federal government agencies, during the course of his review. The mining industry has expressed general support for the proposals, including those implemented by this bill. No objections were raised by environmental groups to the proposals contained in the Bachmann Report. I commend the bill to the council. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This is a standard interpretation clause for a Statutes Amendment Bill.

PART 2

AMENDMENT OF MINES AND WORKS INSPECTION ACT 1920

Clause 4: Substitution of s. 9

This clause substitutes a new confidentiality provision in the principal Act which is consistent with the confidentiality provision in the *Environment Protection Act 1993*.

PART 3

AMENDMENT OF MINING ACT 1971

Clause 5: Repeal of s. 14

This clause repeals section 14 of the principal Act.

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

VETERINARY PRACTICE BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to protect animal health, safety and welfare and the public interest by providing for the registration of veterinary surgeons; to regulate the provision of veterinary treatment for the purposes of maintaining high standards of competence and conduct by veterinary surgeons; to repeal the Veterinary Surgeons Act 1985; and for other purposes. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The Veterinary Practice Bill is the result of extensive consultation with the veterinary profession and industries associated with the keeping and welfare of animals. It supports provisions for protecting animal health, safety and welfare and the public interest by regulating a high standard for the veterinary profession in South Australia well into the 21st century. The main effect of the bill is to supersede the Veterinary Surgeons Act 1985 in providing regulation of the veterinary profession that is consistent with national competition policy principles and to streamline procedures for registration of veterinary surgeons and the handling of complaints by the Veterinary Surgeons Board.

The bill removes restrictions on ownership of practices by non-veterinarians while at the same time containing provisions aimed at avoiding any conflict of interest in such situations. There will be a register of interests held by veterinarians or prescribed relatives in prescribed veterinary businesses. Veterinarians will be required to inform clients of those interests where relevant and there will be offences relating to inducements for veterinarians giving recommendations or prescriptions benefiting those businesses.

In addition, there will be a register of veterinary service providers (that is, persons other than veterinary surgeons who provide veterinary treatment through the instrumentality of a veterinary surgeon) and it will be an offence for such a person to direct or pressure a veterinary surgeon to act unlawfully, improperly, negligently or unfairly in relation to the provision of veterinary treatment. The bill defines veterinary treatment which only veterinarians may perform for fee or reward but makes provision for regulations to exempt common farm practices such as lamb-marking from the definition.

The current act contemplates the Veterinary Surgeons Board conducting an inquiry following the laying of a formal complaint. This bill will give the board further powers to investigate complaints to determine whether a hearing is required or not. This will not only save the board money by reducing the number of formal hearings but more importantly will save individual veterinarians from the time, expense and angst of formal hearings where prior investigation reveals such a hearing is not warranted in the circumstances. The constitution of the board for the purposes of a formal disciplinary hearing has been set at three, which will make it easier to ensure that the members sitting on a hearing have not been involved in the investigation of the matter and that a majority decision is reached. The appeals process has been simplified by making the appeal to the District Court instead of the Supreme Court. The size of the board for all other matters will be increased from six to seven by including the addition of an extra non-veterinarian consumer representative.

Specific provision has been made in the bill for accreditation of veterinary hospitals. This will ensure that all veterinary hospitals are of a very high standard consistent with standards applying in other parts of Australia. Provisions have been made for guidelines for continuing professional education to encourage veterinarians to maintain their standards. In addition, a provision has been made to restrict veterinarians who have been out of practice for more than three years from resuming practice unless the board is satisfied that they have sufficient experience in current practice methods.

Board procedures have been streamlined in several ways such as allowing meetings by teleconference (where appropriate) by specifically providing for informal resolution of complaints that are found to have been caused by misunderstanding and by allowing an approved auditor to provide the annual audit of accounts rather than by formal submission to the Auditor-General.

The bill provides for exemption by proclamation from the restriction on providing veterinary treatment where circumstances warrant it such as may occur in an emergency disease outbreak. In addition the limited registration provisions could be used to provide for those non-qualified people who could be issued permits under the existing act. I commend the bill to honourable members. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause defines terms used in the measure.

Veterinary treatment is defined as:

- the diagnosis, treatment or prevention of a disease, injury or condition in an animal; or
- the administration of an anaesthetic to an animal; or
- the castration or spaying of an animal; or
- a prescribed artificial breeding procedure.

There is a power for the regulations to include or exclude procedures in or from the definition.

Veterinary surgeon is the concept used to describe a person registered on the general register or on the general register and the specialist register.

A veterinary services provider is a person (not being a veterinary surgeon) who provides veterinary treatment through the instrumentality of a veterinary surgeon.

Clause 4: Medical fitness to provide veterinary treatment

This clause provides that in making a determination under the measure as to a person's medical fitness to provide veterinary treatment, regard must be given to the question of whether the person is able to provide veterinary treatment personally to an animal without endangering the animal's health, safety or welfare.

PART 2

VETERINARY SURGEONS BOARD OF SOUTH AUSTRALIA

DIVISION 1—CONTINUATION OF BOARD

Clause 5: Continuation of Board

This clause provides for the continuation of the Veterinary Surgeons Board as the Veterinary Surgeons Board of South Australia as a body corporate with perpetual succession, a common seal, the capacity to litigate in its corporate name and all the powers of a natural person capable of being exercised by a body corporate.

DIVISION 2—MEMBERSHIP

Clause 6: Composition of Board

This clause provides for the Board to consist of 7 members appointed by the Governor and empowers the Governor to appoint deputy members.

Clause 7: Terms and conditions of membership

This clause provides for members of the Board to be appointed for a term not exceeding 3 years and to be eligible for re-appointment on expiry of a term of appointment. It sets out the circumstances in which a member's office becomes vacant and in which the Governor is empowered to remove a member from office. It also allows members whose terms have expired to continue to act as members to hear part-heard disciplinary proceedings under Part 5.

Clause 8: Vacancies or defects in appointment of members

This clause ensures acts and proceedings of the Board are not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Clause 9: Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

DIVISION 3—REGISTRAR AND STAFF

Clause 10: Registrar

This clause provides for the appointment of a Registrar by the Board on terms and conditions determined by the Board.

Clause 11: Staff

This clause provides for the Board to have such staff as it thinks necessary for the proper performance of its functions.

DIVISION 4—GENERAL FUNCTIONS AND POWERS

Clause 12: Objects

This clause requires the Board to exercise its functions with the object of protecting animal health, safety and welfare and the public interest by achieving and maintaining high professional standards both of competence and conduct in the provision of veterinary treatment in this State.

Clause 13: Functions

This clause sets out the functions of the Board. These include:

- to prepare or endorse codes of conduct and professional standards for veterinary surgeons;
- to prepare or endorse guidelines on continuing education for veterinary surgeons;
- to establish administrative processes for handling complaints received against veterinary surgeons or veterinary services providers (which may include processes under which the veterinary surgeon or veterinary services provider voluntarily enters into an undertaking).

Clause 14: Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

Clause 15: Committees

This clause empowers the Board to establish committees to advise the Board and assist it to carry out its functions.

Clause 16: Delegations

This clause empowers the Board to delegate functions or powers under the measure to a member of the Board, the Registrar, an employee of the Board or a committee established by the Board.

DIVISION 5—PROCEDURES

Clause 17: Procedures

This clause deals with matters relating to the Board's procedures such as the quorum at meetings, the chairing of meetings, voting rights, the holding of conferences by telephone and other electronic means and the keeping of minutes.

Clause 18: Disclosure of interest

This clause requires members of the Board to disclose direct or indirect pecuniary or personal interests in matters under consideration and prohibits participation in any deliberations or decision of the Board on those matters. A maximum penalty of $10 000 is fixed for contravention or non-compliance.

Clause 19: Powers in relation to witnesses, etc.

This clause sets out the powers of the Board to summons witnesses and require the production of documents and other evidence in proceedings before the Board.

Clause 20: Power to require medical examination or report

This clause empowers the Board to require a veterinary surgeon or person applying for registration or reinstatement of registration as a veterinary surgeon to submit to an examination by a health professional or provide a medical report from a health professional, including an examination or report that will require the person to undergo a medically invasive procedure. If the person fails to comply, the Board can suspend the person's registration until further order.

Clause 21: Principles governing proceedings

This clause provides that the Board is not bound by the rules of evidence and requires it to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Clause 22: Representation at proceedings

This clause entitles a party to proceedings before the Board to be represented at the hearing of those proceedings.

Clause 23: Costs

This clause empowers the Board to award costs against a party to proceedings before the Board.

DIVISION 6—ACCOUNTS, AUDIT AND ANNUAL REPORT

Clause 24: Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

Clause 25: Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

PART 3

REGISTRATION OF VETERINARY SURGEONS

DIVISION 1—REGISTERS

Clause 26: Registers

This clause requires the Registrar to keep a general register, a specialist register and a register of persons whose names have been removed from a register and have not been reinstated.

Clause 27: Authority conferred by registration on general or specialist register

This clause sets out the kind of veterinary treatment that registration on the general or specialist register authorises a registered person to provide.

Clause 28: General and specialist registers

Clause 29: Register of persons removed from general or specialist register

These clauses set out the information to be included on each register.

Clause 30: Provisions of general application to registers

This clause requires the registers of registered persons to be kept available for inspection by the public and permits access to be made available by electronic means (such as the Internet). It also contains provisions relevant to the maintenance of the registers.

Clause 31: Requirement to inform Board of changes

This clause requires registered persons to notify a change of address within 3 months. A maximum penalty of $250 is fixed for non-compliance.

DIVISION 2—REGISTRATION

Clause 32: Registration of natural persons on general or specialist register

This clause provides for the full and limited registration of natural persons as veterinary surgeons in general practice or specialties.

Clause 33: Application for registration

This clause deals with applications for registration. It empowers the Board to require applicants to submit medical reports or other evidence of medical fitness to provide veterinary treatment or to obtain additional qualifications or experience before determining an application.

Clause 34: Removal from register or specialty

This clause requires the Registrar to remove a person's name from a register on application by the person or in certain specified circumstances (for example, suspension or cancellation of the person's registration under this measure).

Clause 35: Reinstatement on register or in specialty

This clause makes provision for reinstatement of a person's name on a register. It empowers the Board to require applicants for reinstatement to submit medical reports or other evidence of medical fitness to provide veterinary treatment or to obtain additional qualifications or experience before determining an application.

Clause 36: Fees and returns

This clause deals with the payment of registration, reinstatement and annual practice fees, and requires registered persons to furnish the Board with an annual return in relation to their veterinary practice, continuing veterinary education and other matters relevant to their registration under the measure. It empowers the Board to remove from a register the name of a person who fails to pay the annual practice fee or furnish the required return.

Clause 37: Variation or revocation of conditions of registration

This clause empowers the Board, on application by a veterinary surgeon, to vary or revoke a condition imposed by the Board on his or her registration.

Clause 38: Contravention of conditions of registration

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration and fixes a maximum penalty of $75 000 or imprisonment for six months.

PART 4

VETERINARY PRACTICE

DIVISION 1—GENERAL OFFENCES

Clause 39: Prohibition on provision of veterinary treatment for fee or reward by unqualified persons

This clause makes it an offence for a person to provide veterinary treatment for fee or reward unless, at the time the treatment was provided, the person was a qualified person or provided the treatment through the instrumentality of a qualified person. A maximum penalty of $50 000 or imprisonment for six months is fixed for the offence. However, these provisions do not apply in relation to veterinary treatment provided by an employee of the owner of the animal in the course of that employment or by an unqualified person in prescribed circumstances. In addition, the Governor is empowered, by proclamation, to grant an exemption if of the opinion that good reason exists for doing so in the particular circumstances of a case. The clause makes it an offence punishable by a maximum fine of $50 000 to contravene or fail to comply with a condition of an exemption.

Clause 40: Illegal holding out as veterinary surgeon or specialist

This clause makes it an offence for a person to hold himself or herself out as a veterinary surgeon, specialist or particular class of specialist or permit another person to do so unless registered on the appropriate register or in the appropriate specialty. It also makes it an offence for a person to hold out another as a veterinary surgeon, specialist or particular class of specialist unless the other person is registered on the appropriate register or in the appropriate specialty. In both cases a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

Clause 41: Illegal holding out concerning limitations or conditions

This clause makes it an offence for a person whose registration is limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is limited or conditional as having registration that is not subject to a limitation or condition. In each case a maximum penalty of $50 000 or imprisonment for 6 months is fixed.

Clause 42: Use of certain titles or descriptions prohibited

This clause creates a number of offences prohibiting a person who is not appropriately registered from using certain words or their derivatives to describe himself or herself or services that they provide, or in the course of advertising or promoting services that they provide. In each case a maximum penalty of $50 000 is fixed.

Clause 43: Board's approval required where veterinary surgeon has not practised for 3 years

This clause prohibits a veterinary surgeon who has not provided veterinary treatment for 3 years or more from providing such treatment for fee or reward without the prior approval of the Board

and fixes a maximum penalty of $20 000. The Board is empowered to require an applicant for approval to obtain qualifications and experience and to impose conditions on the person's registration.

Clause 44: Veterinary surgeon to be indemnified against loss

This clause prohibits veterinary surgeons from providing veterinary treatment for fee or reward unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in the course of providing any such treatment. It fixes a maximum penalty of $10 000 and empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.

Clause 45: Information relating to claim against veterinary surgeon to be provided

This clause requires a veterinary surgeon to provide the Board with prescribed information about any claim made against the veterinary surgeon or another person for alleged negligence committed by the veterinary surgeon in the course of providing veterinary treatment. The clause fixes a maximum penalty of $10 000 for non-compliance.

DIVISION 2—PROVISIONS FOR AVOIDANCE OF CONFLICTS OF INTEREST

Clause 46: Interpretation

This clause defines terms used in the Part.

Clause 47: Veterinary surgeon or prescribed relative to inform Board of interests in prescribed businesses

This clause requires a veterinary surgeon or prescribed relative of a veterinary surgeon who has an interest in a prescribed business to give the Board notice of the interest and of any change in such an interest.

A prescribed business is a business consisting of or involving—

- the provision of a veterinary service; or
- the manufacture, sale or supply of a veterinary product.

A veterinary service is—

- veterinary treatment, veterinary pathology or veterinary pharmaceutical services; or
- veterinary hospital services; or
- any other service declared by the regulations to be a veterinary service for the purposes of this Division.

A veterinary product is—

- a veterinary pharmaceutical product; or
- any other product declared by the regulations to be a veterinary product for the purposes of this Division;

The clause fixes a maximum penalty of $20 000 for non-compliance.

Clause 48: Veterinary surgeon to inform client of interests in prescribed businesses

This clause prohibits a veterinary surgeon from recommending that a veterinary service provided by a prescribed business in which the veterinary surgeon or a prescribed relative has an interest, and from prescribing, or recommending that a veterinary product manufactured, sold or supplied by the prescribed business be used in relation to an animal unless the veterinary surgeon has informed the person apparently responsible for the animal in writing of his or her interest or that of his or her prescribed relative. A maximum penalty of $20 000 is fixed for a contravention. However, it is a defence to a charge of an offence or unprofessional conduct for a veterinary surgeon to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the recommendation or prescription that is the subject of the proceedings relates.

Clause 49: Offence to give, offer or accept benefit for recommendation or prescription

This clause makes it an offence—

- for any person to give or offer to give a veterinary surgeon or prescribed relative of a veterinary surgeon a benefit as an inducement, consideration or reward for the veterinary surgeon recommending or prescribing a veterinary service or veterinary product provided, sold, etc. by the person;
- for a veterinary surgeon or prescribed relative of a veterinary surgeon to accept from any person a benefit offered or given as a inducement, consideration or reward for such a recommendation or prescription.

In each case a maximum penalty of $75 000 is fixed for a contravention.

DIVISION 3—VETERINARY SERVICES PROVIDERS

Clause 50: Information to be given to Board by veterinary services provider

This clause requires veterinary services providers to provide certain information to the Board.

Clause 51: Improper directions, etc., to veterinary surgeon by veterinary services provider

This clause makes it an offence for a person who provides veterinary treatment through the instrumentality of a veterinary surgeon to direct or pressure the veterinary surgeon to act unlawfully, improper, negligently or unfairly in relation to the provision of veterinary treatment. It also makes it an offence for a person occupying a position of authority in a trust or corporate entity that provides veterinary treatment through the instrumentality of a veterinary surgeon to so direct or pressure the veterinary surgeon. In each case a maximum penalty of $75 000 is fixed.

DIVISION 4—VETERINARY HOSPITALS

Clause 52: Illegal holding out of facility as veterinary hospital

This clause makes it an offence to hold out a facility as a veterinary hospital or animal hospital or permit another person to do so unless the facility is accredited as a veterinary hospital by the Board. A maximum penalty of $50 000 is fixed.

Clause 53: Accreditation by Board of facility as veterinary hospital

This clause contains procedural matters relating to the scheme for accreditation.

Clause 54: Requirement to inform Board on becoming owner or occupier of facility accredited as veterinary hospital

This clause requires a person to provide certain information to the Board relating to accredited facilities.

PART 5

INVESTIGATIONS AND PROCEEDINGS

DIVISION 1—PRELIMINARY

Clause 55: Interpretation

This clause provides that in this Part, the terms "occupier of a position of authority", "veterinary surgeon" and "veterinary services provider" includes a person who is not but who was, at the relevant time, the occupier of a position of authority, a veterinary surgeon or a veterinary services provider.

DIVISION 2—INVESTIGATIONS

Clause 56: Powers of inspectors

This clause sets out the investigative powers of an inspector.

An inspector may investigate a matter where there are reasonable grounds for suspecting—

- that there is proper cause for disciplinary action against a person (*see* Division 4); or
- that a veterinary surgeon is medically unfit to provide veterinary treatment; or
- that any other person is guilty of an offence against the measure.

An inspector may also investigate whether the requirements determined by the Board to be necessary for accreditation of a facility as a veterinary hospital are met in relation to a facility so accredited by the Board.

Clause 57: Offence to hinder, etc., inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector. A maximum penalty of $10 000 is fixed.

Clause 58: Offences by inspectors

This clause makes it an offence for an inspector to address offensive language to another person or, without lawful authority, to hinder or obstruct, use force or threaten the use of force in relation to another person. A maximum penalty of $10 000 is fixed.

DIVISION 3—MEDICAL FITNESS

Clause 59: Obligation to report medical unfitness of veterinary surgeon

This clause requires certain classes of persons to report to the Board if of the opinion that a veterinary surgeon is or may be medically unfit to provide veterinary treatment. A maximum penalty of $10 000 is fixed for non-compliance. The Board must cause report to be investigated.

Clause 60: Medical fitness of veterinary surgeon

This clause empowers the Board to suspend the registration of a veterinary surgeon, impose conditions on registration restricting the right to provide veterinary treatment or other conditions requiring the person to undergo counselling or treatment, or to enter into any other undertaking if, on application by certain persons or after an investigation, and after due inquiry, the Board is satisfied that the veterinary surgeon is medically unfit to provide veterinary treatment and that it is desirable in the public interest to take such action.

DIVISION 4—DISCIPLINARY ACTION

Clause 61: Cause for disciplinary action

This clause sets out what constitutes proper cause for disciplinary action against a veterinary surgeon, a veterinary services provider

or a person occupying a position of authority in a trust or corporate entity that is a veterinary services provider.

Clause 62: Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint (laid before the Board in the manner and form approved by the Board) relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious.

If, after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can—

- censure the person,
- order the person to pay a fine of up to $10 000,
- impose conditions on the person's right to provide veterinary treatment,
- suspend the person's registration for a period not exceeding 1 year,
- cancel the person's registration,
- disqualify the person from being registered,
- prohibit the person from carrying on business as a veterinary services provider,
- prohibit the person from occupying a position of authority in a trust or corporate entity that is a veterinary services provider.

If a person fails to pay a fine imposed by the Board, the Board may remove the person's name from the appropriate register.

Clause 63: Contravention of prohibition order or order imposing conditions

This clause makes it an offence to contravene an order of the Board or to contravene or fail to comply with a condition imposed by the Board. A maximum penalty of $75 000 or imprisonment for 6 months is fixed.

DIVISION 5—GENERAL

Clause 64: Constitution of Board for purpose of proceedings under this Part

This clause sets out that the Board is to be constituted for the purpose of hearing and determining proceedings under the Part of the legal practitioner and 2 other members, at least one of whom must be a veterinary surgeon.

Clause 65: Provisions as to proceedings before Board under this Part

This clause deals with the conduct of proceedings by the Board under this Part.

PART 6
APPEALS

Clause 66: Right of appeal to District Court

This clause provides a right of appeal to the District Court against—

- a refusal by the Board to register, or reinstate the registration of, a person under the measure; or
- the imposition by the Board of conditions on a person's registration under the measure; or
- a decision made by the Board in proceedings under Part 5; or
- a refusal by the Board to accredit a facility as a veterinary hospital or a decision of the Board to suspend or cancel the accreditation of such a facility.

Clause 67: Variation or revocation of conditions imposed by Court

This clause empowers the District Court, on application by a veterinary surgeon, to vary or revoke a condition imposed by the Court on his or her registration.

PART 7
MISCELLANEOUS

Clause 68: False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure and fixes a maximum penalty of $20 000.

Clause 69: Procurement of registration by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person) and fixes a maximum penalty of $20 000 or imprisonment for 6 months.

Clause 70: Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1994*.

Clause 71: Self-incrimination and legal professional privilege

This clause provides that a person cannot refuse or fail to answer a question or produce documents as required under the measure on the ground that to do so might tend to incriminate the person or make the person liable to a penalty, or on the ground of legal professional privilege. If a person objects on either of the first two grounds, the fact of production of the document or the information furnished is not admissible against the person except in proceedings in respect of making a false or misleading statement or perjury.

If a person objects on the ground of legal professional privilege, the answer or document is not admissible in civil or criminal proceedings against the person who would, but for this clause, have the benefit of that privilege.

Clause 72: Punishment of conduct that constitutes offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

Clause 73: Vicarious liability for offences

This clause provides that if a trust or corporate entity is guilty of an offence against the measure, each person occupying a position of authority in the entity is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the offence by the entity.

Clause 74: Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act (the *Veterinary Surgeons Act 1985*) to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

- as required or authorised by or under this measure or any other Act or law; or
- with the consent of the person to whom the information relates; or
- in connection with the administration of this measure or the repealed Act; or
- in accordance with a request of an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide veterinary treatment, where the information is required for the proper administration of that law.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure. A maximum penalty of $10 000 is fixed for contraventions of this clause.

Clause 75: Protection from personal liability

This clause protects members of the Board or a committee of the Board, the Registrar, staff of the Board and inspectors from personal liability in good faith for an act or omission in the performance or purported performance of functions or duties under the measure. A civil liability will instead lie against the Crown.

Clause 76: Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences against the measure and disciplinary proceedings under Part 5.

Clause 77: Service

This clause sets out the methods by which notices and other documents may be served for the purposes of the measure.

Clause 78: Variation or revocation of notices

This clause enables the Board to vary or revoke a Gazette notice published under the measure.

Clause 79: Regulations

This clause empowers the Governor to make regulations for the purposes of the measure.

SCHEDULE

Repeal and Transitional Provisions

This Schedule repeals the *Veterinary Surgeons Act 1985* and makes transitional provisions relating to the constitution of the Board and other matters.

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I lay on the table minutes of evidence and written submissions of the committee on regulations under the Fisheries Act 1982 concerning the giant crab quota system and individual giant crab quota system.

HF RADIO SYSTEM

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement relating to the HF emergency radio system made in another place by the Hon. Michael Wright.

CRIMINAL LAW (FORENSIC PROCEDURES) (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 3 December. Page 1661.)

Clause 8.

The Hon. T.G. ROBERTS: I am testing the standing orders a little in relation to replies to questions that were asked last night. A lot of questions were raised in relation to forensic procedures which we were unable to answer because of the technical detail that was required by honourable members. I have a list of answers that have been provided by the Attorney-General's office and the Forensic Science Centre. If I have missed anything, honourable members can raise it again in committee. I have been provided with the following information in response to the questions raised.

1. It is envisaged that the number of DNA samples from suspects—that is, any persons arrested or reported for a serious offence—will be approximately 30 000.

2. The back capture of convicted offenders in prison will be approximately 1 000, and the back capture of convicted offenders on home detention will be approximately 100. The number of prisoners requiring sampling following completion of retrospective sampling will be minimal. The samples will be obtained when a person is arrested or reported.

3. The cost of consumable items, including buccal swab kits and video tapes, will be approximately $300 000 per annum.

4. SAPOL will bear the cost of the increased sampling.

5. The taking of samples will involve a small time component within the reporting or arresting process. This should be absorbed within existing resources. It is anticipated that an additional police officer and two administrative officers will be required to ensure the coordination and management of samples.

6. The anticipated number of tests for each of the summary offences are as follows:

- illegal use of a motor vehicle (first offence), 100;
- unlawful possession, 1 800;
- unlawfully on premises, 825;
- carry offensive weapon (including firearms offences), 1 800;
- indecent or offensive material, 30;
- gross indecency, 40;
- create false belief, 150;
- assault police, 800.

7. Primary responsibility for the coordination of samples, once collected, lies with the investigating officer. His responsibilities include: recording of samples on the police property management system; completion of required SAPOL documentation; and delivery of samples and documentation to the Forensic Science Centre.

8. All DNA samples are securely stored in exhibit property areas at respective police stations.

9. Regarding the prevention of mishandling samples, all samples are recorded on the police property management system, which enables them to be tracked and audited at any time. Procedures require all items that are used in the forensic procedures process for sampling for DNA to be sealed in a plastic bag and forwarded to the Forensic Science Centre. The seal is tamper-proof to ensure the integrity of the contents, and each kit carries unique identification in the form of a bar code. When a bag with DNA samples is handed to forensic science staff, it is checked to ensure that it has not been tampered with, and a further seal is placed on the bag which is endorsed by the SAPOL member.

10. Efforts will be made to absorb the cost of training of police officers in the legislative changes. The cost of consumables for training approximately 1 500 police officers in sampling procedures will be approximately $24 000.

In relation to the questions on forensic procedures, the answers have been supplied by the Forensic Science Centre. The Hon. Ian Gilfillan asked questions about the genetic information available from the testing (and I think the Hon. Rob Lawson asked the same question). The DNA profiling system used by the Forensic Science Centre in South Australia is also used throughout Australia and was selected following extensive discussion at a national level by the forensic science community. The system determines size variation of very small segments of DNA known as short tandem repeats at nine different locations (called loci) through the human genome (the 23 pairs of chromosomes). These loci do not provide any other genetic information besides providing individual identification.

The Hon. R.D. Lawson asked a question relating to the number of extra tests that will result from the legislation and the resource implications. Early briefings were provided concerning various outcomes determined by the extent of the legislation. The number of prisoners involved would be only the current population of about 1 000 and a further 540 per annum. One extra FTE would be required at a total cost of $72 000. If the legislation includes summary offences, an extra 4 500 person samples plus an extra 2 500 crime scene samples are estimated, based on figures provided by SAPOL. This would require an extra three full-time equivalents for the person samples and an extra five full-time equivalents for the crime scene samples. Crime scene sample processing has a significant manual handling component for the location, recording and removal of relevant body fluid stains. The cost of this operation has been estimated at between $900 000 and $1 million. In addition, the extra sample volume that would result from this legislation will require capital expenditure of $545 000 spread over three years and an ongoing additional $50 000 per annum.

In relation to questions about cutting the forensic science budget, the reduction of $346 000 in the forensic science budget referred to represents the targeted 5 per cent savings required by DAIS, if this can be achieved. Questions were asked relating to the availability of skilled staff. There are sufficient good quality molecular biology graduates coming out of South Australian universities. Training for people to be productive in contributing to the through-put of person samples (prisoners, convicted offenders, etc.) would take

about three to six months. Training people to develop experience in performing the role of court reporting takes considerably longer at two to five years.

The main impact of the legislation will be a significant increase in the person samples. This can be addressed through the recruitment of available people with appropriate qualifications followed by in-house training. As regards questions relating to training costs, Forensic Science has a well-developed and structured training program for DNA staff, and costs are absorbed within the existing budget. The main impact of training is loss of productivity until the person is able to fulfil the required tasks.

With respect to questions relating to the extent of case backlog, the DNA casework falls into two areas: criminal cases (where a suspect is known and all samples are available) including serious crime, such as homicide, assaults, and so on. The work requires experienced court going scientists. The current backlog is about 300 cases, which represents approximately six months' work; and database cases, which comprise crime scene samples (where there is no known suspect) and person samples from convicted offenders. The current backlog is about 750 cases, which represents about three months' work. Interviews are currently taking place for three DNA staff positions.

With regard to questions relating to whether the Forensic Science Centre conducts an independent testing regime, Forensic Science is accredited under the National Association of Testing Authorities (NATA) forensic science program. One of the requirements of accreditation is participation in independent proficiency testing programs. One of the programs is run by Collaborative Testing Services (CTS) in the USA, and it provides samples to laboratories throughout the world. These samples are designed to replicate typical forensic science case network situations. The results of analyses are submitted to CTS, which correlates the responses and issues a comprehensive report in which individual laboratory performances can be judged against all participating laboratories.

NATA also reviews proficiency test results of accredited laboratories via its proficiency review committee to ensure that standards are maintained. At the biennial accreditation assessment, NATA inspects all proficiency test results. Beside the international CTS program, Forensic Science participates in a number of national programs organised within Australia. This information is signed by Dr Hilton Kobus, Director, Forensic Science, Department of Administrative and Information Services.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The honourable member says that it is a bit different.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: When the briefing was provided, and I had an adviser from the Attorney-General's office, I did not have a forensic expert with me. I thought the honourable member may have been a little more aware of the circumstances.

The Hon. R.D. LAWSON: I thank the minister for that very comprehensive response, and I express my appreciation for the work obviously done by officers in a short period of time to provide that very useful information for the record.

Yesterday, the Hon. Angus Redford asked the minister about outside testing of the forensic science service. Today, the minister has indicated that outside testing is undertaken through the various accreditation processes to which he referred. I am certainly reassured by the minister correcting what I think was an error in his answer yesterday, albeit an inadvertent error by him.

The Hon. A.J. Redford: He's gone doggo on me! He nearly got into trouble.

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

The Hon. R.D. LAWSON: My attitude to this legislation on DNA testing has been moulded in many respects by the very comprehensive judgment that Mr Justice Mullighan handed down in the case of the Queen v Karger, delivered in March of 2001. In that judgment, the judge heard considerable evidence about the whole process of DNA testing adopted in South Australia and, in particular, in the forensic science service. In that case, the defence undertook a very extensive attack upon the processes of the Forensic Science Centre, the equipment used and the methodology. It was an international scientific debate, because there had been a couple of cases in the United States where some of the equipment and methods used in South Australia had not been accepted.

The judge analysed evidence from all over the world, including from two American experts and from services such as the Royal Canadian Mounted Police and the FBI. A vast array of scientific literature was analysed, and the judge confirmed the appropriateness of the methodology, its scientific acceptability and reliability. He described not only the methods used but also the qualifications of personnel. In a number of places, in a very long judgment of some 118 pages, he emphasised that a peer review, outside review and all sorts of checks and balances are maintained in this procedure in South Australia. In particular, officers check each other's work independently, and a continual record is made, so that, in the event of prosecutions and subsequent analysis, the whole work can be re-examined. NATA accreditation, to which the minister referred, is an important part of that.

I will not go through the detail, but at page 35, in relation to the analysis procedures, the judge stated:

> It is not a case of one analyst checking the work of another. As the raw data is retained, it may be interpreted by another scientist in the future, which is of importance in the forensic context, because it may be made available to any person with an interest in the result of the analysis, including a person charged with a criminal offence for interpretation by a scientist of his or her choice.

The accreditation schemes and the protocols which have been developed as a result of international experience are laid down. I am reassured by the fact that our Forensic Science Centre in this state is available to both the prosecution and the defence in criminal cases. It has an open-door policy, and that is a very important issue. DNA is not some secret process that is available only to police. That is an extremely important protection for the integrity of our system.

The Hon. T.G. CAMERON: For the ease of debate, I indicate that I am supporting the Hon. Robert Lawson's amendment in relation to written records; that I will not be supporting his amendment in relation to the taking of samples of hair; and that I will be supporting all the amendments standing in the name of the government.

The ACTING CHAIRMAN: For the Hon. Mr Cameron's benefit, we have dealt with those amendments. The only amendment that is outstanding is the amendment to clause 8, which was postponed.

The Hon. R.D. LAWSON: For the benefit of the committee, clause 8 does relate to hair. I am rather disappointed to hear the Hon. Terry Cameron say that he will not support us; however, I will be moving the amendment

standing in my name. Before we do so, we will attend to the matters arising out of the answers provided.

The Hon. A.J. REDFORD: Given the significant tightening up of the application of standing orders in the last 24 hours, I seek your indulgence to ask a question in relation to some answers that were given to me in response to questions that I asked yesterday. I am grateful to Dr Kobus for providing an answer to my question concerning independent testing and the regime that applies in this case. In his answer I note that the minister referred to the results of analyses being submitted to collaborative testing services and, in turn, that they issue comprehensive reports on the performance against all participating laboratories. Can the minister enlighten the committee as to what the reports are indicating in terms of the performance level of the laboratory?

The Hon. T.G. ROBERTS: As I expected, the Forensic Science Centre has come through all of the tests and examinations that it has been put through. The reports indicate that the proficiency, efficiency and effectiveness of the body is such that it passed all the tests that it had to go through.

The Hon. A.J. REDFORD: How long has this independent testing regime been in existence?

The Hon. T.G. ROBERTS: It has been part of the program since 1990.

The Hon. R.D. LAWSON: If I might assist the minister, I do have the report of the Karger case, where the following appears at paragraph 244:

> In September 1998 NATA again assessed the Forensic Science Centre over a period of five days. The inspectors reported that the centre complied with all accreditation criteria. They reported: 'Overall this laboratory was found to maintain a high standard of operation. It is staffed by well-qualified, competent and enthusiastic personnel.'

The Hon. A.J. REDFORD: I thank my colleague for that. I have one comment to make, then a final question, and then I will leave the minister alone. There are certain elements within the community who have expressed disquiet with certain aspects of our criminal justice system, either rightly or wrongly, but there certainly is a level of disquiet. One has only to turn on the radio to hear that level of disquiet, or watch the odd television program. I will explore this theme a bit later on, in another contribution. In my view, public confidence in our institutions and the administration of justice is a very important factor in our democratic society. To that end, it seems to me that it would be appropriate to make those accreditation reports public and put them on the Internet, so that some of the things that have been put to me privately can, for people like me, be put to rest very quickly. In light of those comments, my questions to the minister are:

1. Are these documents publicly available? Is it possible for me to get copies of them, for argument's sake?

2. Could they be put on a web site?

3. If they are not available, would the government consider making them public with a view to enhancing public confidence in that aspect of our criminal justice system?

The Hon. T.G. ROBERTS: It appears that those reasonable requests can be complied with but, as those requests have only just been made, personnel would have to go back through the minister to get that clearance.

The Hon. A.J. REDFORD: My only comment is that an FOI is on its way.

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

> Leave out this clause and insert:
> Substitution of s.13
> 8. Section 13 of the principal Act is repealed and the following section is substituted:
>
> Taking samples of hair
> 13.If a sample of hair that includes the root of the hair is to be taken from a person in the course of a forensic procedure, the person carrying out the procedure must ensure that—
> (a) the person takes only so much hair as he or she believes is necessary for proper examination or analysis of the sample; and
> (b) each strand of hair is taken individually using the least painful technique known and available to the person.

By way of explanation, I should explain to the committee that section 13 of the Criminal Law (Forensic Procedures) Act currently provides:

> A person carrying out a forensic procedure that involves taking a sample of hair must not remove the root of the hair unless specifically authorised to do so by the person from whom the sample is taken.

In other words, presently the law prohibits removing the root of the hair, unless the person whose hair is being removed actually consents to that process. The bill introduced by the government will change that, and section 13 will now provide:

> A sample of hair taken from a person in the course of a forensic procedure must not be used for the purpose of obtaining a DNA profile of that person unless the person has specifically requested that the DNA profile be obtained in this way.

So, the prohibition that currently exists is proposed to be removed. You will be able to take hair but you cannot use it for the purpose of obtaining a DNA profile unless the person specifically consents. I ask the minister to indicate whether any similar prohibition applies in any other state or jurisdiction, namely, a prohibition against using hair for the purpose of obtaining a DNA profile? I know that it is said, in the scientific literature, that hair is not the best material from which a DNA profile can be obtained, but it is one possible source of DNA.

My amendment seeks to replicate provisions which appear in the legislation of the commonwealth and other states. My amendment will continue to allow the taking of samples of hairs but, if a sample of hair includes the root of the hair, it must be taken in a way that is the most humane that legislators can provide: namely, the person carrying out the procedure must ensure that the person takes only so much hair as he or she believes is necessary for proper examination or analysis of the sample; and each strand of hair is taken individually using the least painful technique known and available to the person.

The Hon. Ian Gilfillan: How many techniques are there?

The Hon. R.D. LAWSON: There are as many techniques as the ingenuity of the human mind can determine. However, section 23XL of the Commonwealth Crimes Act has exactly the same provisions in relation to the taking of hair samples, namely, only so much hair as is necessary, and each strand must be taken individually by the least painful technique known and available to the person. Similarly, the Tasmanian Forensic Procedures Act 2000, which is now the act that, in a number of respects, ours will follow quite closely, also contains a provision (section 37) which once again talks about single hairs and using the least painful technique known and available to the authorised person.

The Hon. T.G. Cameron: What is the least painful method?

The Hon. R.D. LAWSON: Well, I don't know whether it is using a pair of tweezers or—

The Hon. T.G. Cameron: It is your amendment. What is the least painful method?

The Hon. R.D. LAWSON: My amendment is really based on the fact that others have adopted a legislative procedure which seems to be well accepted, and bear in mind there is a general provision in the act—I cannot point my finger to it—that provides that any forensic sample taken must be taken in the most humane way and the one least likely to cause pain or inconvenience to the person from whom the sample is taken.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: No, my amendments will bring South Australia into line in this respect with provisions that apply in other states. The first question after those introductory remarks to the minister is: do similar prohibitions to that contained in proposed section 13 of the government's bill apply in any other state or territory? If so, which state or territory precludes the use of hair for obtaining a DNA profile?

The Hon. T.G. ROBERTS: I thank the honourable member for his patience and support in the progress of this bill so far. In reply to the honourable member's interjection in relation to the least painful way, I think you would have to ask a nurse and work back from there, because they would probably use the most painful way. It would be an elastoplast across the head, taken off at four o'clock in the morning while you are fully awake.

Probably the least painful for some of us would be to go back to our school caps and get the hairs that remain in there, because there would not be too many of us who would have good samples to work from today—but I jest. In answer to the question, no other state prohibits the hair removal, but no other state specifically allows for the taking by fingerprick of blood samples either, which is a much superior method.

The Hon. R.D. LAWSON: If the police in no other state are precluded from taking a sample of hair for the purpose of obtaining a DNA profile, why is it that in South Australia we should prohibit the police from doing that?

The Hon. T.G. ROBERTS: We go for the fingerprick, which is a more reliable way.

The Hon. R.D. LAWSON: The minister says that we go for the fingerprint. There may not be a fingerprint available.

The Hon. T.G. ROBERTS: Fingerprick—the blood sample.

The Hon. R.D. LAWSON: Blood sample, pinprick, yes. A lot of people might say that they would prefer to have a single hair removed from their head rather than have a blood sample taken by pricking their finger.

The Hon. T.G. ROBERTS: Our amendment allows for that option.

The Hon. R.D. LAWSON: Well, I certainly press the amendment in the light of the minister's concession that no similar prohibition applies in any other state. The circumstances in which it might be necessary to obtain DNA from a particular person are many and varied, and it seems to me that the government has not made a good argument for excluding the use of hair for DNA purposes in the way in which it is proposed. My amendment would allow for hair to be taken and, if it is taken, to be taken in the most humane way in the same way that applies in other jurisdictions.

The Hon. IAN GILFILLAN: I find it somewhat baffling and difficult to actually see clearly the difference between the government's position and the amendment that is currently before us. I understand that the government's legislation actually does allow for the taking of a hair for a DNA sample, provided there is consent from the victim—I suppose that is the best word to use in this context.

The Hon. R.D. Lawson: 'Suspect'.

The Hon. IAN GILFILLAN: Well, yes, but the amendment does not give the victim, to be consistent with my language, that option. Is that the difference?

The Hon. T.G. ROBERTS: That explanation is correct.

The Hon. R.D. LAWSON: Before the Hon. Terry Cameron heard the debate, he indicated that he was not inclined to support my amendment, but now that he has heard the debate it would actually be of benefit to the committee if he would indicate his position on the matter. I do not want to divide unless absolutely necessary.

The Hon. T.G. CAMERON: Despite the persuasive oratory on the part of the shadow attorney, I am not convinced that we need to support this amendment. The taking of a blood sample I think would be sufficient. So I will still be supporting the government's position.

The Hon. A.L. EVANS: I have given a fair bit of thought to it and looked at the various possibilities of this situation, and I will oppose the amendment.

Amendment negatived; clause passed.

Schedule.

The Hon. R.D. LAWSON: How were the summary offences that are listed in the schedule selected from the vast array of summary offences that appear on our statute book?

The Hon. T.G. ROBERTS: The Attorney and the Police Commissioner cooperated in the compilation of the list. The Attorney asked the Commissioner of Police, and the Commissioner of Police provided the list.

Schedule passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (SENTENCING GUIDELINES) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

(Continued from 3 December. Page 1651.)

The CHAIRMAN: When the committee last met the Minister for Aboriginal Affairs and Reconciliation, representing the government, moved that the council do not insist on its amendments. I understand that some discussions have taken place and the committee is prepared to further debate or to vote on the question. I will put the question.

The committee divided on the motion:

AYES (8)

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

NOES (10)

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

PAIR(S)

Sneath, R. K.	Schaefer, C. V.

Majority of 2 for the noes.

Motion thus negatived.

LOCAL GOVERNMENT (ACCESS TO MEETINGS AND DOCUMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 1653.)

The Hon. T.G. CAMERON: I indicate my support for the bill.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his support and his brief reply.

The Hon. T.G. Cameron: For his intelligent contribution!

The Hon. T.G. ROBERTS: I will not say it is the best he has made in the chamber since he has been here because he is supporting it. I thank the Hon. A.J. Redford and the Hon. Ian Gilfillan for their contributions and their general support for the bill, and certainly the Hon. Terry Cameron. The bill contains several measures councils would like to see enforced this year, and the cooperation of members in dealing with this bill is appreciated. On Tuesday, the Hon. Terry Cameron asked three questions in question time relevant to this bill. I can provide the answers to those questions now. First, he asked how many times South Australian councils went in camera in 2001-02. These statistics are not currently required to be reported by councils, and they have not been collected by the Office of Local Government or the Local Government Association.

Some councils voluntarily include statistics in their annual reports. Councils' annual reports for 2001-02 are required to be submitted to parliament by 31 December 2002. The figures provided by 18 councils in their annual reports for 2000-01 indicate a range from less than 1 per cent to more than 15 per cent of items that were considered in confidence. Some care needs to be taken in drawing conclusions from this, as councils reported at different levels of detail. For example, if a particular matter was considered on several occasions, this might be reported as one item or as several items. Under the amendments to schedule 4 proposed in clause 33(b) of the bill, each council will be required to report annually on the use of sections 90 and 91 by the council and its committees.

At the request of the Local Government Association, the exact information to be reported will be prescribed in regulations rather than set out in the schedule to allow for more consideration of how extensive this needs to be. Statistics alone do not provide any information about whether a council is using the provisions appropriately, but some patterns may emerge that are of assistance to councils and to others in monitoring the use of the provisions. Secondly, the Hon. Terry Cameron asked whether any procedures were in place whereby the state government determines whether local government going in camera in any specific matter is suitable; and what checks and balances are in place to ensure that councils comply.

Under section 94 of the current act, the Ombudsman may, on receipt of a complaint, carry out an investigation if it appears to the Ombudsman that a council may have unreasonably excluded members of the public from its meetings or unreasonably prevented access to meeting documents. The Ombudsman is required to supply the minister and the council with a copy of a report of an investigation under section 94. If the minister believes the council has unreasonably excluded members of the public from its meetings or unreasonably prevented access to meeting documents, the minister can give directions to the council about the future exercise of these powers or direct the council to release information that, in the minister's opinion, should be available to the public.

Since the Ombudsman was allocated this specific power in 1996, the level of complaint has been fairly low. However, there is some evidence that the provisions are used too automatically without explicit consideration of open government principles in each case and evidence of some public concern, particularly in relation to the use of informal meetings. This concern comes through in the submissions made on the draft bill by resident and ratepayer groups and some individuals. The bill rationalises and reduces the number of grounds that councils may use to exclude the public from meetings and to restrict automatic access to meeting documents.

In terms of enforcement and best practice, the bill proposes a new section 93A, setting out a power for the Ombudsman on his or her own initiative to conduct a review of the practices and procedures of one or more councils or council committees relating to access to meetings and meeting documents. This corresponds to the general power for the Ombudsman to conduct an administrative audit contained in the Ombudsman's (Honesty and Accountability in Government) Amendment Act. It will ensure that there is capacity to respond to public and media concern in this area that, for whatever reason, has not translated into formal complaints. The intention is that, in future, the Ombudsman's reports of investigations and audits will be more widely publicised so that valuable lessons learned are available to the whole local government sector.

Thirdly, the Hon. Terry Cameron asked whether the state government has a strategy to assist local councils that do not have a web site to produce, publish and operate one and, if not, whether the government will investigate the need for such a strategy. His concern is that it seems unreasonable to require councils to place certain information on the internet if some councils do not have a web site. There is an existing program, the Electronic Services Program (ESP), funded through the commonwealth government's Networking the Nation Local Government Fund and managed by the Local Government Association. It aims to assist regional councils to deliver services on line. Phase one of the ESP is the Dynamic Council Web Sites project. This project has delivered a web based publishing mechanism for council web sites.

In August 2001, around 25 councils were without web sites. This number has been significantly reduced and it is anticipated that, by the end of June 2003, all councils will have a web site, satisfying minimum legislative requirements. Section 132(3) of the Local Government Act, which deals with making certain council documents available on the internet, provides that a council should do this 'so far as is reasonably practicable'. Proposed new section 94A in clause 17 of the bill concerning placing a schedule of council and committee meetings on the internet also uses the phrase 'so far as is reasonably practicable'. So the provisions recognise that not all councils have web sites, although progress has been made since 1999 when section 132(3) was introduced.

The Hon. A.J. Redford referred to the issue raised by the member for Heysen in another place, which is that section 54(2) requires a sitting council member to vacate their office if they unsuccessfully contest a supplementary vacancy for a different office on the council. However, a council member can contest elections for state or federal parliament

and, according to section 54(1)(e), will lose their council office only if they become a member of state or federal parliament. The question is whether there is any reason for this difference. The minister's office has provided information to the member about why the provisions of section 54(1)(e) and (2) are in their current form. The provisions about loss of office for a sitting member contesting another vacancy on the council have a long history.

The provision has been in its current form since 1984 when local government terms changed from split terms with half the members retiring annually to all-in/all-out terms. Prior to 1984, a member had to resign in order to nominate for a vacancy for a different office on the council (unless their term was due to expire anyway at the election in question). That member could find themselves in a position where nominations were called for their former office before the election they were contesting was concluded, with the result that they could not renominate for their former office if unsuccessful. The current form of the provision where a candidate loses their former office and creates a vacancy at the conclusion of the election ensures that, if a sitting member contesting another office on council is unsuccessful, that person has the opportunity to regain their former office. This is also fair to potential candidates who are not sitting members, including unsuccessful candidates for the alternative position who may want to contest the former member's original office. I hope that is all clear.

If, when nominations are called for the original position, there is no opposition and the electorate is happy for the former member to continue, the member will be re-elected unopposed with little expense or inconvenience but with a clear mandate to continue in that office. Prior to the Local Government Act 1999, members of a local council could simultaneously hold office as members of parliament. The issue here is the potential conflict in public duties that may arise if both offices are held simultaneously, so unsuccessful candidates for state or federal parliament who are council members are not required to vacate their office on council.

This bill was not designed to address vacancies or electoral provisions generally. At the request of the City of Mount Gambier, clause 7 of the bill inserts a new section 54(2a) to provide that sitting councillors who unsuccessfully contest a supplementary election for a different office on council will retain their former positions instead of losing office at the conclusion of the supplementary election, if the vacancies that would otherwise be caused by them losing office arise within five months of polling day for a general local government election.

Under the Local Government Elections Act 1999, casual vacancies are not filled if they occur within five months of polling date. So, there is no reason to insist that unsuccessful candidates who are sitting members lose office in this period. If this bill is passed and brought into force before 16 December, this provision will assist the Mount Gambier council retain members currently contesting the mayoral election. The amendment already proposed in clause 7 of the bill covers the situation from now until after the next government elections; so, there is no urgent reason to change other provisions of section 54.

The government intends to review aspects of the local government representative and electoral system, and these provisions can be re-examined as part of that review. This would allow for more thorough investigation of similar provisions at local, state and commonwealth level, and for consultation with councils and the community on any options for change. The government is confident that clause 7, which has very limited effect, will have no unintended consequences. This may not be true for other amendments to section 54 made 'on the run' (at the time of writing, no amendment on this issue had been filed).

As the Minister for Local Government has explained in another place, the government's initial focus in relation to rating has been on the most vulnerable ratepayers. The government has challenged councils to monitor the impacts of their rates and make appropriate rate relief available. It is indicated that if rating structures for 2003-04 do not show that councils are taking responsibility for the impact of their rating decisions on the most vulnerable ratepayers, steps will be taken to incorporate mandatory relief measures in the legislation. The bill contains some very useful provisions about rating that are sought by councils considering changes to their rating structure.

It provides councils with a more general power to grant a rebate of rates where appropriate to phase in the impact of redistribution of rates arising from a change in the basis or structure of the rating system, and makes it administratively simpler for councils to use the rate rebate powers for the purpose of rate relief. The opposition's proposed amendments would not necessarily assist the most vulnerable ratepayers and may even mislead them into believing that their individual rates bill will not increase by more than a fixed percentage, or that they will be consulted if their individual rates bill would increase by more than a fixed percentage.

The Hon. A.J. Redford suggested that the effect of his amendment is that the councils will be required to consult 'if the effect of a new rate assessment on a particular property exceeds the inflation rate plus 1 per cent'. This is not the case. The 'trigger' for the consultation requirement in the honourable member's amendment is when the total general rate revenue the council is proposing to recover exceeds the total general rate revenue recovered for the previous financial year plus CPI plus 1 per cent. Increases in total rate revenue will not capture individual impacts due, for example, to sharp increases in property value in particular areas of a council.

Councils already have the capacity to respond to pensioner and disadvantaged ratepayers struggling to afford rate increases due to sharp escalations in the value of their property, for example, by providing rebates or remissions, and the government is determined to ensure that councils make more responsible use of these powers. The opposition's amendment is an attempt to ensure that there is more accountability generally between the council and all its ratepayers in relation to the level of rate revenue raised. Government agrees that councils need to be more accountable generally in relation to the tax that they levy.

The government's view is that a comprehensive approach is required to improving councils' integration of their strategic planning, their budgeted revenue and expenditure (including the anticipated impact on council rates), and their decisions about how rates will be distributed within the community and how appropriate relief will be provided. The government will be working to achieve this as a part of the broader project on the financial accountability of councils. Current steps include:

- a joint project with the Local Government Association on the capacity for councils to model rating impacts, including options available to overcome the effects of rapid and inconsistent changes in property valuations; and
- the revival of a local government financial accountability committee made up of accounting and allied professionals

to advise the minister and the Local Government Association on all matters relating to councils' financial accountability, including legislative and non-legislative measures for improvement, and to provide best practice support to councils.

These are designed to ensure that councils have the necessary capacity to do sophisticated modelling and interpret the results in ways that allow them to make the best possible use of existing provisions. Further work will be undertaken to determine legislative measures to support the integration of councils' strategic and financial planning. The opposition's approach risks derailing this systematic approach by diverting councils' energies into working around the requirement proposed in the opposition's amendment to consult in a particular way if the revenue to be raised from general rates exceeds the previous year's amount by more than CPI plus 1 per cent.

It is a consultation requirement, not a rates cap, but this will not stop most councils and their communities from seeing it as a de facto rates cap, which is how the media initially reported it. Councils may try to avoid the opposition's consultation requirement by adopting fiscally irresponsible strategies. They will certainly lobby the government for regulations specifying that rate revenue representing additional revenue due to growth in value attributable to new development should be excluded from the formula, along with the rate revenue required to fund any extraordinary cost increases not related to CPI.

This will involve the state government and the local government sector in counter-productive and, from the ratepayers' perspective, quite meaningless argument about which amounts are or are not legitimate to exclude. The Local Government Association opposes the amendment on the basis that it will not improve councils' management of rating decisions and would make the situation worse—this is local government's prediction about the effectiveness of the opposition's amendment. The government will continue to oppose the amendment. The Hon. Ian Gilfillan indicated his opposition to the length of the extension of time for the Adelaide City Council to prepare the management plan required under the Local Government Act for the Adelaide parklands.

I need to explain that it is not the case that the council is reluctant or has not got its act together. The council was initially given three years from the commencement of the Local Government Act on 1 January 2000 to produce the management plan. However, for most of the period, proposals likely to effect the Local Government Act provisions about the Adelaide parklands have been under consideration by state government or parliament, such as:

- in 2000 the development of and public consultation on the former government's City of Adelaide (Adelaide Parklands) Amendments Bill 2000, which was not proceeded with;
- in June 2001 the establishment of a select committee of the House of Assembly to assess and report on the long-term protection of the Adelaide parklands as land for public benefit, recreation and enjoyment, which did not report prior to the prorogation of parliament for the election.

The council developed a management strategy for the Adelaide parklands in 1999 with extensive public consultation. This was prepared as a high level strategic plan that would have been the sort of plan required had the former government proceeded with its proposed legislation on the Adelaide parklands. However, it did not meet all the specific requirements for a community land management plan under the Local Government Act. This year the Minister for Environment and Conservation established a Parklands Management Working Group to explore options for jointly achieving the vision of the government's Parklands Action Plan and the council's Parklands Management Strategy.

The preparation of a report on those options is under way. The extension of the Local Government Act requirement for a community land management plan recognises the difficulty of the council in proceeding with and consulting on the management plans under the Local Government Act, while broader proposals for the management of the Adelaide parklands are being developed and considered. It does not prevent the council from proceeding to prepare those management plans if it seems sensible to the council to do so.

A two-year extension brings the requirements into line with the requirement that applies to all councils in relation to community land management plans, and it should also be sufficient for the outcomes of the current process established by the Minister for Environment and Conservation that might affect the provisions of the Local Government Act to be considered, consulted on and implemented, and for the council to prepare comprehensive management plans. So ends the replies to the questions raised by members in their second reading contributions.

Bill read a second time.

[Sitting suspended from 5.55 to 7.45 p.m.]

In committee.

Clauses 1 to 6 passed.

New clause 6A.

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

Page 4, after line 30—Insert new clause as follows:

Amendment of section 50—public consultation policies

6A.Section 50 of the principal act is amended by inserting after subsection (9) the following subsection:

(1) Subject to any other provision of this act, a council may, for the purposes of this act, combine a report and public consultation process required under one provision of this act with a report and public consultation process required under another provision of this act.

I point out to members that the opposition has a related amendment to insert new clause 17A. Subject to the concurrence of the committee, I propose to treat both amendments together as they are conditional upon each other; in other words, this amendment is a test for both issues. Yesterday during my second reading contribution I set out the basis upon which the opposition suggests that this bill would be improved by the insertion of proposed new clause 6A. Before dinner, the government responded to some of the comments that I made during my second reading speech.

I remind members that this provision is about ensuring greater accountability of councils in the setting of rates. It has been brought about particularly as a consequence of quite substantial rate increases that have occurred throughout the past 18 months which we know are the result of the recent property boom which substantially was caused by the strong and sensible economic management of the Howard government and of course the flow through of the strong and sensible economic management of the former state government.

As I pointed out, we are increasingly concerned that a number of people, particularly in some of the more fashionable areas of metropolitan Adelaide, are being driven out of

their homes because they are asset rich and income poor. In his second reading reply, the minister, if I understood him correctly, said—I am sure that if I am wrong he will tell me—that the government was going to consider this issue over the next 12 months and that, if things did not improve and if local government did not behave, it would bring in a cap. I think this is part of an all-encompassing review—we have so many nowadays—in relation to this issue and in relation to another issue.

My response to that is that the problem with our pensioners and our asset rich/income poor is here and now, today—not next year or the year after. These people are struggling usually on low or fixed incomes. Some of them are superannuants who have worked hard all their lives to build up equity in their home and, through no fault of their own, through the mere fact that the Howard government and the former Liberal government have been extraordinarily successful in their economic management, they are now in the middle of a property boom. So, in this respect I refute what the government says. Secondly—and I think this is unarguable—the opposition really has not dealt with the issue that this is—

The Hon. Diana Laidlaw: The opposition?

The Hon. A.J. REDFORD: Sorry, the government, or the opposition to my suggestion—

The Hon. T.G. Roberts: Government by opposition.

The Hon. A.J. REDFORD: I hadn't thought of that, but I might use it. You haven't done anything positive that I can recall. The minister was struggling the other day when he was looking at achievements in the short time he has been in office—but I digress. If I can make only one comment about the Local Government Association's response, I accept that it might create some more work for local government, and one would expect local government, when confronted with a clause that might create some extra work for it, to oppose it. It is all too rare that the LGA criticises local government. On that basis, I urge all members to support the amendment.

The Hon. T.G. ROBERTS: The government does not support the amendment, mainly on the basis that the bill tries to come to terms with some of the problems that the honourable member raises. If the differential rate system throws up anomalies, or if there are general classifications within communities where there is hardship, this bill tries to set up a negotiating process or a consultation process involving the LGA and the individual local governments that set rates, to discuss those issues within council boundaries and to look at declaring rates that take into account some of the anomalous situations that may arise.

There probably would be circumstances where there would not only be a rapid increase in some of the more well-appointed areas of the state where people may be asset rich and cash poor, but also there will be some anomalous situations where people are genuinely poor and have very few assets other than perhaps their home and a car.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: That is the point we are making. We say that within the bill there is a structure, a process, a strategy.

The Hon. A.J. Redford: Perhaps it's not working.

The Hon. T.G. ROBERTS: By moving an amendment such as this, the honourable member has isolated a process in an integrated program that would perhaps even interfere with what he is trying to achieve. I trust the member is an honourable person and that he is trying to achieve a fair and reasonable system that takes into account those anomalous situations and those areas where people could be assisted by including the process that the government has put forward, that is, a joint project with the Local Government Association on the capacity for councils to model rating impacts, including options available to overcome the effects of rapid and inconsistent changes in property valuations and a revival of local government financial accountability. It will be a committee made up of accounting and allied professionals to advise the minister and the Local Government Association. It is a cooperative plan involving all of those people involved in local government. It is not just an isolated formula.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, this government is trying to bring together those people in local government.

The Hon. A.J. Redford: How?

The Hon. T.G. ROBERTS: By putting together strategies that bring them around the table to discuss issues and provide formulas for working together. Hopefully, rather than a formula provision, as included in the honourable member's amendment, the people who are responsible are seen to be responsible by having the round table discussions required to achieve outcomes in a constructive and integrated way.

I understand the Hon. Mr Cameron has indicated that he will support the opposition's proposal, so I guess the situation now is a pretty simple one. Although he is not with us at the moment, he has indicated where his vote is to go. I do not think any of the arguments the honourable member puts up will sway me and I do not think anything I am going to say will dissuade the honourable member from his proposition.

The Hon. IAN GILFILLAN: I indicate Democrat opposition to the amendment. Before I read an email that I received from Brian Clancy of the LGA, I mention that our general philosophy is that local government is master or mistress of its own destiny. It is an emerging tier of government in which the minimum amount of interference from the state parliament should take place. That is the basis on which I would normally react, and I see no reason to divert from it in the case of this particular amendment. However, I will deviate from that slightly down the track in relation to an amendment regarding the parklands, because I believe they are a treasure for all South Australians and not just the prerogative of the Adelaide City Council. I will talk more about that later. I received this email from Brian Clancy, Director, Legislation and Environment, Local Government Association on 2 December. It states:

> Dear Ian,
>
> Re Local Government Amendment Bill.
>
> Further to our telephone discussion late last week, I confirm that the LGA has no concerns in relation to the above bill as introduced to the Legislative Council. The LGA is opposed to an opposition proposal regarding council rates. Our view is that it would make the situation worse.
>
> The LGA acknowledges that there were some problems earlier this financial year. A primary cause was inconsistent valuation increases within individual council areas. To address these problems, the LGA and the Minister for Local Government, the Hon. Jay Weatherill MP, have initiated a joint project titled, 'Identifying Rating Improvement Opportunities'. The principal outcome will be to provide tools to enable councils to comprehensively model the impacts of possible rating changes and movements in valuations. Work is also being undertaken on the means to communicate rates, related information and the use of relief mechanisms. We are confident that this will produce significant benefits for the sector and the community through the enhanced management of rating decisions.
>
> It is also agreed that councils need to place greater emphasis on long-term financial plans with direct links to their strategic management plans which require community consultation under the Local Government Act. Project funding has been confirmed. A brief has

been prepared to enable work to commence so that these benefits are available in time for council preparations for the year 2003-04.

That reassures us that there is no point supporting the opposition amendment. Nothing will influence life in the rateable world before the year 2003-04, and I will be interested and enthusiastic to make sure that the LGA and the minister follow through on this undertaking.

The Hon. A.J. REDFORD: I will make one response to the minister. I know that there are a lot of accusations about upper house members being out of touch, but I have to say that there is nothing more out of touch than an upper house minister. My understanding of what he is saying is that when I get my next telephone call from a constituent complaining about the massive rate increase and that they are concerned about whether or not they can hold onto their house, I am supposed to say to this poor person, 'Don't worry, mate. The government is putting together strategies and programs to get outcomes in a constructive and integrated way.' That, I understand, is going to bring forth the response from the poor struggling pensioner, 'Gee, I am grateful. Thank you very much. Why didn't I think of that myself? I will quickly rush and empty my bank account and pay this year's rates.'

I am not as politically smart, sometimes, as the minister, and I do not have the courage to tell these poor battlers that the government is putting together an integrated, constructive strategy and there is going to be a program, and it will get an outcome. I am sure that, when they go without their loaf of bread or their next meal in order to pay these exorbitant rate increases, they will do so in the comfort that this process is under way. That might suit the minister's constituents, but the average pensioner and self-funded retiree who rings me is not going to accept that as an outcome. In that respect, I beg to differ from the minister.

The politician in me deeply hopes that we get knocked off on this, because we will have a lot of fun out there in the community blaming the government for rate increases. However, the good part in me urges me to fight very hard and very strongly, because it is pensioners here, today, who are struggling under this government that just sits idly by on its hands while people in local government seem to want to lift people's hard-earned living standards out of their pockets and take it away from them forever.

The Hon. T.G. ROBERTS: Nearly every session, a new working-class champion finds their way into the Legislative Council on the conservative side of politics, and we have thrown another one up now. If the honourable member receives a telephone call about the rates set by a local government authority in the caller's area, I would expect him not to take the call and canvass it and explain in the way that he has just outlined. I would advise the caller to go back to the local government that set the rate, because there would be a process in place that would deal with the problem that was raised by the individual ratepayer.

Members interjecting:

The Hon. T.G. ROBERTS: You have to use the English language in this place, I am afraid. Some people can use foreign languages, but I am stuck with English. The honourable member's amendment does not take into account the differentials between various rates: it looks at the rate on a particular property that exceeds the inflation rate plus 1 per cent. It is taken on the total rate revenue: it is not looking at individual cases.

Members opposite have taken a Stalinist view of the whole proposition in relation to the raising of total revenue. What we are doing is breaking it down into bite-size chunks, so that people can take their individual problems back for reassessment if there is an anomaly that needs to be addressed within the framework. The government is saying that the program that was put together makes sense. It has a form and structure; perhaps that is a term that the honourable member can identify with: 'form and structure'. That is another one for him to jot down.

It is not an amendment made on the run just to interfere in the government's program, to create mayhem and then to advertise to the world in general that his amendment, which was going to be the be-all and end-all for solving the problems of individual ratepayers, was defeated by those heartless people in the Legislative Council. The amendment does not go to the heart of the matter and does not achieve the outcomes that the honourable member has described. So, we hope that the committee recognises the government's position and supports it.

The committee divided on the new clause:

AYES (8)

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

NOES (8)

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

PAIR(S)

Stephens, T. J.	Gago, G. E.
Cameron, T.G.	Evans, A. L.

The CHAIRMAN: There being an equality of votes, I give my casting vote to the noes.

New clause thus negatived.

Clause 7.

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

Page 4, lines 32 to 37—Leave out all words in these lines after 'amended' in line 32 and insert:

(a) by inserting after paragraph (d) of subsection (1) the following paragraph and word:

(da) is elected to another office in the council; or;

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

(2) For the avoidance of doubt, subsection (1)(da) operates so that the office of the member held immediately before the relevant election becomes vacant but the member continues as a member of the council in his or her new office.;

(c) by inserting in subsection (6) 'under subsection (1)(d) or the member continues in office in the situation described in subsection (2)' after 'by the council'.

I will not take much time over this. Again, I refer to the issue raised by my colleague in another place, the member for Heysen, concerning inconsistency in relation to people seeking a parliamentary office as opposed to a person seeking some other local government office. I think I have outlined it fairly clearly, and I understand that the government has circulated a letter in response, dated 4 December, and I thank the government for its prompt response to our suggestions. I suspect that this will not succeed and I will not be calling a division.

The Hon. T.G. ROBERTS: We oppose the amendment.

The Hon. IAN GILFILLAN: I indicate our opposition to the amendment.

Amendment negatived; clause passed.

Clauses 8 to 17 passed.

New clause 17A.

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

Page 8, after line 31—Insert new clause as follows:

Amendment of s. 153—Declaration of general rate (including differential general rates)

17A. Section 153 of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) If a council is proposing to fix rates under this section for a particular financial year that will, according to the council's proposal, result in the council recovering from general rates charged on land within the area of the council for that financial year an amount (in total) that exceeds the amount (in total) recovered (or expected to be recovered) by the council from general rates charged on the same land for the immediately preceding financial year plus the relevant adjustment factor under subsection (9), the council must, before declaring those rates—

(a) prepare a report on the council's proposal; and

(b) follow the relevant steps set out in its public consultation policy.

(5) A report prepared for the purposes of subsection (4)*(a)* must address the following:

(a) the reasons for the proposed increase in general rates above the relevant adjustment factor;

(b) the way in which general rates fit into the council's overall rates structure and policies;

(c) in so far as may be reasonably practicable, the likely impact of the proposed increase in rates on ratepayers (using such assumptions, rate modelling and levels of detail as the council thinks fit);

(d) issues concerning equity within the community,

and may address other issues considered relevant by the council.

(6) A public consultation policy for the purposes of subsection (4)*(b)* must at least provide for—

(a) the publication in a newspaper circulating within the area of the council a notice describing the proposed increase in general rates, informing the public of the preparation of the report required under subsection (4)*(a)*, and inviting interested persons—

(i) to attend a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; or

(ii) to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and

(b) the council to organise the public meeting contemplated by paragraph *(a)*(i) and the consideration by the council of any submissions made at that meeting or in response to the invitation under paragraph *(a)*(ii).

(7) The council must ensure that copies of the report required under subsection (4)*(a)* are available at the meeting held under subsection (6)*(a)*(i), and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least seven days before the date of that meeting.

(8) A rate cannot be challenged on a ground based on the contents of a report prepared by a council for the purposes of subsection (4)*(a)*.

(9) The relevant adjustment factor for a financial year to which subsection (4) applies will be an amount determined by multiplying the amount (in total) expected to be recovered by the council from general rates on relevant land for the immediately preceding financial year[1.] by the relevant inflation rate under subsection (10) plus 1 per cent.

[1.] This financial year is designated as "PFY" for the purposes of subsection (10).

(10) The relevant inflation rate for a particular financial year (PFY) is the percentage variation (rounded to two decimal places) between the Consumer Price Index for the December quarter of PFY and the Consumer Price Index for the December quarter of the financial year immediately preceding PFY.

(11) For the purposes of subsections (4) and (9), any amounts of a kind prescribed by the regulations may be disregarded (and the regulations may provide for ancillary or related matters).

(12) In this section—

'Consumer Price Index' means the Consumer Price Index (All groups index for Adelaide).

Other than to say that the press office upstairs is busily preparing a press release as we speak, we accept the decision made not five minutes ago. This is consequential upon that, so I do not think I can add any more to what has already been said.

New clause negatived.

New clause 17B.

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

Section 156 of the principal Act is amended by striking out subsection (14c).

New clause negatived.

Clauses 18 to 22 passed.

Clause 23.

The Hon. IAN GILFILLAN: In my second reading contribution I indicated some concern that there was a two year extension of time for the Adelaide City Council to provide its management plan for the parklands. The Adelaide City Council has made quite significant efforts to get consultation and some development towards a management plan for the Adelaide Parklands, so I do not expect for a moment that it is starting from scratch. However the inclination, of course, is that if it is given an extra two years that extra two years will be taken up, and it will mean an extra two years in which the parklands have no specific management plan.

For the benefit of the chamber, I refer to division 7, section 205 of the Local Government Act, in which a management plan is spelled out, as follows:

The council must prepare a management plan for the Adelaide Parklands within three years after the commencement of this part. In the course of preparing the management plan, and before it is made available for public consultation, the council must consult on the terms of the proposed management plan with government departments and agencies nominated by the minister. The council must review its management plan for the Adelaide Parklands at least once every three years.

The council, in my view, as I indicated before, is well down the track to complying with this requirement. Before this bill was drafted the council was required to report by January 2003, and, in concession to the fact that that is a very short time frame, and maybe the council has not developed the proposal to the point that it can comply with that, I am proposing to extend it for six months. Our opposition to this clause is linked to my amendment to clause 25, which takes out the five year entitlement for preparing the management plan and replacing it with three years and six months.

It is to some extent unfortunate that the proposal was not able to be lobbied more extensively with honourable members in the chamber. There is no punitive measure or penalty that falls on the council if it does not comply with that time, so I think for us to allow it to have this extra two years really means the foot will come off the accelerator. I believe that the Adelaide City Council has a commitment and an obligation to the whole population of South Australia to get this management plan in place. Therefore, I will take this opposition to clause 23 as being significant for the intention of my amendment, although it embraces both clauses, and I would urge honourable members to support my opposition to clause 23, which would virtually mean its deletion. It is a bit abstruse unless you relate it to the act, so I will read it for the benefit of members:

Section 196 of the principal act is amended by striking out from subsection (7)(a) '(other than for the Adelaide Park Lands—see Division 7)'.

I take my opposition to this clause as being indicative of my replacement of the five years, which gives the council a two-year latitude, with three years and six months, which gives them six months to tidy up their act and get a management plan in place.

The CHAIRMAN: Although the honourable member cannot move his amendment at this stage, the committee is aware of the position that the Hon. Mr Gilfillan is taking and members will consider that when they vote on this proposition.

The Hon. IAN GILFILLAN: I realise I cannot move an amendment to oppose a clause.

The CHAIRMAN: You have indicated your opposition but you have also indicated that you intend to pursue clause 25 and you have taken this opportunity to explain it at this stage rather than later. I am sure the committee will take that into consideration when it considers this clause.

The Hon. T.G. ROBERTS: The government will be supporting the clause as printed in the bill and we will be opposing the proposed amendment to clause 25, mainly on the basis that negotiations have already been held about time frames and the government has moved from three years back to two years. The parklands management working group, which is planned, will put its foot back down on the accelerator after it has worked out its program from the working group's recommendations, and that is what the government's expectations are.

The Hon. A.J. REDFORD: The parklands are close to my heart: I drive through them quite regularly. I have also been known to walk through them although I do not often disclose that publicly or it might ruin the image that I have carefully cultivated over the years of not being all that excited about exercise. I well remember in the last parliament having a meeting with the then lord mayor—we called her Lady Jane Lomax-Smith— now the member for Adelaide and we were talking about the parklands and what should or should not be done. It was fascinating because I remember what she said at that meeting, and there was a fair bit of shuffling of feet and papers, and all the advisers from the Adelaide City Council looked anywhere but in her direction. I think she was wearing the same yellow outfit as she wore on the floor of the chamber last night.

The Hon. T.G. Roberts: That is sacrilege, you know that, mentioning such things in the hallowed halls of parliament.

The Hon. A.J. REDFORD: This was pre-parliament. She was wearing the same outfit. A proposition had been put about the preservation of the parklands and what should happen with the parklands, and I think that her comment was, 'If I had my way, I would tear down Adelaide High School, the university and the railway line and take that all back to parklands.' I can see the Hon. Ian Gilfillan almost getting a tear in his eye at mention of that comment. We are very optimistic that, when this government gets a bit more arrogant than it already is, it might even put her in the position of minister for local government, because we will have a lot of fun. With those few words, I indicate that on this occasion the opposition is with the government and, unfortunately, we do not support the Hon. Ian Gilfillan.

Clause passed.

Clause 24 passed.

Clause 25.

The Hon. IAN GILFILLAN: I would love to move my amendment but, as I indicated earlier, I needed to be successful in opposing clause 23 and, as I was unsuccessful, there is no point in my moving the amendment.

Clause passed.

Remaining clauses (26 to 34) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

TERRORISM (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 1647.)

The Hon. SANDRA KANCK: I cannot find my notes, so I will have to speak from memory. When I was speaking to this bill last night, I was addressing the issues of the ASIO bill on which a senate committee was due to report. That report was released (I think last night) and it has made suggestions to improve considerably the ASIO bill, but that is if, of course, those amendments are accepted. As the bill currently stands, the situation could exist where ASIO could pick up your 12 year old son or daughter and interrogate them with no opportunity for your child to contact their parents. This is assuming that the parents are involved in one of these so-called terrorist organisations and if the child does not give the information that ASIO is seeking. There is also the potential for the child to be put into a youth training centre for up to two years.

That is the sort of legislation that we are talking about at the federal level, and we have a government at the federal level that, in response to the senate committee, is saying that the proposed amendments are not necessary. There are things in the committee's report that suggest better access to lawyers. For instance, a person who has been interrogated by ASIO under these increased powers would be able to have a lawyer and would be able to speak to that lawyer in confidence without ASIO agents being present, although they would still be observed, which still has the potential to have incursions into civil liberties.

How much of this will eventuate is anyone's guess, but here is a prediction from the Democrats: the Democrats and the Labor Party will move amendments to the legislation in the federal senate, along the lines of what the committee has said; they will be passed with the Democrats and Labor's voting together; and then, when they go to the House of Representatives, they will be knocked out and the Labor Party will go to water on it. That is the prediction. Although the committee report gives a little bit of optimism, in the long term I am pessimistic about this and therefore believe that the bill before us ought not to be passed. I truly do not understand why the ALP is doing this, other than for populist reasons, and I very strongly endorse the position of my party in opposing this legislation.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contributions to the debate. I recognise the conviction with which the Australian Democrats oppose the bill and the arguments that they make for that position. It is one to be respected. Nevertheless, there are two important policy imperatives which this government must recognise and will recognise. They are, first, that Australia needs a comprehensive legislative response to the threat of terrorism; and, secondly, that COAG has unanimously agreed that one part of that response is to be a referral of powers to the commonwealth. That is what this bill does. All Australian jurisdictions will be doing it. It

ill behoves South Australia to renege on what it promised to do in April this year.

Something else flows from that, and that is that there is little point in debating the content of the commonwealth act which forms the text that is being referred. It may be, as the Hon. Mr Gilfillan and the Hon. Ms Kanck argued, that exception can be taken to what some might regard as draconian legislation. The shadow attorney-general also entered the field on content. He went so far as to foreshadow argument to some extent in committee about what the legislation might catch and what it might not, and debate about examples that were spoken about in another place.

That would be a pointless exercise, and there are two reasons for that conclusion. The first is that we cannot and must not change the text to be referred because, if we did, we would not then be a referring state. So far as this exercise is concerned, the text is set in stone. That being so, it is fruitless to argue about it. The second is that the text is all new legal territory. The answer to the question, 'What does it mean?' can only be a guess—perhaps an informed legal guess, but still a guess. There is no point in throwing up hypothetical scenarios in this place and debating whether or not they fit within the legislation. The referred text is not the government's bill, and it is not a measure of the intent of this government. There is simply no point in such an exercise, and it occurred in another place only because the opposition, in committee, insisted on going through the schedule clause by clause and asking hypothetical questions about some of them. For the reasons given, this is simply an unproductive use of the time of this chamber.

Put another way, the question of the content of the schedule went through full debate in the commonwealth parliament and was the subject of hearings and conclusions by the Senate Legal and Constitutional Affairs Committee. For good or ill, according to individual opinion, national policy has been settled by national mechanisms. It is not for us to debate it all over again. There is yet a further point. If South Australia did purport to change the text, the commonwealth would simply refuse the reference, and it would do so for two reasons. The first reason is that it would not be productive to have one law for South Australia and one law for the rest of the country. The second reason, which is important in relation to a number of arguments, is that the commonwealth does not need us very much.

Some members seem to have debated this bill on the basis that the commonwealth can do nothing—or very little—in this area without our help. Nothing could be further from the truth. The commonwealth legislated the schedule to this bill in the words that the council now has before it in the Security Legislation Amendment Act 2002, and it did so to the full extent of its constitutional power. This is what it thought that power to be.

I refer members to part 100.2, constitutional basis for offences, which provides:

(1) This part applies to a terrorist act constituted by an action, or threat of action, in relation to which the parliament has power to legislate.

(2) Without limiting the generality of subsection (1), this part applies to a terrorist act constituted by an action, or threat of action, if:

(a) the action affects, or if carried out would affect, the interests of:
  (i) the commonwealth; or
  (ii) an authority of the commonwealth; or
  (iii) a constitutional corporation; or
(b) the threat is made to:
  (i) the commonwealth; or
  (ii) an authority of the commonwealth; or
  (iii) a constitutional corporation; or
(c) the action is carried out by, or the threat is made by, a constitutional corporation; or
(d) the action takes place, or if carried out would take place, in a commonwealth place; or
(e) the threat is made in a commonwealth place; or
(f) the action involves, or if carried out would involve, the use of a postal service or other like service; or
(g) the threat is made using a postal or other like service; or
(h) the action involves, or if carried out would involve, the use of an electronic communication; or
(i) the threat is made using an electronic communication; or
(j) the action disrupts, or if carried out would disrupt, trade or commerce:
  (i) between Australia and places outside Australia; or
  (ii) among the states; or
  (iii) within a territory, between a state and a territory or between two territories; or
(k) the action disrupts, or if carried out would disrupt;
  (i) banking (other than state banking not extending beyond the limits of the state concerned); or
  (ii) insurance (other than state insurance not extending beyond the limits of the state concerned); or
(l) the action is, or if carried out would be, an action in relation to which the commonwealth is obliged to create an offence under international law; or
(m) the threat is one in relation to which the commonwealth is obliged to create an offence under international law; or
(n) the action takes place, or if carried out would take place, outside Australia; or
(o) the threat is made outside Australia.

Let me make the point again, clearly. The commonwealth believes on reasonably solid grounds that it has the sole constitutional power to create those offences without any help from the states at all in the circumstances just quoted. As an exercise in creativity, I ask any honourable member to devise a terrorist scenario that clearly falls outside this extensive list. It may be possible to do so, and that is where the referral comes in. All we are doing is filling in those little gaps. However, the shadow attorney-general raised a very good point when he concentrated on the government's amendment to the referral part of the bill dealing with the power to amend the text referred.

As the honourable member pointed out, the amendment is controversial. I quite agree with him that we do not want to see any uncertainty in the constitutional validity of the legislation. He is also quite right to say that this is a matter of debate between the commonwealth and this state, upon which matter each will be seeking legal advice. I do think it is a bit rich for the honourable member to characterise this as an amendment passed at the government's insistence in another place. The government has been quite open in briefing the opposition about the matter from the very beginning, and *Hansard* will bear out the fact that the amendment was most courteously supported by the opposition in another place.

The current position is as follows: the State of South Australia wants to have control over any express amendments to the terrorism text that it is referring. It wants to guarantee that by stating, in the referral legislation, that the referred text may be amended only with the consent of a majority of states and territories with at least four states concurring. That amendment was inserted in another place and may be found in clause 4(6)-4(8) of the bill. That clause mirrors exactly the same clause in the commonwealth text at section 100.8. South Australia's advice is that the commonwealth provision is section 100.8 and is ineffective.

Despite all that, the commonwealth opposes the amendment that we have inserted. It alleges that our amendment

could cause uncertainty about whether or not South Australia is a referring state. The government takes the view that, as a matter of policy (and no matter the legal niceties), its position is correct. It complies with the COAG agreement, and that any legal uncertainty could be removed by a simple amendment to the definition of 'referring state' in the commonwealth legislation. We wish to preserve our position. Therefore, the government has decided that it will keep the amendment provision in.

It will retain the option of deciding at a later date whether or not—depending on legal advice and subsequent discussions between the states and the commonwealth—to bring that provision into force. The government will introduce an amendment to the referral bill in this place suspending the operation of section 7(5) of the Acts Interpretation Act, which deals with the automatic commencement of unproclaimed legislation so as to preserve our position. If it turns out that the provision introduces an unacceptable degree of uncertainty, and subject to discussions between the commonwealth and the states, it need not come into force and therefore will not disrupt the national referral.

If it would not place the referral at risk it can be brought into force at any time. The Hon. Angus Redford sought some comfort from the Attorney-General about the circumstances in which the reference may be revoked. The only response can be that it is impossible to predict the future. One can envisage that the reference may be revoked if it is no longer required. One could envisage that the reference may be revoked if something done by the commonwealth government of the day was sufficiently odious to the government of the day to provoke it; but that would depend upon the opinion of the government of the day and the action of the commonwealth government of the day.

The occurrence may be next year or decades from now—who can tell. It is not wise or desirable to predict the future, nor is it appropriate for any attorney-general to try to anticipate the future and commit himself, herself or any successor as to what he or she might do in unforeseeable circumstances. The Hon. Angus Redford also asked what consultation would take place between the state and commonwealth governments when a decision is made to proclaim an organisation as a terrorist organisation. The answer to that question falls into two parts. So far as I am aware there has been no consultation hitherto.

So as far as the future is concerned no mechanism exists at the moment. The commonwealth has indicated that it is drafting an intergovernmental agreement to underpin the referral exercise, and it may be that a consultation process will be included in that agreement. However, the government has not yet seen that draft agreement and, in any event, intergovernmental agreements are not justiciable and are unenforceable. The Hon. Angus Redford also asked a difficult question about the effect of the termination of a reference on a current prosecution. That is too hard. It is an unprecedented situation and not one on which anyone should give an opinion in the space of 24 hours. I commend the bill to the council.

The council divided on the second reading:

AYES (14)

Dawkins, J. S. L.	Evans, A. L.
Gazzola, J.	Holloway, P. (teller)
Laidlaw, D. V.	Lawson, R. D.
Lucas, R.	Redford, A. J.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Zollo, C.

NOES (3)

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

Majority of 11 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. R.D. LAWSON: When the bill was in another place, a new section 4(6) was inserted on the motion of the Attorney-General. At that time, he said:

> I will not hide from the house that the commonwealth does not think that the same rule in the referral bill is desirable or effective.

He indicated that the federal Attorney-General had adopted a certain position. I spoke to the Attorney a short time ago and he indicated that the government wished to insist upon the inclusion of new section 4(6). I subsequently called the commonwealth Attorney-General who said that last week he sent to the state of South Australia a letter setting out the commonwealth government's position in relation to this bill. This is a reference by the state to the commonwealth in respect of a national issue. I think it is unfortunate that the state government has not disclosed to the parliament the view of the commonwealth Attorney-General on this matter. I call upon the minister to produce to the committee the letter of the commonwealth Attorney-General so that we can consider the position of the commonwealth.

The Hon. P. HOLLOWAY: My advice is that the letter from the commonwealth Attorney-General was received after the debate took place in the House of Assembly. As I indicated in my second reading reply, South Australia's advice is that the commonwealth provision in section 100.8 is ineffective. Despite that, the commonwealth opposes the amendment that we have inserted. So, I gave that information that the commonwealth does oppose the amendment that we have inserted. It alleges that our amendment could cause uncertainty about whether or not South Australia is a referring state. The government takes the view that it is a matter of policy and, no matter what the legal niceties are, its position is correct, that it complies with the COAG agreement and that any legal uncertainty could be removed by a simple amendment to the definition of 'referring state' in the commonwealth legislation. We wish to preserve our position.

The Hon. R.D. LAWSON: With a matter of this sensitivity and complexity, whilst I appreciate the minister's comment, I call upon the government to produce the letter from the commonwealth Attorney-General so that the committee can fully understand the commonwealth's position rather than have it filtered through a minister. My conversation this evening with the federal Attorney-General indicated that the commonwealth government had set out a position very clearly in a letter which this committee is entitled to know before it considers the proposed amendment. In these circumstances, I suggest that the committee report progress to enable the Attorney to produce the letter from the commonwealth Attorney so that we can study it and then return to the committee for an informed debate on this important matter.

The Premier signed an agreement with the Prime Minister and other premiers and chief ministers that a certain course of action would be taken. I want to be satisfied that we are acting in accordance with the terms of the agreement. The commonwealth Attorney-General informs me that he believes that we are not acting in accordance with the agreement that has been reached and that the state of New South Wales and

the state of Tasmania have passed legislation in precisely the same form as the bill as originally introduced in this parliament before it was amended by the government. This is a very important matter, and I invite the minister to produce the advice and for the committee to report progress so that it can be studied.

The Hon. P. HOLLOWAY: I will seek to get the Attorney-General to the gallery. Obviously, I cannot make a decision on whether or not that correspondence should be released; that is a question for the Attorney. Obviously, he would have to take into account the attitude of the commonwealth to releasing their legislation. Clearly, I will not take that action, but hopefully I can get the Attorney into the gallery within a matter of minutes. In the meantime, if there are other issues not related to that matter perhaps we could continue and return to it when we get a resolution of that matter.

The Hon. J.F. STEFANI: It is not a question of getting the Attorney to the gallery; it is a question of producing the document so that we can see what it is. For goodness sake, how do we function in this place!

The CHAIRMAN: Order! Does the minister wish to move to report progress or does he want to let the debate continue?

The Hon. R.D. LAWSON: Mr Chairman, I do not believe the debate can progress in the absence of this advice.

The CHAIRMAN: The Hon. Mr Stefani is keen to make a contribution as are other members. I suggest that progress be reported.

Progress reported; committee to sit again.

CONTROLLED SUBSTANCES (CANNABIS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 1654.)

The Hon. A.L. EVANS: The purpose of this bill is to remove cannabis plants grown by artificially enhanced methods from the cannabis expiation scheme set up under section 45A of the Controlled Substances Act 1984. The cannabis expiation scheme came into force by an amendment to the act in 1987. The rationale for the scheme was straightforward: if an adult was found to be in a situation that came within the meaning of a simple cannabis offence, they could avoid criminal prosecution by simply paying a fine. However, the technology to grow plants using hydroponics was not a consideration when the 1987 amendment was passed. In a controlled environment, one plant is capable of producing 500 grams of cannabis. This is a concern. Not only does it create an opportunity for cannabis to be grown with the intention of a commercial gain but also this method increases the content of THC in the plant as opposed to cannabis grown using more traditional methods. While a more concentrated level of THC in cannabis will give users a big 'hit', the down side is that it increases the harmful side effects on a person's physical and mental well-being.

I am told that at the moment one kilogram of cannabis will sell in South Australia for $2 800 to $3 200. Interstate, more profit could be made, as one kilogram of cannabis will sell for between $4 000 and $5 000. This sort of return represents a huge inducement for a person to grow cannabis using hydroponics. For this reason, I support the removal of cannabis plants grown by artificially enhanced methods from the cannabis expiation scheme set out in section 45A of the Controlled Substances Act 1984.

That being said, I would like to touch on a few statements made by the Hon. Carmel Zollo yesterday. In her speech, she reiterated the position of the government on cannabis, which is that it is an illegal drug and will remain a prohibited substance in South Australia. Family First believes that the law in this state relating to the production of cannabis does not go far enough. Given all that we know about the dangers of cannabis and its harmful effects on a person's physical and mental health, I believe that South Australia should have zero tolerance concerning the growing of cannabis. As it stands today, the law in South Australia leaves open the door for the growing of cannabis in this state under regulation 5(3) of the Controlled Substances Act regulations.

The issue of drugs, in particular cannabis, is a key policy issue of my party. Unfortunately, this bill was introduced in this council only two days ago. This short time frame has meant that I have not been able to prepare a speech which comprehensively and clearly outlines the reasoning behind our party's position of zero tolerance. With this in mind, I say that I have done a considerable amount of research on the harmful effects of cannabis and it is a drug which should be strongly and absolutely criminalised in this state with regard to cultivation. I am aware that the issue of drugs is a matter that the government will deal with next year. In light of this, I look forward of speaking further on this matter in the New Year.

The Hon. M.J. ELLIOTT: When I vote on this bill, I will not be voting on whether or not I think people using cannabis is a good thing. I will not be voting on whether or not I consider that cannabis has serious health effects. I will not be voting because I think that we are sending the right or the wrong messages to people. I will be voting on this bill because of what I see are its consequences. I do not think it does us any good to vote with the noblest of intentions if the consequences make things worse. I contend, very strongly, that the consequences of the passage of this bill will be to make things worse, and I will explain that.

I heard of a recent example where things done for the best of reasons in the drug area had negative consequences. In Roxby Downs, they started testing workers for drugs. Anybody who knows anything about drugs and the testing for drugs knows that cannabis resides in the body for a considerable period of time because it is fat soluble. It also finds its way into the hair and can be found in hair samples months after the last time a person has consumed it. So, the people working in Roxby Downs who use drugs—and let us not make a judgment about whether they should or should not: the fact is that some people use drugs—realised that, if they used cannabis, they were guaranteed to be caught. What has happened is that Roxby Downs now has the highest rate of injectable amphetamine use in Australia. That is the consequence of a rule that was intended to protect the company and the workers but, in fact, the consequence is that they have the highest rate of injectable use of amphetamines in one community in Australia. That is an example of people having done things for the noblest and right reasons, but the consequence, in fact, has been far more severe than was intended and, indeed, made the situation worse.

It reminds me of a situation a couple of years ago in Hawaii where the government successfully cracked down on cannabis use. They did a number of major busts and managed to disrupt the supply. On an island, it is easy to do that for a

short time. As I understand, within three days of cutting down the supply, they had an outbreak of violent incidents because people had taken to smoking amphetamines as an alternative. Again, this was done, one assumes, for the noblest of reasons, but the consequence was that it made things worse.

I contend that the consequences of the passage of this bill will be to make things worse in two respects. I do not believe, for a moment, that banning hydroponically grown cannabis (a) will stop people from growing cannabis hydroponically, or (b) will stop people from using cannabis. What will change is who does the hydroponic growing and the selling. There are two suppliers of cannabis in the market at this stage: organised crime, and what could be fairly described as disorganised crime.

Organised crime is what the government carries on about and says that it is trying to stop—the bikie gangs, etc. They say that they have been using the hydroponic rules as a loophole. However, almost every bust does not involve three plants, which is what the rule was—in fact, it has been less than three plants for a while now. Hydroponic busts have continually involved bigger crops. The fact is that, when they do get the people who are growing one, two or three plants, they are getting people growing not just for personal use but also who were probably selling to a small group of customers or friends. That is what I describe as disorganised crime. They are breaking the law, and people would say, 'Let them suffer the consequences.' But what are the consequences if we manage to shut them down? Organised crime will pick up the market share that has been taken from disorganised crime.

So, the first consequence for the government, and the opposition which is supporting this bill, is that they will enrich organised crime. The second consequence follows directly from it. Organised crime not only sells cannabis but also other drugs, whereas the people who are involved in disorganised crime grow only a few plants and sell a bit to friends—a bit like people who make a bit of wine and sell it to their friends.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: For example, let us put it on the record that the Hon. Diana Laidlaw has been making some wine with her father and, a bit like some cannabis growers, has been selling some to friends.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: No, let me finish—the difference being, of course, that the sale of alcohol is quite legal; the sale of cannabis is not. I can guarantee that if and when the Hon. Diana Laidlaw sells out of her wine, she will not say, 'Look, don't worry. I've got some amphetamines, or some LSD, or something else instead.'

The Hon. Diana Laidlaw: Certainly not!

The Hon. M.J. ELLIOTT: No, that's right. But that is exactly what happens with organised crime: they manipulate markets. Not only will they say to people, 'Not only have we got cannabis but we've got this other stuff,' but they will also say, 'Sorry—today we can't get hold of cannabis, but we've got this other stuff.'

A lot of the buyers are young people, because the evidence clearly shows that most people who use cannabis smoke into their early twenties and then stop because they get bored with it, and they are being offered a smorgasbord of drugs, not only cannabis. I am not saying that it is a good thing to be offered cannabis, but I am saying that, realistically, they will obtain it one way or another.

Now these young people are being offered amphetamines, LSD, heroin and whatever else organised crime can get its hands on. In fact, the heroin drought that we saw recently was manipulated by organised crime to a significant extent. For a long time, government tried to claim that they had successfully shut the markets down, but it does not realise that the major heroin cartels in South-East Asia have now gone into amphetamine manufacture, and they are exporting amphetamines to Australia. They have manipulated the market: they cut the heroin down for a while, and they have been pushing the amphetamines harder. Amphetamines happen to be trendier. However, these days, people are injecting them, so they can be moved back to heroin later on.

The stepping-stone theory about cannabis is wrong insofar as people assume that, having used cannabis, the individual will then move to the next stage; that is not true. The danger with cannabis is that, if it is being bought in the same market in which other things are being offered, it becomes a stepping stone insofar as you are introduced to other substances. Cannabis is not something to which you will build up a significant resistance over time.

Even were the government to be successful in somehow cutting down the supply of cannabis, what would people do? Would they say, 'Okay, my drug days are finished'? No; they would look for something else. If cannabis were to disappear tomorrow, those using cannabis would look to use something else. I do not think that will happen. I do not believe that the supply will change in any significant sense. The only thing that will change is the suppliers. As I said, members may support this bill for the best of reasons, but I predict very strongly that there will be negative consequences.

The Hon. Diana Laidlaw: Can you tell me what the equivalent is of the original 10 plants that this parliament approved, compared to three hydroponically—

The Hon. M.J. ELLIOTT: Do you mean in terms of THC content?

The Hon. Diana Laidlaw: No, the quantity; parliament initially approved 10 plants.

The Hon. M.J. ELLIOTT: That's right. I think that it has been cut back four times: it has gone from 10 to five, to three, to one.

The Hon. Diana Laidlaw: So, one or three hydroponically grown plants, compared to 10—

The Hon. M.J. ELLIOTT: It depends who you listen to. If you were to listen to the Hon. Robert Brokenshire, you would swear that you would need a chainsaw to cut them down. Yes; they are bigger, because they have ideal growing conditions. One of the reasons that I resisted the cutback was that I could see that they would not stop; that they were not entering into the major argument about the real problems. If people were to look at some of my speeches, they would see that I would have supported cutting back the number of plants had some other changes, that attacked the issue in a comprehensive way, happened at the same time rather than doing it piecemeal.

The Hon. Diana Laidlaw: Is one hydroponically grown plant equivalent to 10 naturally grown?

The Hon. M.J. ELLIOTT: It depends whether they are 10 male plants, 10 female plants, or 10 mixed plants. When people plant seeds, they do not know the gender of the plant. A male plant is next to useless (as women think about many men). The high THC levels are largely contained in the flowering heads of the female plant. So, a person who puts 10 plants in the ground is taking potluck: they might get lucky and have seven or eight female plants; they might get only two or three.

When the number of plants is cut back to three plants or even one, when the plant gets to a certain height the grower may discover that it is not even the right sex and is totally useless. So, it is not a simple question. A reason that a lot of seeds are planted initially is that it is potluck in terms of what they will produce. Unless there are more questions by way of interjection, Mr President—

The PRESIDENT: I do not think there should be any more of those, Mr Elliott.

The Hon. M.J. ELLIOTT: I think they were constructive.

The PRESIDENT: I am sure that there will be more at the committee stage.

The Hon. M.J. ELLIOTT: As I said, it was never my intention to debate the merits or otherwise of cannabis. Even if one were to assume that cannabis is harmful, and even if one were to believe that it is significantly harmful (although I believe strongly that it is not as harmful as tobacco or alcohol), if you look rationally at this bill in isolation, you realise that it will make the situation worse. For that reason, the Democrats and I will be very strongly opposing this bill.

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

VIVONNE BAY CONSERVATION PARK

Adjourned debate on motion of Hon. T.G. Roberts:

That this council requests her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under Part 3 of that act on 4 November 1993 (*Gazette*, 4 November 1993, page 2175) so as to remove the ability to acquire or exercise pursuant to that proclamation rights of entry, prospecting, exploration or mining under the Mining Act 1971 or the Petroleum Act 1940 (or is successor) over the portion of the Vivonne Bay Conservation Park described as Sections 6 and 125, Hundred of Newland.

(Continued from 2 December. Page 1593.)

The Hon. CAROLINE SCHAEFER: Mr Acting President, with your permission, I propose to speak on the following three motions: orders of the day Nos 11, 12 and 13. These motions concern national parks on Kangaroo Island. The opposition supports their proclamation to remove the ability to prospect or explore for mining in those national parks. However, we also give notice that, as an opposition, in the future we will require that each of these applications be assessed on a case by case basis. The fact that we have agreed to remove those rights from what are particularly highly valued national parks on Kangaroo Island does not mean that we would necessarily wish to remove them from all national parks across the state. So, while I wholeheartedly support these three motions, as I say, we will be requiring that the government allow us to assess each of these applications on a case by case basis.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): On behalf of my colleague, the Minister for Aboriginal Affairs and Reconciliation, I thank all honourable members who have contributed to this debate for their indications of support.

Motion carried.

SEAL BAY CONSERVATION PARK

Adjourned debate on motion of Hon. T.G. Roberts:

That this council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under Part 3 of that Act on 4 November 1993 (Gazette, 4 November 1993, page 2175) so as to remove the ability to—

(a) acquire or exercise pursuant to that proclamation rights of entry, prospecting, exploration or mining under the Petroleum Act 1940 (or its successor); or

(b) acquire pursuant to that proclamation rights of entry, prospecting, exploration or mining under the Mining Act 1971, over the portion of the Seal Bay Conservation Park described as Section 3, Hundred of Seddon.

(Continued from 2 December. Page 1594.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Again I thank all members who have spoken in this debate for their indications of support.

Motion carried.

LASHMAR CONSERVATION PARK

Adjourned debate on motion of Hon. T.G. Roberts:

That this council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under sections 30 and 43 of that act on 16 September 1993 so as to remove the ability to acquire or exercise pursuant to that proclamation rights of entry, prospecting, exploration or mining under the Mining Act 1971 over the land constituted by that proclamation as the Lashmar Conservation Park.

(Continued from 2 December. Page 1594.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their indications of support.

Motion carried.

CONTROLLED SUBSTANCES (CANNABIS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. R.D. LAWSON: I thank honourable members for their contribution to this bill which will remove from the expiation scheme, in relation to cannabis offences, the cultivation of material that is grown hydroponically. This is an important measure and I thank, first, the government for its indication of support for this measure, originally moved in the other place by the Hon. Robert Brokenshire. I thank the Hon. Andrew Evans for his contribution, as well as the government. I note that the Democrats will not be supporting this measure, but, notwithstanding their reservations, we believe that this is a much needed and overdue reform. The Hon. Mr Cameron did ask me to indicate his support also for the passage of this bill.

I particularly want to thank members for allowing the bill to be expedited through this council. The usual seven days, which is conventionally allowed for members to consider and prepare contributions, was not observed on this occasion, and reluctantly so. However, the position is that a bill in this form was originally introduced in 2001, and it was still on the *Notice Paper* at the conclusion of parliament in November 2001. If it had not been debated tonight it would have remained to be considered in 2003. I am most grateful to members for their agreement to debate the matter quickly, even though some of them will not be supporting it.

The council divided on the second reading:

AYES (14)

Dawkins, J. S. L.	Evans, A. L.
Gazzola, J.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D. (teller)
Lucas, R. I.	Redford, A. J.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Zollo, C.

NOES (3)

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

Majority of 11 for the ayes.

Second reading thus carried.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. M.J. ELLIOTT: I want to say something that I meant to mention during the second reading stage but forgot. Some people in supporting this legislation seem to be under the impression that they are going along with the recommendations of the Drugs Summit. I was one of those people who spent the full week at the Drugs Summit. This issue was raised, it was voted on and it was overwhelmingly—and I stress that—rejected. One of the unfortunate things that happened at the Drugs Summit was that, in a break about an hour before the meeting voted on this matter, the Premier held a press conference at which he announced that the government would bring in a ban on hydroponic cannabis. He pre-empted the conference by an hour. I think he tried to anticipate the result and the Drugs Summit, having sat for a week listening to all the experts, voted overwhelmingly against a ban on hydroponic cannabis.

Too many people are operating on gut instinct and not taking the time to get right into the problems and to understand what is really going on in the drugs area, and simplistic answers are very dangerous. I stress that the Drugs Summit, which was promised by the Premier and which was a great initiative, has been ignored by the Premier and this parliament, which it has a right to do, but people should appreciate that a great deal of time and effort went into that summit from a lot of people from all over the state.

Clause passed.

Clause 4 passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

WEST BEACH RECREATION RESERVE

Adjourned debate on motion of Hon. T.G. Roberts:

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.

(Continued from 27 November. Page 1535.)

The Hon. SANDRA KANCK: In light of the Holdfast Shores development, I understand that a number of businesses and venues that had been located in Glenelg have now moved to the West Beach Trust Reserve site. The Glenelg Sailing Club was relocated to West Beach and that club has now amalgamated with the Henley Beach Sailing Club, and I understand that the area is now a very well used boat harbour and launching area. I was told at the briefing I received on this motion that PJ Marine and Marine Servicing and Chandlery have already moved on to the site. Since late 2001, the West Beach Trust has been negotiating for a boat retailer to lease an area that has been earmarked for boating business, and the Development Assessment Commission has apparently already ticked the site off as okay.

A company called Andrew Craddock Marine appears to be the potential lessee of the site and his was one of the businesses that previously operated at Glenelg, I am told. The West Beach Trust originally offered Andrew Craddock a 40-year lease, at the end of which time any improvements made to the site by Andrew Craddock would become the property of the West Beach Trust. Andrew Craddock in turn asked for a 50-year lease, which is the maximum allowable under the act. The act requires that any lease of more than 20 years must receive the approval of both houses of parliament. It appears that this is very much a fait accompli. Apparently it fits in with the development plan, it fits in with the West Beach Trust Act and it fits in with the Development Assessment Commission.

It is not news to members of this house that when this whole development was being planned the Democrats were very strongly against it, and we still believe that this development should never have happened. Some of the issues that have arisen since then, such as sand management, have proven to be as we predicted they would be. The sand management issue alone tends to indicate that the harbour, as a proposition, is not sustainable in the long term. I put on the record that I am a member of the Henley and Grange Residents Association and I joined numerous protests—

The Hon. M.J. Elliott interjecting:

The Hon. SANDRA KANCK: The Athelstone branch. During the protests different levels were called on at different times, and I was a seagull. I looked at the site last week in anticipation of this vote, and I have to say that I was disappointed at the destruction of dune vegetation that has clearly occurred. There was simply nothing there. A chandler might be appropriate for a boat launch area but a boat retailer is hardly an essential. The purpose of the West Beach Trust land, according to the act, is for sporting, cultural, recreation and tourist purposes but a boat retailer is straight-out commercial.

At the heart of this motion is the question of the length of the lease that will be allowed for the boat retailer. We are talking of a 50-year lease. I do not know how old Andrew Craddock is. If he is 20 years old, he will be 70 when the lease expires. The chances are, as he already had a successful business running at Glenelg, he will be much older than that. That raises questions about the transferability of the lease. The West Beach Trust has informed my office that, if there is a change of ownership, the new owners would be subject to approval by the trust, but such approval cannot be unreasonably withheld, and I must say that I am not entirely comfortable with that.

I investigated the possibility of altering the lease from 50 years to 25 years in this motion, given that we believe that a commercial business is not part of the aims of the West Beach Trust. However, the advice that I got is that, because of the mechanism that has been used in having a motion before both houses of parliament, it is basically impossible. If we had a motion that began in one chamber and then moved to the other, we could have amended it here to 25 years and then gone back to the other place for further

consideration. However, because we have got two motions, one going through each house, it would have created a major logistical problem if we had a motion coming from this council that called for 25 years and from the other house for 50 years.

The advice that I have is that we simply cannot amend the motion.

I note that, when the Hon. Diana Laidlaw spoke in support of the motion, she asked questions about the requirements of the act. Section 13(5) states—and obviously I will have to pick bits and pieces out:

> . . . the trust must not. . .
> (b) grant a lease or licence over the reserve, or a part of the reserve, so as to result in a situation where the trust has, in effect, transferred its responsibility to administer and develop the reserve in accordance with section 13(1)(a) to another party; or
> (c) enter into any partnership, joint venture or other profit sharing arrangement,
> unless the minister has approved a proposal for the transaction and has, at least two months before the proposed transaction is entered into—
> (d) given notice of the proposed transaction in the *Gazette* and in a newspaper circulating generally throughout the state; and
> (e) provided a written report on the proposed transaction to the Economic and Finance Committee of the parliament.

On the night that the Hon. Diana Laidlaw spoke, she said that she was prepared to find out from the minister just what had happened in this regard by being advised later on and that she would not use it to hold up debate on the motion.

I would not be happy to have this motion go through without knowing that section 13 had been complied with. I have no evidence either way, but I know that in consultation with the Henley and Grange Residents Association, they were unaware of this motion until I drew it to their attention. I ask the minister in which *Government Gazette* was the notice given? In which newspaper and on what date was the notice given? When was a report provided to the Economic and Finance Committee? What was the response of the Economic and Finance Committee to that, and will the minister please table a copy? I am not intending to be as forgiving as the Hon. Diana Laidlaw. Until we have that information, I do not believe that we should be forwarding this motion. I would look to hearing some responses from the minister on this before we move further forward.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

TERRORISM (COMMONWEALTH POWERS) BILL

In committee (resumed on motion).

(Continued from page 1700.)

Clause 1.

The Hon. T.G. ROBERTS: Mr Acting Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

The Hon. P. HOLLOWAY: I can indicate that, since we last dealt with this bill, I have provided a copy of the relevant correspondence from the commonwealth Attorney-General to the opposition. The shadow attorney is currently considering this matter. We will return to this bill when he has had an opportunity to digest the contents of that correspondence.

Progress reported; committee to sit again.

FLINDERS CHASE NATIONAL PARK

Order of the Day, Private Business, No.25: Adjourned debate on motion of Hon. A.J. Redford:

That this council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made under Part 3 of that Act on 14 August 1997 so as to remove the ability to acquire or exercise pursuant to that proclamation, pipeline rights under the Petroleum Act 1940 (or its successor) over the portion of the Flinders Chase National Park described as Section 53, Hundred of Borda, County of Carnarvon.

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

That this order of the day be discharged.

Motion carried.

SPEED CAMERAS

Adjourned debate on motion of Hon. T.G. Cameron:

1. That a select committee of the Legislative Council be appointed to investigate and report upon the current use of speed cameras in South Australia including—
   (a) their effectiveness as a deterrent to speeding and road injury;
   (b) strategies for deciding their placement;
   (c) differences in their use between city and country roads;
   (d) the relationship between fines collected, main arterial roads and crash 'black spots';
   (e) drivers' perception, beliefs and attitude towards speed cameras;
   (f) placement and effectiveness of speed camera warning signs;
   (g) the feasibility of putting all money raised by speed cameras into road safety initiatives;
   (h) initiatives taken by other governments;
   (i) the appropriateness of setting up a 'Speed Camera Advisory Committee'; and
   (j) any other matter on speed cameras which is deemed relevant.
2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. Standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 21 August. Page 735.)

The Hon. SANDRA KANCK: Perhaps, because I have never been caught speeding, I do not have an antagonistic view toward speed cameras, such as the Hon. Terry Cameron. I note that the terms of reference refer to drivers' perception, beliefs and attitude toward speed cameras. I suspect that drivers' perception, beliefs and attitude towards speed cameras is very directly related to the number of times they have been caught by them. I see the move to establish this select committee as a populist one. It is certainly one with which the *Sunday Mail* is likely to run, but I simply cannot see the need for a committee to investigate the issue.

The Hon. Terry Cameron would be able to find the answers to many of the questions he poses by asking the transport minister; or, for instance, he could contact Jack McLean. For those remaining terms of reference for which the honourable member believes he already has the answers, he could introduce a private member's bill to deal with those

particular matters. For example, the honourable member could introduce a private member's bill that directs that speed cameras be located at road crash black spots.

It is very clear that speed is a vital factor in deaths and injuries resulting from road crashes. Under the previous government the joint committee on transport visited Pennington or Rosewater to inspect the South Australia Police Road Traffic Unit. A presentation was made to the committee and a graph was displayed on which one could have imposed another graph for blood alcohol content showing an exponential increase in the rate of crashes dependent on speed, just as it is with blood alcohol content. I am generally not worried by speed cameras. It certainly does appear that, on occasion, speed cameras are being used in locations and at times of the day where, clearly, no-one is endangered, but that is an annoyance more than anything else. We all have choices and, ultimately, the Democrats return to the position that if you do not speed you will not get caught. We cannot support this motion.

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

MANOCK, Dr C.

Adjourned debate on motion of Hon. Nick Xenophon:

1. That this council expresses its deep concern over the material presented and allegations contained in the ABC's *Four Corners* report entitled 'Expert Witness' broadcast on 22 October 2001, involving Dr Colin Manock, forensic pathologist, and the evidence he gave from 1968-1995 in numerous criminal law cases;

2. Further, this council calls on the Attorney-General to request an inquiry by independent senior counsel, or a retired Supreme Court judge, to report whether there are matters of substance raised by the *Four Corners* report that warrant further formal investigation; and

3. That the Attorney-General subsequently report, in an appropriate manner, to this council on the allegations made in the *Four Corners* report and their impact on the administration of justice in this state.

(Continued from 28 August. Page 935.)

The Hon. A.J. REDFORD: Public confidence in the criminal justice system is fundamental to the very success of an open, tolerant and successful community. The motion moved by my parliamentary and legal colleague the Hon. Nick Xenophon raises some very important issues concerning the South Australian criminal justice system and, in particular, public confidence in that system. The absence of public confidence in the criminal justice system (whether with or without foundation) can be as destructive as corruption or incompetence. We only need look at our close neighbour, Indonesia. In that country, both Indonesians and non-Indonesians have little confidence in their criminal justice system, exacerbating corruption and a sullen resignation and despair amongst ordinary Indonesians in their institutions.

Over the years public concern with the administration of justice has flared up on regular occasions. There are often occasions where public concerns ebb and flow. However, in South Australia there have been at least three separate occasions when public concern has become so sustained that the government of the day has been led (if not forced) to intervene in some way.

In modern history in South Australia the first of those occasions was the Stuart case. This case involved the conviction of an Aborigine who was found guilty of murdering a young white girl. The case has been popularised by the recent movie *Black and White*, some of which was shot in the halls of this parliament only recently. In short, the main issue in the case revolved around the validity of Mr Stuart's confession. The charge was led by the Adelaide *News* and its then young proprietor, Rupert Murdoch.

It was only after a sustained campaign that the then premier called for a royal commission which upheld the verdict and recommended that the death penalty be commuted to life imprisonment. Whilst in legal circles debates continue to this very day as to his guilt or innocence, everyone would agree that, by modern standards, his confession and the circumstances surrounding his confession would cause grave concern and in fact would probably not be admissible because of the absence of legal representation during the interview as well as a poor recording technique.

The next highly publicised case in South Australia was that of Splatt. Splatt was convicted of murdering an elderly woman at her home near the Cheltenham Cemetery in 1978. The case was based solely on scientific and circumstantial evidence. His cause was taken up by Stuart Cockburn of the *Advertiser*. Independent reports were sought. However, despite that, the government eventually agreed to establish a royal commission. The commissioner, a New South Wales judge, came to the conclusion in 1984 that Mr Splatt's conviction was unsafe and unsound leading to his release.

Whilst it was not a royal commission into the criminal justice system itself, the commissioner did make some important observations about our criminal justice system. He said that there were a number of concerns which I would summarise as follows:

(a) Police officers who are collectors of materials should not become involved in microscopic and other examinations and selection of materials.

(b) The terminology used by scientists can be confused with its common meaning thereby misleading the jury as to the weight of the evidence. For example, 'consistent with having a common origin' can mean one thing to a scientist and entirely another to a lay person.

(c) Scientists should not be permitted to comment on issues outside their expertise.

(d) The role of scientist and police officer should be separated and, just as a police officer should not enter into the scientific arena, a scientist should not enter into the role of an investigative police officer.

(e) That police deductions or theories should not be intermixed with scientific theories.

In an almost ominous warning to those involved in the Lindy Chamberlain case, he made the following comment:

> Preconceived views (the hypothesis) must never be allowed to influence the selection of material to be observed and measured as this leads to what has been called 'tunnel vision'.

(f) A forensic scientist is subject to all the relevant rules and principles applicable to scientific discipline. As such, he or she should only express opinions which are within his or her assessment and testing completely justify.

The commissioner in the Splatt royal commission in relation to the operation of a forensic science laboratory said some basic rules should apply, as follows:

1. All—I emphasise 'all'—relevant material should be sent to a laboratory and thereafter all investigations and analyses should be conducted by the scientist.

2. In respect of every—and I emphasise 'every'—such examination, the techniques used and the results should be

checked by another scientist as an independent observer. That should also be done with a control item as well.

3. The search should be for dissimilarities not similarities.

4. Forensic procedures should be accompanied by documented operations comprehensible even years later and that all observations—and I emphasise 'all observations'—should be independently checked.

In the context of a criminal trial, the commissioner observed that there is a responsibility on the court—in other words, the judge, the lawyers and the scientists—to ensure that the jury is correctly informed of the weight of the scientific findings and 'any limitations or provisos which are properly appended thereto'. In other words, a scientist cannot hide behind the insufficiency of a lawyer's questions which might cause a jury to come to an incorrect conclusion. The royal commissioner strongly emphasised the need to ensure a fair trial, that juries are properly and fully informed in a way which they can understand and that they are not (using my parlance) hoodwinked in any way, shape or form. In any event, the Splatt royal commission, an important milestone in our criminal justice system, came about as a consequence of media pressure even if that pressure was not universal.

There have been other cases in which there have been less than ideal processes and outcomes in South Australia, or, in one case, a Northern Territory case involving South Australian forensic figures: in other words, pseudo-scientists and police officers. I will briefly refer to a couple of these cases. The first is the case of Perry which involved a well-publicised attempted murder decided in 1982. In dealing with forensic science, His Honour Justice Murphy of the High Court said in relation to South Australian forensic procedures at the time:

> The evidence. . . reveals an appalling departure from an acceptable standard of forensic science in the investigation of this case and in the evidence presented on behalf of the prosecution.

He emphasised the ideal of a forensic scientist not being partisan. Justice Murphy went on to say:

> If the expert evidence available to the prosecution in this case is typical then the interests of justice demand an improvement in investigation and interpretation of data and presentation to the court by witnesses who are substantially and not nominally experts in the subject which calls for expertise.

I can say as a lawyer that judges of the High Court are not prone to hyperbole. In fact, those are two of the stronger statements made by judges that one might find in the case books. Interestingly, Dr Manock, the subject of this motion, was a witness in the Perry case.

A second case involved the murder trial of Mr Utans, who was ultimately acquitted of murder significantly because of a failure to properly collect and analyse forensic evidence collected at the crime scene. This case was heard in 1982. Mr Utans was accused of setting fire to his house for the purpose of murdering his wife. Despite the acquittal, following an improved forensic approach, Mr Utans was found by Justice Bollen in a subsequent civil trial to have lit a fire for the purpose of killing his wife.

In that respect, Mr Utans sued the insurance company, seeking to make good a claim on his policy, and the insurance company defended the case on the basis that he had lit the fire deliberately and, indeed, had, as a consequence or prior to, murdered his wife. I would say that only a lawyer would be comfortable with the distinction that a man can be found not guilty of murder and/or arson because of a poor forensic approach and, on the other hand, not be able to collect on an insurance policy because of a contrary finding in a civil case.

The contrasting approach to investigation can be easily observed by reference to the following comments by His Honour Justice Walters in the criminal case. Justice Walters in Utans case in 1982 said:

> . . . notwithstanding the piecemeal way in which the Crown case has been investigated, prepared and placed before the jury and, despite the detriments which, in my view, have thereby been occasioned to the accused, no sufficiently serious degree of prejudice has been caused to him as to warrant the discharge of the jury.

In the civil trial, a well-respected Melbourne forensic scientist, who had specialised in arson investigation, reviewed the evidence of the criminal trial. No-one with his qualifications or experience had been called in the criminal trial, and that played no small part in the different result in the civil trial.

So, in the early 1980s, we have media concern and judicial comment about the quality of forensic science services in this state. One might have thought, with that level of concern, that a radical review of South Australia's forensic science services and an ongoing review process would be inculcated in our judicial administration institutions. One might have thought that judges, prosecutors, governments and, indeed, parliaments would have been diligent in ensuring that the quality of forensic examination and science would have been world class. Unfortunately, there is a perception that that has not happened. In that respect, I will touch on a couple of cases that I was involved in, and I will refer to two others.

First, I was engaged as a solicitor in relation to a warehouse fire. In that case, the senior manager was charged with arson. The case was thrown out after the Director of Public Prosecutions considered the committal evidence. The reason he did not proceed was the failure on the part of investigators to properly investigate the matter.

There is also the Lindy Chamberlain case, a well publicised case in which, after an extraordinarily lengthy and expensive process, it was clearly shown that the original forensic evidence was flawed to the point that, after the expenditure of tens of millions of dollars and the destruction of a close-knit family, it was found that the characteristics of foetal blood were somewhat different from a rust prevention agent, despite sworn evidence at a committal and a subsequent Supreme Court trial. In 1984, Justice Murphy made the following observation:

> The Crown's 'scientific' evidence. Failure to preserve the vital evidence of the blood samples from the car prejudiced the defence's right to have them cross-checked. In the United States it has been held that the 'government is flirting with the danger of reversal any time evidence is lost or inadvertently destroyed'. When evidence is seized, the government should take every reasonable precaution to preserve it.

He refers to the case of United States v Heiden. He goes on to say:

> Federal investigatory agencies have been required to 'promulgate and rigorously enforce rules designed to preserve all discoverable evidence'.

He then refers to another case and goes on to talk about the importance of independently testing forensic material and forensic processes and, indeed, I will touch on that in a little more detail later. He also went on to say, in relation to the issue of the destruction of documents or materials in relation to criminal investigation:

> Destruction of such materials reduces the value of any evidence based on them because of the inability to test the material and cross-check the results to such an extent as to render it non-scientific and, therefore, non-expert. . . (A) scientific observation is not taken at face value until several scientists have repeated the observation independently and have reported the same thing. That is also a major

reason why one-time, unrepeatable events normally cannot be science.

What Justice Murphy was alluding to, to put it in lay terms, is that it was his view—and, I concede, not a view shared by many of his judicial colleagues—that, in the case of sloppy, incompetent or haphazard forensic investigation or police investigation, the courts ought to impose the sanction of excluding evidence. One might have thought that, following that case, changes would have been made to the processes of forensic science in South Australia, and certainly one might have thought that that had occurred. Indeed, even in 1971, Dirty Harry picked up the bullets, albeit in a handkerchief.

The next matter I became involved in was the case of Penney, who was convicted of the attempted murder of his wife. The evidence led by the DPP was partly scientific and partly reliant on other factors. It was alleged that Mr Penney threw a lighted match into a tin of methylated spirits which started a fire in the boot of a vehicle driven by his wife. The investigating officer was presented to the committal hearing as an expert witness, although at the trial he was presented as 'a collector of evidence'. During the hearing it was established that the officer had done a course, lasting some weeks, regarding fire cause investigation. Despite that course, the investigating officer managed to:

(a) tip out the liquid in one of the cans that the fire had allegedly been started in prior to any opportunity for chemical or other analysis;

(b) throw away the match, although he did photograph it;

(c) not print a number of photographs taken at the scene;

(d) not inspect the electronics in the boot of the motor vehicle—and I digress by saying that an electrical fault may have potentially caused the fire through either the switch or the fuses;

(e) not examine for sources of oxygen in the boot; and

(f) not examine the muffler, which was another possible cause of ignition.

The officer could not be accused of laziness, though, because he conducted a re-enactment of the crime by buying an old Torana with no wheels, no windows and no windscreen. He jacked it up, put it on a trailer and towed it up and down the road with various fires lit in the boot to see what might happen. The forensic scientist did not examine the vehicle or its wiring, and he did not see all the photographs.

It would not take a Rhodes scholar to work out that there is a substantial degree of inconsistency between the behaviour of a fire in an old car with no windows and doors and being towed on a trailer, and a fire in a Torana with windows, doors and a boot driving on the road. But, substantial state resources, in almost a laughable way, were spent on such an investigation. In talking about this case, I am not seeking to reopen it or embark upon any views other than to focus on the inadequacy of the scientific evidence, and I note that the High Court, in the end, found that there was sufficient non-scientific evidence to justify the conviction, and I do not seek to comment on that on this occasion.

In any event, in relation to the case, a number of comments were made concerning the forensic science investigation. The Director of Public Prosecutions at one stage said:

> . . . simply that it was not good practice for the police officer to dispose [of the match] in the way he did.

Justice Duggan said:

> The criticism of the failure to retain the objects referred to and the failure to examine the appellant's clothing appears to be well based.

In the High Court, His Honour Justice Callinan wrote the leading judgment and stated:

> There is no doubt that the police investigation was unsatisfactory in some respects.

The High Court, via His Honour Justice Callinan, made a critical observation, one which is very important to the role of the courts and, indeed, the role of this parliament, other parliaments and of the Executive in ensuring proper standards of criminal investigation. His Honour Justice Callinan said:

> Even though a better investigation may and probably should have been conducted, there is no general proposition of Australian law that a complete and unexceptional investigation of an alleged crime is a necessary element of the trial process or, indeed, of a fair trial. That is not to give any imprimatur to incomplete, unfair or insufficient police investigations.

In short, and perhaps legally correct, the High Court was suggesting that the courts did not have the responsibility to supervise generally the quality and standard of criminal investigation, unless and except it became so bad that it deprived the individual before the court of a fair trial. If that is a correct statement of law (and, generally speaking, when it comes from the High Court, by definition it is), it is my personal view that the responsibility that falls upon the Executive and the parliament to ensure the highest standard of criminal forensic science is an important one.

Indeed, in order to emphasise some of the criticisms and the acceptance by some of the leading people in our criminal justice system of the standard of investigation in this case, I draw to the council's attention a couple of the judge's comments. At one stage, His Honour Justice Kirby said:

> I find it hard to believe that it is not good practice, where there is a trial for attempted murder, to keep the objective evidence. I mean, I certainly would not want myself to be saying anything that gave encouragement: 'Oh, just throw it all out. It does not matter much.' I mean, who knows what will be relevant?

The Director of Public Prosecutions responded and said:

> I agree with your Honour and, clearly, it is.

His Honour Justice Kirby said:

> It is bad practice. It is a question of what follows from it in this case.

The Director of Public Prosecutions said:

> That is right. He photographed it. You've seen photographs of it. I mean, he obviously appreciated the relevance of it to that point.

He went on to concede that this whole approach on the part of the officer in this case was bad practice. Indeed, that was the general tenor of the discussion.

I turn now to the Manock case, which was the subject of the *Four Corners* report. In relation to that case, the forensic process and the criticism of that process have been put before the Legislative Council by my colleagues the Hon. Nick Xenophon and the late Hon. Trevor Crothers and, as such, I do not propose to deal with the issues in detail.

However, I want to bring this part of the contribution to a close by dealing with some of the criticisms of Dr Manock by *Four Corners* and by the Coroner, the general response of the criminal justice system to the concerns expressed over the past 30 years by the forensic science and investigation community in this state, the declining public confidence in our legal system and the challenge to the government.

Four Corners made some very serious allegations, and I am not making any judgment in this contribution about whether those allegations are correct, but they were very

serious. Dr Colin Manock was the senior South Australian pathologist for almost 30 years. At the time of his appointment as Director of Forensic Pathology in South Australia, it was alleged that he was unqualified and inexperienced in the area of pathology and histopathology. The program stated:

> Dr Manock's lack of qualifications was a growing concern, as the head of the IMVS, Dr Bonnin, would later testify in court.

The program quotes Dr Bonnin as saying:

> I tried to encourage Dr Manock to study and obtain his membership of the Royal College of Pathologists of Australia, because we had a man who had no specialist qualifications in a specialist job, and without that this would have been a severe embarrassment.

The program reported that he had not undertaken further study. Other criticisms in the *Four Corners* report included a failure to check crime scene observations, a failure to review all witness statements, a failure to properly store and retain exhibits and a failure to keep proper written records of observations and findings. These are just some of the assertions made by the report.

The criticism in Perry was made in 1982; the Keogh criticisms were made in 1997. At that time, the DPP acknowledged failures in investigative procedures and processes and argued that they were not significant insofar as the result of those issues was concerned. However, at the same time, the Coroner was considering the role of the investigative forensic scientist in the infant deaths coronial inquiry. The Coroner in that case was Mr Chivell, who was assisted by the Deputy Crown Solicitor (now Children's Court judge, Alan Moss). As a result of that coronial inquiry the following criticisms were made of Dr Manock: (a) that he was not truthful; (b) that he failed to properly record findings; (c) that he saw things that could not be seen; and (d) that serious crimes may well have gone uninvestigated as a result of Dr Manock's investigations. I will give members an example. At page 27, the Coroner stated:

> In these circumstances, it seems to me that the post-mortem examination achieved the opposite of what should have been its purpose. It closed off lines of investigation rather than opening them up.

At page 53, the Coroner said:

> Dr Manock's conclusion basically caused the death to be written off as 'natural', and the investigation of the death was basically cut off before it began. As I remarked in the Deane matter, the post-mortem examination basically achieved the opposite of its proper purpose in that it closed off lines of investigation rather than opening them up.

At page 81, the Coroner said:

> Of the three children whose death I have examined in this inquest, the injuries to Joshua Nottle were the most serious and the most obviously non-accidental in origin.
>
> However, Dr Manock's diagnosis of a cause of death as bronchopneumonia associated with multiple rib fractures clearly prevented the establishment of a causative link between any non-accidental injury and death. Accordingly, in my view, what should have been a homicide investigation became the investigation of an admittedly serious assault. Dr Manock's investigation and his subsequent report provided innocent explanations for the most serious injuries found on Joshua's body, explanations which I am now satisfied were incorrect.
>
> In those circumstances, in common with the other two cases, the post-mortem examination basically achieved the opposite of its proper purpose, in that it closed off lines of investigation rather than opening them up.

At page 82, the Coroner made this conclusion:

> As I said in the matter of Barnard, I consider Dr Manock's explanation that he was waiting for further information from the police to be spurious. In my view, it was incumbent upon him to provide the detectives with information so that they would know what to look for.
>
> The diagnosis of bronchopneumonia, together with the suggested explanations for the fractured spine, and the failure to explain the context in which the bruising and the fractured ribs might have occurred, had the opposite affect. I have no hesitation in accepting Dr Thomas' opinion that there was no evidence that Joshua Nottle was suffering from bronchopneumonia to any degree sufficient to cause death.

Indeed, at page 87 the Coroner said:

> Without repeating my earlier findings, I consider the post-mortem examinations and reports prepared by Dr Manock in these three cases fell a long way short of achieving these aims, and I am very concerned that serious crimes may have gone unpunished as a result.

These comments are about the most senior, at the time, the most respected, most experienced criminal pathologist in this state, a man who has an extraordinary responsibility in so far as criminal justice is concerned.

What has been the response of the system to the range of criticisms I have outlined above? I have to say that, from a public perspective, very little. There has been no general response to the increase in criticism of the criminal justice system, now being lead by Channel 7's *Today Tonight*, and, in other respects, by 5AA and, in particular, Leon Byner.

In so far as the Forensic Science Centre is concerned, I have heard all sorts of stories. Some, I suspect, are unfounded but there is a perception in the eyes of the public concerning the role and the performance of the Forensic Science Centre. I know that there has been some improvement in peer review procedures, but it has been suggested to me that that has only occurred in the last two years. It has been suggested to me that many of the initial crime scene observations are not checked, as was suggested by the royal commissioner in the Splatt case. It has been suggested to me, and I mention this only in the sense that it is a perception on the part of some members of the public, that a trainee registrar in forensic pathology is used to undertake routine autopsies without supervision. Indeed, I am told, that it is impossible to know what is routine and what is not.

The response last year by the former attorney-general, when this motion was first moved, was prepared by a number of officers, after consulting with the Director of Public Prosecutions. The former attorney-general was responding to these allegations in a different climate. The former attorney-general quite rightly said that if there was new and cogent evidence then he would not hesitate to reopen any of these cases or any inquiry.

However, the circumstances today are somewhat different. They are different in that the public confidence in our judicial administration is somewhat tarnished. I will give an example of how poor a perception can arise in relation to our criminal justice system. Yesterday, the government, in dealing with the Criminal Law (Forensic Procedures)(Miscellaneous) Amendment Bill, made a couple of startling admissions—or which appeared to be startling at the time. In response to a question concerning the Forensic Science Centre, the Hon. Terry Roberts said:

> There is no independent outsourced testing program. There is cross-testing internally, but that is it.

It was a startling admission because the minister, in answering the question, had a senior officer from the Attorney's department sitting next to him. That was the state of knowledge of a minister of the Crown and a very senior departmental officer. Today—and I am grateful—the minister corrected the record and, I acknowledge, did so promptly,

having made the incorrect statement yesterday. In that statement the minister said:

> Forensic science is accredited under the National Association of Testing Authorities (NATA) forensic science program. One of the requirements of accreditation is participation in independent proficiency testing programs. One of the programs is run by Collaborative Testing Services (CTS) in the USA and they provide samples to laboratories throughout the world.
>
> These samples are designed to replicate typical forensic science casework situations. Results of analyses are submitted to CTS, who correlate the responses and issue a comprehensive report where individual laboratory performance can be judged against all participating laboratories. NATA also reviews proficiency test results of accredited laboratories through their proficiency review committee to ensure that standards are maintained. At the biennial accreditation assessment, NATA inspects all proficiency test results. Besides the international CTS program, Forensic Science participates in a number of national programs organised within Australia.

I am grateful and pleased that that information has been made available to me and to this parliament. But until it was made available today, I can assure members that many members of the public had a different perception and understanding. I also note that, in response to a further question, this process has been in place only for the last 10 years.

I know that similar standards, training and processes are not in place in relation to officers involved in fire cause investigations. I will give you an example, Mr President. How many times do we wake up in the morning and hear on the radio, or see on television in the evening, news about a fire? It would happen, in my experience, at least once a week on television. On how many occasions, when one sees that, has the statement been made by the police, or some other person, that the fire was alleged to have been deliberately lit? Alternatively, they use the less emotional, or more neutral, term 'suspicious circumstances'? How many of those events translate into a criminal prosecution and into a conviction? You could count on one hand the number of times a case has been brought to the courts in the last few years in relation to arson, or fire-caused crime, yet every time we turn on the television we hear the statement 'suspicious circumstances' or 'arson'. Something needs to be done to close the gap between the perception that most fires are caused deliberately, or through the deliberate act of some individual, and the ultimate criminal results that move through our judicial system.

Public confidence in our criminal justice system has, as a consequence of these and other factors, dramatically diminished since the former Attorney-General stood up and said that an inquiry should not be held unless and until new evidence is produced. In some respects, that diminution in confidence has been exacerbated by a number of factors—and, in that respect, I refer to a number of factors that have occurred over the last 12 months.

In October last year, the Hon. Sandra Kanck asked a series of questions concerning the President of the Medical Board's comments about Dr Manock. She asked the following questions:

- Did the minister ever lay a complaint with the board regarding the professional conduct of Dr Manock?
- Did the Registrar ever lay a complaint and, if not, why not?
- Did the Medical Board receive any complaints concerning Dr Manock?
- Were any complaints made to the minister?
- Will the board be instructed to investigate the allegations that have been made by *Four Corners* in so far as Dr Manock is concerned?

On any analysis, they are very important, significant questions that are fundamental to our confidence in our system of justice and, to date, no answer has been forthcoming. That is hardly confidence building, as far as I am concerned, when one looks at these processes.

We have also had (and I do not necessarily accept any of these allegations: I am just putting them out there to describe to this place the public perception of how our criminal justice system is operating) some of the statements made by the Hon. Peter Lewis, the Speaker in another place. There is the issue concerning Terry Stephens and his conduct. There is the auction associated with disgraced magistrate Peter Liddy, and there are the allegations of paedophilia and malfeasance. On Channel 7, there have been allegations and statements concerning the Keogh case.

There have been allegations and statements concerning lawyers and their conduct in relation to money associated with Peter Liddy. There was a rather strange interview, to say the least, with our present Director of Public Prosecutions, in which he said, according to a transcript that has been given to me, that he has not yet seen the police forensic guidelines. That should cause people some concern about the administration of justice in this state.

I listen to the higher rating 5AA in the morning, and I hear constant complaints on Leon Byner's program about inactivity or indifference in relation to the investigation of a broad range of crimes throughout South Australia. In the past 10 days, five or six cases have been referred to me by Leon Byner involving what I can only describe as a very strange indifference to complaints made by people who, if they are not in danger, have a real fear that they are in danger arising from domestic violence. Yet these people have the perception, at the very best, of a police force and a criminal justice system that is indifferent to their fears and their concerns.

In closing this contribution, I point out that the opposition is yet to make a considered decision on this motion but I think that we will have done so by the time we return and in the presence of the mover of the motion, the Hon. Nick Xenophon. However, there is a real challenge to this government. That challenge is relatively simple to define. However, it is far more difficult to achieve. The objective is to stem the public disquiet evidenced by media reports, by the Hon. Peter Lewis, by the Hon. Bob Such, by Channel 7, by Leon Byner and his listeners, and by many others. The landscape in respect of public confidence in our judicial system is lower than it has been for some time. The Attorney-General today is in a very different position from the attorney-general of 12 months ago as a consequence of this declining confidence.

It is not simply a matter of getting those who are intrinsically involved in the criminal justice system to stand up and say there is nothing wrong, everything is right and this is a good system. It is my view that public confidence in the criminal justice system has slipped to the extent that, just as the Forensic Science Centre has done, we need some outside or independent checking and, I sincerely hope, endorsement that our criminal justice system is working well, that it is world's best practice and that the level of public disquiet that I observe both in the media and in my office is a matter of perception and no more than that. That is the challenge to the Attorney-General. It is not an easy one but it is one that he has to address, and very soon.

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

WEST BEACH RECREATION RESERVE

Adjourned debate on motion of Hon. Terry Roberts:

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.

(Continued from page 1704.)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): When I was on my feet before we adjourned the debate, the Hon. Ms Kanck asked a number of questions:

1. In which *Government Gazette* was notice given in relation to the motion that this council pursuant to section 13(7) of the West Beach Recreation Reserve Act 1987 granted its approval of the West Beach Trust granting a lease or a licence for a term of up to 50 years over each of the areas within the reserve, etc.?

2. In which newspaper and on what date was notice given?

3. When was a report provided to the Economic and Finance Committee?

4. Will the minister table a copy?

My investigations indicate that the functions and powers of the trust are defined in general functions and powers of the trust in section 13(7) of the act, which provides that if the trust proposes to grant a lease or a licence over the reserve or a part of the reserve for a term exceeding 20 years—which is the intention of the motion—the trust must not do so except pursuant to an approval granted by a resolution of both houses of parliament. Subsections (5) and (6) will then not apply with respect to the lease or the licence. Those subsections indicate that the issues raised by the honourable member in relation to the gazettal notice, the advertising and providing the report are on the basis that they are before both houses. The parliamentary process overrides the other administrative acts that have to be administered in order for the notice to be given, etc. In answer to those questions, if the motion is passed in both houses then the other administrative provisions of the act do not apply. I hope that satisfies the requirements of the questions put forward and I hope that this motion can be dealt with as speedily as possible.

Motion carried.

TERRORISM (COMMONWEALTH POWERS) BILL

In committee (resumed on motion).

(Continued from page 1704.)

Clause 1.

The Hon. R.D. LAWSON: During the adjournment, the office of the Attorney-General kindly made available to me certain correspondence which had passed between the South Australian Attorney and the commonwealth Attorney. As a result, I will later be moving an amendment to remove a portion of the bill as it stands. It is important that these issues be placed on the public record. On 29 November, the federal Attorney-General wrote to the South Australian Attorney-General in the following terms:

Thank you for your letter dated 27 November 2002 concerning the references of power in relation to terrorism.

As you know, I elaborated the commonwealth's position on outstanding constitutional issues in a response to the Tasmanian Attorney-General which has been copied to all SCAG ministers. I have also recently written to the Queensland Attorney-General and attach a copy of that letter for your information.

It is disappointing that the South Australian parliament has amended its reference legislation so as to include the requirement for state agreement to future amendments of the terrorism offences in clause 4, contrary to the commonwealth's preferred approach. I must advise that the commonwealth considers this approach to be unsatisfactory for the reasons outlined in my letters to the Tasmanian and Queensland Attorneys-General and earlier discussions at officer level.

There is, moreover, a real question whether the amendment of clause 4 means that South Australia is no longer a 'referring state' within the meaning of the commonwealth legislation set out in the schedule to the South Australian bill (see the definition of that term in cl.100.2 of proposed part 5.3 of the Commonwealth Criminal Code.) I am advised that the amendment of clause 4 has introduced significant legal doubt in this regard. The federal terrorism offences cannot have additional constitutional support in South Australia unless South Australia is a referring state within the meaning of the commonwealth legislation.

I would encourage South Australia to reconsider its position and revert to clause 4 as introduced in the South Australian parliament. The commonwealth's view is that reversion to clause 4 as introduced would, in constitutional terms, be the safest course. It would also avoid the further legal uncertainty that the amendment to clause 4 has introduced in relation to South Australia's status as a referring state. As noted in my letter to the Queensland Attorney-General, the point of reference exercise is to avoid constitutional legal risk. I note your comment about termination of state references in the event of future amendment of part 5.3 of the Commonwealth Criminal Code without state agreement. As you are aware, the commonwealth has agreed that it will obtain the agreement of a majority of the states and territories (including at least four states) for any future amendments. This intention is reflected in the commonwealth bill and the commonwealth is also happy to enter into an inter-governmental agreement to enshrine this agreement. A draft inter-governmental agreement will be forwarded for your consideration shortly.

The letter referred to two other letters being enclosed, one from the federal Attorney to the Tasmanian Attorney dated 15 November, a portion of which I will read for the record because it is important. The federal Attorney said:

Clearly we are not of the same view as to what was agreed at COAG. My understanding is that COAG agreed that the commonwealth parliament is to have power to amend the new commonwealth legislation in accordance with provisions similar to those that apply under the corporations arrangements, and that any amendment based on the referred power will require the consultation and agreement of the states and territories, such requirement to be contained in the legislation.

As I stated in my earlier letter, the state corporations reference legislation did not make the reference of power for amendments conditional on state agreement in that legislation; instead this is dealt with in the Corporations Agreement.

I think it is unnecessary to read the rest of that letter. However, the letter to our South Australian Attorney-General from the commonwealth Attorney-General also included a copy of the federal Attorney-General's letter to the Queensland Attorney-General which contains material which also ought be on the record. I will read part of the second paragraph of that letter in view of the time. The letter states:

The letter [referring to a letter to the Tasmanian Attorney-General] confirms the commonwealth's view that the requirement for a state agreement to future amendments of the offences should be contained in commonwealth legislation. This view is based on advice from the commonwealth Solicitor-General that inclusion of such a requirement in clause 4 of the state reference legislation may lead to arguments that the state legislation is not effective to refer a 'matter' within the meaning of section 51(xxxvii) of the Constitution. It is possible that such arguments would be rejected, or substantially rejected. However, the point of the reference exercise is to avoid just this kind of constitutional risk. I understand the commonwealth Solicitor-General has discussed this issue again with the Queensland

Solicitor-General, and I trust that the nature of the commonwealth's concern is now clear.

It ought be noted that, as appears in the original second reading speech of the Attorney-General when the bill was introduced, this legislation arises from an agreement reached between the premiers, the Prime Minister and chief ministers. That agreement states:

> The commonwealth will have power to amend the new commonwealth legislation in accordance with provisions similar to those which apply under the corporations arrangements.

Under the corporations arrangements, there are no provisions in the state legislation similar to that which the government inserted in the other place. Those arrangements are contained in an intergovernmental agreement. In those circumstances, the terms of the agreement, which Premier Rann agreed with Prime Minister Howard and other Australian leaders, envisaged something which is not in precisely those terms.

I think it is worth also emphasising that what has been done by the government in the House of Assembly, in moving the amendments which it did, has introduced an element of constitutional risk and uncertainty, which is inappropriate in a case of this kind. The opposition is a great supporter of the rights and obligations of the South Australian parliament to make laws for the peace, order and good government of South Australia, but it also acknowledges that the state of South Australia is part of a wider national polity, and in this case in this state we should do what the Labor governments in New South Wales and Tasmania have done, that is, pass legislation in a form which does not introduce doubt about the powers which are being referred to the commonwealth. I will be moving amendments later in the committee stage to remove from the bill those parts of clause 4 which were introduced by the government in the other place.

The Hon. P. HOLLOWAY: I thank the Hon. Robert Lawson for his comments. Given that those amendments are in fact to clause 4, perhaps it would be more appropriate to deal with them then.

Clause passed.

Clause 2.

The Hon. P. HOLLOWAY: Given the Deputy Leader of the Opposition's intention to move his amendments, I will not proceed with my amendment.

Clause passed.

Clause 3 passed.

Clause 4.

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

> Page 4 lines 27 to 34, page 5, lines 1 to 12—Leave out subclauses (6), (7) and (8).

The effect of this amendment will be to remove subclauses (6), (7) and (8) of clause 4. These subclauses were not in the bill originally introduced by the government in the other place. They were, however, introduced by the government during the committee stage of the bill. There was certainly some doubt about the issue, and the federal advice was not then available to the extent that it now is. The opposition in the other place supported the passage of the bill in the interests of the matter being expedited. It did not, however, indicate particular support for it.

However, for the reasons I have given earlier in committee this evening, the opposition believes that it is entirely inappropriate, in the light of the advice from the commonwealth Attorney-General, for those clauses to remain.

The Hon. P. HOLLOWAY: I indicate that the government will accept the amendments moved by the deputy leader. I think that I covered the history of it during my second reading response. In the other place the members of the opposition did, I thought, fairly enthusiastically support the amendment but, as has been pointed out, there are some difficulties in relation to it. I think that these matters have been well canvassed. At the end of the day, this state does not have many options. We all want to see the terrorism threat that is facing this country dealt with, and that does require, I think we all accept, some transferring of powers to the commonwealth.

The conditions, of course, under which those powers are transferred is another matter, and we have had plenty of views expressed about that. At the end of the day, we do not have many options: either we give the commonwealth those powers or we do not. In those circumstances, the government will support the amendment moved by the deputy leader.

Amendment carried; clause as amended passed.

Clause 5, schedule and title passed.

Bill reported with an amendment; committee's report adopted.

Bill read a third time and passed.

EDUCATION (CHARGES) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

CRIMINAL LAW (FORENSIC PROCEDURES) (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

> That standing orders be so far suspended as to enable the President to receive messages from the House of Assembly on the Upper South East Dryland Salinity and Flood Management Bill and to deliver to the House of Assembly and receive messages from the House of Assembly on the Terrorism (Commonwealth Powers) Bill when the council is not sitting.

The Hon. R.I. LUCAS: Mr President, I seek your clarification before I speak to this motion. As I understand it, should this motion pass the council, this will be the end of the sittings of the Legislative Council for this year.

The PRESIDENT: It would seem to be a trigger for that.

The Hon. R.I. LUCAS: Thank you, sir. Also, there would be no question time tomorrow and the scheduled sitting day would be cancelled.

The PRESIDENT: That is generally in the hands of the government, but I would assume that that will be the case.

The Hon. R.I. LUCAS: I strongly oppose this unprecedented, outrageous motion, moved by this government to try to gag the Legislative Council and try to stop—

The PRESIDENT: Order! I point out that this motion suspends standing orders and that each speaker is entitled to five minutes, with a total of 15 minutes. We will start the clock when the Hon. Lucas starts.

The Hon. R.I. LUCAS: The Liberal Party strongly opposes this motion. In my 20 years in the Legislative Council, I have not seen a motion moved by either a Labor

or Liberal leader of the government on this issue. Tomorrow was a scheduled sitting day. We received correspondence from the Leader of the Government indicating that, with regard to the sittings, there was an option to sit this week. We were advised that the option had been taken up by the government and that the 2nd, 3rd, 4th and 5th (including tomorrow) would be normal sitting days and that there would be the normal question time and processing of parliamentary business.

No notice was given to me other than within the last five minutes when the Leader of the Government indicated that the government would now proceed with either this motion or an adjournment motion to 6 o'clock tomorrow evening with no question time tomorrow. As I said, this is unprecedented in my 20 years in this place. I think it is a dangerous practice. It is certainly an attempt to gag and prevent the opposition from having their normal question time. We understand that the leader has been under some pressure this week regarding questions about his own budget. He is now seeking to prevent further questioning—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has the call.

The Hon. R.I. LUCAS: —by the opposition in relation to this. The opposition had in mind other questions that it intended to raise tomorrow in relation to the overall accountability of the government and its ministers. We were planning on a question time for tomorrow, but in an unprecedented move the government is seeking to gag the opposition in the Legislative Council from being able to go about its normal tasks in relation to the operation of government business.

Tomorrow the House of Assembly will sit to process important legislation which we were told had to go through. We do not know what has happened in relation to the sentencing bill and the training bill, whether amendments made by the Legislative Council are still to be considered by the House of Assembly. I have been given no advice from the government as to what has happened with those. We were expecting to go to a conference of managers where (if possible) we intended to sit down and work through compromise positions with the government to get those pieces of legislation through. We had a government minister flagging that one of those bills supposedly was potentially a bill of special importance. We are prepared to sit tomorrow, yet this government is now trying to shut down the Legislative Council and any criticism of the government in relation to this issue and prevent the normal operation of this chamber.

We were told at the outset that pieces of legislation such as the freedom of information bill and the public finance and audit bill, to provide two examples, were critical bills as part of the honesty and accountability package of the Labor government. We are ready as an opposition to debate those bills tomorrow and to ensure that those pieces of legislation are considered by this council. Supposedly, this government saw those as critical and important pieces of legislation in its first year of a four-year term of government. The opposition is ready to debate those pieces of legislation, and we have been for a number of weeks. We have indicated through our whip that we have been ready for a number of weeks, but the government has sought to prevent further debate and discussion on at least those two measures.

This is a very dangerous practice that the council should be closed down and that messages should come from one house to the President in the absence of this council in terms of its processing and practice. We in the Liberal Party strongly oppose it. We think there must be some other purpose in mind. If the House of Assembly is sitting tomorrow, it may well be that government ministers have decided to attack the Legislative Council for not sitting, to use the media to try to indicate that on bills such as sentencing the Legislative Council has sought to amend them or oppose them in some way and is not prepared to sit down in a conference of managers under the normal procedures of the Legislative Council and the House of Assembly to resolve these issues, as is the normal practice. The Leader of the Government stands condemned for the most disgraceful exhibition of trying to gag a house of parliament that I have seen in my 20 years here.

Time expired.

The Hon. SANDRA KANCK: The Democrats are not convinced of the argument that the opposition advances of some sort of dangerous precedent. It has appeared to us as the evening has proceeded that there has been an intention to move in this direction.

Members interjecting:

The PRESIDENT: Order! Stop the clock.

Members interjecting:

The PRESIDENT: Order! Honourable members will come to order. This is a limited time debate and therefore I insist that members do not interject when a person is on their feet. The Hon. Sandra Kanck has the call and I ask members to observe the protocols of the chamber.

The Hon. SANDRA KANCK: It appears that this is the direction in which we have been proceeding all evening, as we have moved all the private members' business to the next Wednesday of sitting, which means that if we sit tomorrow we will not have anything to debate at all. If a message comes back from the House of Assembly saying that something has been passed, that is the end of the story. If a message comes back and says that something has not been passed, we will deal with it when we resume in February, and that would apply equally to a deadlock conference. If the message comes back from the House of Assembly that—

Members interjecting:

The PRESIDENT: Order! The Hons Messrs Redford and Sneath will come to order.

The Hon. SANDRA KANCK: —it is insisting on its amendments, it will mean that when we resume in February a deadlock conference can be set up. I have consulted my colleagues and we cannot see that there is anything dangerous in moving down this path. There is nothing we need to do tomorrow: that is the bottom line. It would be a pointless exercise for us to do this.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): There is a lot of feigned horror in the contributions and in the outbursts by some members. At the end of every session we have a priority of bills and private members' business that we agree to proceed with. We have been working towards that. In every session since I have been in this place, at the end of the year there is an agreed position in relation to the bills that are dealt with, and normally the priorities are set by the government.

Members interjecting:

The PRESIDENT: Order! The minister is on his feet.

The Hon. T.G. ROBERTS: The government sets the priorities for bills on the *Notice Paper* every session and we always work towards that. Generally, there is agreement regarding the bills that we proceed with, and in this case there

has been no difference. On the last day and night it is always open slather.

Members interjecting:

The Hon. T.G. ROBERTS: Sometimes we have sat here until four, five or six o'clock in the morning to try to finish the business of the house by agreement. On this occasion, we have worked through the business of the house by agreement; we have got to a position where there is an agreement on a way to proceed, and the process for closing down the business has been taken out of the hands of the government. It appears that the opposition has a proposition that in question time tomorrow it will make some hits. I cannot see for the life of me why we would want to come back for a question time when we have finished with the business of the house.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! Stop the clock.

The Hon. R.I. Lucas: We worked with you last week on the basis that there was a sitting tomorrow.

The Hon. T.G. ROBERTS: At the end of the session, if we have an optional last week, there is no point in sitting for the whole week if you do not have any business to do.

Members interjecting:

The Hon. T.G. ROBERTS: Who sets the priorities for the business on the *Notice Paper*?

The Hon. R.K. Sneath: The government.

The Hon. T.G. ROBERTS: That is the normal process by which a *Notice Paper* is drafted and drawn up, and agreed to. If you want to say now that the business of the council is no longer in the hands of the government, why don't you stand and say that?

The Hon. A.J. Redford: You are offending some longstanding agreements, and be it on your head.

The Hon. T.G. ROBERTS: Why would we sit for the whole of tomorrow on the basis of a tactical whim by the opposition? The position is as described—

Members interjecting:

The PRESIDENT: Order! There are too many interjections. The minister is on his feet.

The Hon. T.G. ROBERTS: The government sets the business of the council. If the lower house wants to make determinations on the bills that are left over, that is down to them. What we have to do is do what we are doing now so we do not have to come back tomorrow.

The Hon. J.F. STEFANI: I want to make a very short contribution. I think it is important for us to maintain the standards as well as the traditions and the conventions that have occurred in the past. As a member of this chamber, I feel that there is a reason why we should determine and complete the business that has commenced and, in fact, is now being considered in the lower house. There is no reason why we could not deal with that legislation when it comes back here, should it be amended in any way. We have had to deal with the legislation that has been introduced by the government. We were forced to deal with it in a very short time frame, and I am of the view that we should complete the process. There is no reason why all of us could not come back and deal with it and complete the business for the year.

The PRESIDENT: There are only 41 seconds remaining for debate on the motion.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): There is not much one can say in 30 seconds; but the council has completed its business and I thought it was clear to all members that we were working towards completing our business. I made it clear to a number of members last night.

The Hon. R.I. Lucas: You didn't speak to me.

The Hon. P. HOLLOWAY: Well, you were not here.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Mr President, since we are going to have messages, we could do what has been done in the past and simply suspend the ringing of the bells until 6 o'clock or 7 o'clock tomorrow night when the House of Assembly will have finished the messages.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, if that was the only business we have, would you want to do that? I do not care; it is in the hands of the council.

Members interjecting:

The PRESIDENT: Order! The honourable member's time has expired.

Members interjecting:

The PRESIDENT: Order! All honourable members will come to order. The time for the debate has concluded, and I now put the motion.

Motion negatived.

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

That the council do now adjourn.

The council divided on the motion:

AYES (8)

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

NOES (8)

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

The PRESIDENT: The Whips have conferred. There are eight ayes and there are eight noes. Based on the premise that the business of the council should be in the hands of the government, I cast my vote for the noes.

Motion thus negatived.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That the sittings of the council be suspended until the ringing of the bells.

I indicate that that will be at 6 p.m. tomorrow.

The PRESIDENT: There are no time limits on this, as this is not a suspension. The Hon. Mr Lucas has the call.

The Hon. R.I. LUCAS (Leader of the Opposition): For the same reasons that the Liberal Party outlined in its strong opposition to the last outrageous and unprecedented motion moved by the Leader of the Government, the Liberal Party very strongly opposes this motion. Clearly, this government is intent on gagging the Legislative Council. Clearly, this government is intent on preventing a normal question time tomorrow. The motion now is to prevent a normal question time tomorrow. As I said earlier, the leader of the government has been under a lot of pressure this week as a result of questions in relation to his budget.

Members interjecting:

The Hon. R.I. LUCAS: Then why not question time tomorrow? If we are coming back at 6 o'clock tomorrow for messages, why not come back for question time? If we are coming back at 6 o'clock, why should there not be a question time?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It has never been the practice in relation to—

The PRESIDENT: Order! I know the hour is late, but the normal standing orders apply. The Hon. Mr Lucas is on his feet. Interjections are out of order. He needs no assistance from members and I do not want to hear any more interjections.

The Hon. R.I. LUCAS: We were advised by letter from the Leader of the Government that the sittings this week for the four days—the 2nd, 3rd, 4th and 5th—were going to be normal sitting days. We were also advised of potentially sitting on Monday evening until the priority bills were passed. The priority bills have not been passed in this parliament. We were informed that eight pieces of legislation were priority bills that had to be passed before the council got up, and those bills have not been passed. The opposition is prepared to sit to consider those pieces of legislation.

We were advised that there were eight pieces of urgent legislation, and we had previously had correspondence that indicated that the government's honesty and accountability package was also urgent and had to be passed during this part of the session. Also included were the Public Finance and Audit Act, the Ombudsman legislation and the freedom of information legislation. They were the four key planks of the government's 10 point package, or whatever it was, for honesty and accountability in government.

The Hon. J.F. Stefani: And the Auditor-General's.

The Hon. R.I. LUCAS: And the Auditor-General's. They were the bills—

The Hon. P. Holloway: You took the business out of our hands.

The Hon. R.I. LUCAS: We did not. The opposition was prepared to debate the bills in relation to those issues. This parliament will not be misled by outrageous claims now being made by the Leader of the Government in relation to these issues. The most recent piece of correspondence, which was posted on 29 November to all members, indicated that there would be a parliamentary sitting week for 2, 3, 4 and 5 December and indicated that the following government bills were a priority for the sitting week, which includes tomorrow: the Upper South East Dryland Salinity and Flood Management Bill; the Education (Charges) Amendment Bill; the Criminal Law (Sentencing) (Sentencing Guidelines) Amendment Bill; the Training and Skills Development Bill; the Criminal Law (Forensic Procedures) (Miscellaneous) Amendment Bill; and the Statutes Amendment (Road Safety Reforms) Bill. There is not a squeak from the Leader of the Government on that one. We are prepared to deal with the Terrorism (Commonwealth Powers) Bill and the Local Government (Access to Meetings and Documents) Amendment Bill.

Members interjecting:

The PRESIDENT: Order! There is too much interjection on both sides of the council. The Hon. Mr Lucas does not need any support from his side of the council, and members on my right should maintain the standing orders. We are all tired, and we all want to get through this.

The Hon. R.I. LUCAS: We were told that those eight bills had to be passed. We were told that members should be prepared to sit on Monday evening after 7.45 p.m., Thursday morning at 11 a.m. until 1 p.m. and Friday, if required; also, agreed private members bills may be dealt with on Monday and Tuesday. The message from the Leader of the Government in the Legislative Council stated:

> I advise that the session will continue until all priority bills have been dealt with.

They have not been dealt with. The opposition is ready to debate the road safety reform bill; it has not proceeded beyond the second reading. The Training and Skills Development Bill—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —has passed the Legislative Council with a significant amendment. We are expecting to go to a conference of managers tomorrow. In the spirit of compromise, we are prepared to work through that, as we always do, to try to reach a compromise on that bill. The Criminal Law (Sentencing) (Sentencing Guidelines) Amendment Bill has passed the Legislative Council with a significant amendment. Again, the opposition is expecting to go to a conference of managers to try to resolve any disagreement that might exist between the houses on that important piece of legislation. I note that the Attorney-General did radio interviews in the last 24 hours in which he suggested that that bill was so important that it might be deemed to be a bill of special importance—sufficiently important potentially to justify an early state election. We are prepared to sit back to try to resolve this issue tomorrow, yet the government now is seeking to try to prevent the opportunity for that to occur.

Those eight pieces of legislation do not take into account previous correspondence we had indicating that the government's honesty and accountability measures were priority bills that needed to pass both houses this session. I repeat that the Liberal Party is prepared to debate the freedom of information legislation. We are prepared to debate the Public Finance and Audit Act legislation, which has no significant amendments, albeit that further questioning in committee requires the presence of the Under Treasurer, after which the legislation can be passed. The freedom of information legislation has significant amendments, which are on file and which have been moved by a number of members of the Liberal Party and the Australian Democrats. Certainly, from the Liberal Party viewpoint, we have been happy for a number of weeks—certainly every day this week—to assist the passage of the freedom of information legislation through the parliament, because it was such a critical bill and we were advised by the government that this was important legislation that needed to be passed.

It also needs to be put on the public record that some members are not here this evening on the understanding that we would be coming back tomorrow with a normal sitting day, with a normal question time and with the normal process for the last sitting day of the parliament. Those members have left the chamber this evening on the understanding that there will be a normal sitting day tomorrow. This government is trying to—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —sneak around, behind the backs of absent members, not telling them and not discussing the matter with me at all, other than during the last five minutes prior to moving the motions—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —cancelling the last sitting day of the Legislative Council, particularly in relation to question time, and denying the opportunity for us to be available. The point that the Hon. Julian Stefani has made is an important one: that, if the House of Assembly were to further amend the Upper South-East Dryland Salinity and Flood Management Bill or the Terrorism (Commonwealth Powers) Bill, the response we have had so far from the Australian Democrats is, 'If they amend it, so be it. We will leave it until February.' We have got one sitting week at the end of February, and then we do not sit for another six weeks after that, until 31 March, and this is meant to be important legislation which has to be passed by the parliament this week.

Members interjecting:

The Hon. Ian Gilfillan: I give up. You've beaten me into submission.

The Hon. R.I. LUCAS: What have you given in on?

The Hon. Ian Gilfillan: Keep talking and we won't.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I take the Hon. Mr Elliott and the Hon. Mr Gilfillan at their word, and I do not intend to proceed any further. I work on an old principle: if the numbers are with you, sit down.

The PRESIDENT: Order! I actually think you won the debate five minutes ago.

The Hon. M.J. ELLIOTT: I am not really persuaded by the argument at all. However, there has been a brief consultation between the members of the Democrats in this place and, I think, if it comes down to a choice of coming back at 6 p.m. or 2.15 p.m., we will opt for 2.15. I have to say that I thought most of the arguments put forward by the Hon. Mr Lucas were baloney and theatre, full of hypocrisy; I do not know how many times we got to the end of a session with the Liberal government when it said it had bills that had to go through and those bills were still sitting there when we finished. I can remember days when we came back the next day without question time. An awful lot of what he was complaining about happened when they were in government. He, as a member of the government, frequently complained about things being taken out of the hands of government.

Having said all that and having not been convinced by any of his arguments at all, we are supporting it simply because it comes to a choice of coming here at 6 o'clock tomorrow evening, or coming here at 2.15 p.m. I do not expect there will be any other business after question time other than messages but, nevertheless, that is the way we think things will have to be as things currently stand.

The PRESIDENT: Order! Given the indications of the council, minister, the motion is that the house be suspended until the ringing of the bells.

The Hon. P. HOLLOWAY: I am happy to withdraw the motion.

The PRESIDENT: You will need to add an amendment, 'until 2.15 p.m. tomorrow'.

The Hon. P. HOLLOWAY: I am happy to do that.

Members interjecting:

The PRESIDENT: Order! I think the understanding is clear. I will put the motion.

The Hon. R.I. Lucas: Can we have clarification of what the motion is?

The PRESIDENT: Order! I am advised that the motion is:

> That the council be suspended until the ringing of the bells.

That is the only motion we need. I think there is a clear indication that it is going to be 2.15 p.m. tomorrow, but it is not part of the motion. I ask members to vote on the motion.

The Hon. P. HOLLOWAY: It is clear. Tomorrow at 2.15 p.m. we will be having question time and it looks like we will be doing some other things—what, I do not know, but we will look forward to it.

The PRESIDENT: It will have to be defeated and another motion put. The minister has said 'suspension'.

The Hon. P. HOLLOWAY: I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

ADJOURNMENT

At 11.49 p.m. the council adjourned until Thursday 5 December at 2.15 p.m.