LEGISLATIVE COUNCIL

Tuesday 18 February 2003

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Controlled Substances (Cannabis) Amendment,

Criminal Law (Forensic Procedures) (Miscellaneous) Amendment,

Education (Charges) Amendment,

Holidays (Adelaide Cup and Volunteers Day) Amendment,

Local Government (Access to Meetings and Documents) Amendment,

Native Vegetation (Miscellaneous No. 1) Amendment,

South Australian Metropolitan Fire Service (Fire Prevention) Amendment,

Statutes Amendment (Environment Protection),

Terrorism (Commonwealth Powers),

Upper South-East Dryland Salinity and Flood Management.

PAPERS TABLED

The following papers were laid on the table:

By the President—

- Reports, 2001-2002—
  - Corporations—
    - Adelaide.
    - Campbelltown.
    - Gawler.
    - Marion.
    - Mount Gambier.
    - Playford.
    - Port Adelaide Enfield.
    - Port Augusta.
    - Port Lincoln.
    - Salisbury.
    - Unley.
    - Victor Harbor.
    - Walkerville.
  - District Councils—
    - Adelaide Hills.
    - Ceduna.
    - Clare and Gilbert Valleys.
    - Coober Pedy.
    - Copper Coast.
    - Franklin Harbour.
    - Karoonda.
    - Kimba.
    - Light.
    - Lower Eyre Peninsula.
    - Mallala.
    - Mid Murray.
    - Mount Barker.
    - Naracoorte Lucindale.
    - Northern Areas.
    - Southern Mallee.
    - Tumby Bay.
    - Wakefield.
    - Wattle Range.
    - Yorke Peninsula.
- Reports on Outcome of Applications for Rebate of Rates—
  - Corporations—
    - Campbelltown.
    - Mount Gambier.
    - Walkerville.

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

- Reports, 2001-2002—
  - Alpaca Advisory Group (AAG).
  - Emergency Services Administrative Unit.
  - South Australian Goat Advisory Group.
  - South Australian Deer Advisory Group.
- Budget Results, 2001-2002.
- Regulations under the following Acts—
  - Fisheries Act 1982—
  - Catch Quotas.
    - Delivery of Abalone.
    - Pilchard.
    - Undersized Abalone.
  - Petroleum Products Regulation Act 1995—Prescribed Offices.
  - Public Corporations Act 1993—
    - Economic Development Board.
    - Ring Corporation Dissolution.
  - Senior Secondary Assessment Board of South Australia Act 1983—Subjects.

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

- Regulation under the following Act—
  - Mines and Works Inspection Act 1920—Approval of Activities.

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

- Election Report for the South Australian Elections—9 February 2002.
- Regulations under the following Acts—
  - Criminal Injuries Compensation Act 1978—Scale of Costs.
  - Development Act 1993—
    - Fees, Building Work.
    - Significant Trees Variation.
      - Upper South East Act.
  - Dog Fence Act 1946—Variation.
  - Harbors and Navigation Act 1993—Time Extension in 2003.
  - Legislation Revision and Publication Act 2002—
    - Environment Protection Act.
  - Listening and Surveillance Devices Act 1972—
    - Records, Warrants.
  - Liquor Licensing Act 1997—
    - Long Term Dry Areas—
      - Barmera, Berri, Paringa and Renmark.
      - Coober Pedy.
      - Port Pirie.
    - Short Term Dry Areas—
      - Beaches.
      - Tumby Bay.
  - Motor Vehicles Act 1959—Speed Penalties Variation.
  - Road Traffic Act 1961—
    - Expiation Penalties.
    - Speed Limit Variation.
  - Upper South East Dryland Salinity and Flood Management Act 2002—Protection from Interference.
  - Victims of Crime Act 2001—
    - Application, Costs.
    - Imposition of Levy.
- Rules—
  - Authorised Betting Operations Act 2000—
    - Bookmakers Licensing (Display of Odds) Rules 2003.
- By-laws—
  - Corporation—
    - Campbelltown—
      - No. 5—Dogs.
    - Mount Gambier—
      - General.
  - District Council—
    - Coober Pedy—
      - No. 1—Permits and Penalties.
      - No. 2—Moveable Signs.
      - No. 3—Local Government Land.

No. 4—Roads.
No. 5—Nuisances.
No. 6—Dogs.
Copper Coast—
No. 3—Local Government Land.
No. 3—Local Government Land—Erratum.
No. 4—Roads.
No. 5—Moveable Signs.
Mid Murray—
No. 1—Permits and Penalties.
No. 2—Moveable Signs.
No. 3—Roads.
No. 4—Local Government Land.
No. 5—Dogs and Cats.
No. 6—Bird Scarers.
Murray Bridge—
No. 1—Permits and Penalties.
No. 2—Local Government Land.
No. 3—Roads.
No. 4—Moveable Signs.
No. 5—Dogs.
No. 6—Lodging Houses.
No. 7—Taxis.
No. 8—Nuisances caused by Building Sites.
Peterborough—
No. 1—Permits and Penalties.
No. 2—Moveable Signs.
No. 3—Roads.
No. 4—Local Government Land.
No. 5—Dogs and Cats.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to move a motion without notice concerning the appointment of a member to the Joint Parliamentary Service Committee.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That pursuant to section 5 of the Parliamentary (Joint Services) Act 1985 the Hon. J.S.L. Dawkins be appointed to the Joint Parliamentary Service Committee in place of the Hon. Caroline Schaefer, resigned, and the Hon. T.G. Stephens be appointed as the alternate member to the Hon. J.S.L. Dawkins.

Motion carried.

The Hon. P. HOLLOWAY: I move:

That a message be sent to the House of Assembly transmitting the foregoing resolution.

Motion carried.

MURRAY RIVER FISHERY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Yesterday, in response to a question by the Hon. Terry Stephens on the river fishery, I stated:

In relation to the incomes received, for the lowest six of those licence holders the declared taxable income was $60 a year. The offer I made was at least 800 years of income in relation to those matters.

In fact, the lowest band of net incomes identified by the independent economic analysis contained five licence holders whose net finishing incomes as derived from their tax returns was $90 per year. The minimum ex gratia offer of $6 000 thus represents only approximately 670 years of income for these fishers.

IRAQ

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I would like to read out a statement made by the Premier in another place in relation to parliamentary debate on the situation in Iraq. It states:

I can advise the house that government time will be set aside tomorrow to allow members in both houses to debate issues surrounding the threat of war in Iraq. Up to three hours will be provided in the House of Assembly, and time will also be provided in the Legislative Council. The extraordinary turn-out at the rally held in Adelaide last Sunday underscores the community's level of concern about the developments in the Middle East. This time will allow members of the South Australian parliament to discuss this critical issue.

It would be my intention, if the council is agreeable, that we would debate this issue after the dinner break tomorrow evening. If there was any private members' business that needed to be put off for that, it could be accommodated later in government time.

ONESTEEL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement made by the Premierin relation to OneSteel.

NATIONAL WINE CENTRE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a ministerial statement made by the Treasurer in relation to the future of the National Wine Centre.

PUBLIC CONDUCT STANDARDS

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on standards of public conduct made by the Hon. Michael Atkinson on Tuesday 18 February.

RAILWAYS, SALISBURY LEVEL CROSSING

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a ministerial statement on the Salisbury rail incident investigation made by the Hon. Michael Wright on 18 February 2003.

WATER METERS

The Hon. T.G. ROBERTS: I lay on the table a ministerial statement on water metering policy made by the Hon. John Hill on 18 February 2003.

QUESTION TIME

PRISONS, PORT AUGUSTA

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

Leave granted.

The Hon. R.D. LAWSON: On 21 January this year, four guards were attacked by 14 prisoners at the Port Augusta Prison. The attack occurred in the gymnasium following a martial arts exercise. The following day, the CEO of the Department of Correctional Services, John Paget, reported that seven of the prisoners who had been involved in the melee had been shipped down to G Division at Yatala, to be dealt with following an inquiry.

Mr Peter Christopher of the Public Service Association made a claim that additional supervisors and security equipment were required at the prison. Mr Paget said:

> Over the past five years, an awful lot of money has been spent upgrading the security systems in all of our prisons, including Port Augusta, and the security systems we have in place are recognised internationally and nationally.

Notwithstanding that fact, this incident occurred. My questions are:

1. Has the minister received a report on this incident?

2. What charges have been laid, or disciplinary action taken, against the prisoners responsible for this reprehensible attack on prison officers?

3. What action will be taken to reduce the likelihood of similar events in the future?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his important question. Any incident inside our prison system that results in prison officers being assaulted is important and, certainly, the department is taking this seriously. Certainly, as minister, I await the final report. The official report I have received thus far is that on 20 January 2003, after refusing two directives to cease practising martial arts—a prohibited activity at the Port Augusta prison—approximately 14 prisoners proceeded to assault staff. The incident took place in the Blue Bush gym and the injured officers were taken to the prison infirmary. Four were taken to the Port Augusta hospital for outpatient treatment for minor injuries. Port Augusta CIB attended and is investigating the incident. Several prisoners involved in the incident were separated from the general prison population and transferred to Yatala Labour Prison's G division.

It is true that the circumstances in which the confrontation took place should be preventable. It was a circumstance in which an order to cease practising a martial art, which apparently is a prohibited activity, was given by prison officers. I have expressed an opinion that some martial arts are more dangerous than others if practiced in prisons. I understand that the Hon. Ian Gilfillan and others are probably practitioners of a passive martial art in the parklands from time to time, but there are some dangerous martial arts activities that need to be supervised and/or in some cases totally prohibited inside prisons.

In reply to the shadow minister's question, yes there was an incident—perhaps not a riot but certainly a major confrontation. I do not have a final detailed report from the investigation that was subsequently ordered by the Port Augusta CIB, but I will undertake to bring back a reply to the honourable member. Again, regarding disciplinary action taken against those prisoners, I will endeavour to obtain a report on that as well.

TURRETFIELD RESEARCH CENTRE

The Hon. CAROLINE SCHAEFER: My question is directed to the Minister for Agriculture, Food and Fisheries. Will the minister categorically deny that he intends to sell off Holland House from Turretfield Research Centre? Will he further categorically deny that funding has been cut to that research centre to such an extent that it will now be staffed by two people—a manager and one other. Will he also categorically deny that he is intending to sell land surrounding Roseworthy Agricultural College? Lastly, will he confirm the widely held view that he is now a minor minister within cabinet and that no priority funding will be given to primary industries in the next budget?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): What an amazing question! In relation to funding for primary industries, as I pointed out, because of the current situation facing this government, the Treasurer has made plain that the government intends to achieve the very notable objective of accrual balance by the end of its term in government. That will be a very significant achievement in fiscal terms because it will mean that in future the government will not be adding to the debt burden for future generations. In relation to any cuts, past or present, the primary sector has not been immune from those cuts, nor has it borne an unreasonable share of them. This is rather unlike what happened under the previous government.

In relation to the first question asked by the honourable member, absolutely no plans have been put to me whatsoever in relation to the disposal of land at Turretfield. I assume that from time to time the officers within SARDI consider their property holdings, and I imagine that from time to time I will get recommendations in relation to particular properties that SARDI holds. I do not recall receiving any recommendations in relation to that property.

The Hon. CAROLINE SCHAEFER: As a supplementary question, will the minister complete the answer to my question by either confirming or denying the imminent sale of land at Roseworthy, and is he implying that he is not required to authorise the sale of property?

The Hon. P. HOLLOWAY: Of course I am not saying that. I am saying that from time to time the department looks at its assets, and I will see whether this matter has been considered. I would have thought that most of the property at Roseworthy was owned by the University of Adelaide. I know that PIRSA has some presence on the campus, but I would be surprised if we had particular land holdings within that complex. I will check that matter but, again, the only issue in relation to the future of Roseworthy that has been raised with me is to do with the Sheep Centre out there.

BARTON ROAD

The Hon. DIANA LAIDLAW: I seek leave to ask the Minister for Agriculture, Food and Fisheries, representing the Premier, a question about Barton Road.

Leave granted.

The Hon. DIANA LAIDLAW: I think all members of parliament would be aware that it is Labor policy that Barton Road, North Adelaide, be reopened to general vehicular traffic, having been closed by the Adelaide City Council to all traffic except buses since 1987. Implementation of this policy appeared to be a priority for Labor last year. On 29 April 2002, only six weeks after the Hon. Michael Wright was sworn in as Minister for Transport, he wrote to the Lord Mayor confirming the state government's intentions. On 12 July, with the *Advertiser's* page 2 headlines screaming 'Adelaide's class barrier to open', the Attorney-General (Hon. Michael Atkinson) confirmed that both the Adelaide City Council and the Local Government Association had already received a copy of the proposed bill.

The Attorney-General also said, 'A bill will be put before state parliament within weeks.' In view of all this frenzied activity, I was most interested to note a report in the *Advertiser* last week, on 13 February, quoting a spokeswoman for Premier Rann and stating that 'the reopening is not a priority.' She went on to say:

The Premier has just said Barton Road is not at the top of his agenda, and it hasn't been addressed by cabinet. . . There's certainly no dispute (in the Labor Party) as it hasn't been debated.

On a number of counts, these statements are very surprising, so I ask the Premier the following questions:

1. Are the statements by his spokeswoman correct, that the reopening of Barton Road has never been addressed or debated by cabinet?

2. If so, did the Minister for Transport and/or the Attorney-General fail to seek and gain cabinet approval, as required by cabinet protocols, before preparing a bill to reopen Barton Road and forwarding the bill mid last year to the LGA and the Adelaide City Council for comment?

3. Why is this bill not now a priority for the Premier and his government, considering the priority given to this matter earlier last year by both the Minister for Transport and the Attorney-General?

4. Considering the strong local opposition to the reopening of Barton Road, has the recent release of the draft report on the redistribution of electoral boundaries, relating to the marginal state seat of Adelaide, had any bearing on the Premier's assessment of the low priority that his government will now give to Barton Road?

5. Has the recent defection of Mr Kris Hanna from the Labor Party to the Greens had any impact on the government's priority in relation to Barton Road?

6. Is it the government's intention both to introduce and seek passage of a bill to reopen Barton Road and to provide all the necessary funding in order to complete all the required roadworks before the next state election due in March 2006?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will ask the Premier whether he wishes to make any comment. I really think the honourable member is drawing a very long bow in even referring to Kris Hanna in relation to Barton Road. I can tell her that Barton Road is a long way away from the electorate of Mitchell. This government does have a number of significant priorities. The government has made a number of announcements and with the significant amount of legislation that will be introduced in another house, the ministers of this government have been extremely busy dealing with a very important legislative agenda.

The Hon. A.J. Redford: What agenda?

The Hon. P. HOLLOWAY: In relation to this particular issue—

The Hon. A.J. Redford: A point of order. There is no legislative agenda!

The Hon. P. HOLLOWAY: —I will refer it to the Premier for his response.

The Hon. A.J. Redford: There is no legislative agenda!

The PRESIDENT: Order! And there is no point of order.

ECONOMY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Mr President, I table a press release in relation to the economy announced by the Treasurer in another place.

FIREARMS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table also a ministerial statement made by the Minister for Police in relation to amendments to the regulations under the Firearms Act.

CHALLENGER GOLD MINE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Challenger gold mine.

Leave granted.

The Hon. CARMEL ZOLLO: In December 2001, Dominion Mining Ltd announced its decision to develop an open pit gold mine over the Challenger deposit, located on the north-west margin of the Gawler Craton. The decision followed a bankable feasibility study conducted after exploration drilling of calcrete anomalies in the Gawler Craton.

The Gawler Craton was the subject of extensive exploration after the release of detailed aeromagnetic data sponsored by the South Australian government. The data attracted many explorers and saw a considerable amount of money spent on exploration in this region. Will the Minister for Mineral Resources Development please give parliament an update on activities at Dominion's recently opened Challenger gold mine in the Gawler Craton?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The Challenger project, which is located some 740 kilometres north-west of Adelaide, is the first significant gold mine development in South Australia to come on stream outside the Olympic Dam copper/gold/uranium operation. It is also the first commercial mine development in the Gawler Craton. Construction and development of the Challenger mining complex were completed during 2002 on schedule and on budget. Infrastructure at the site includes a processing plant, a laboratory, power station, bore field and other services, as well as a mine village and airstrip. The Challenger project has provided 75 permanent on-site jobs.

It was a great pleasure for me to be able to officially open the mine on 11 December last year. The mine is well organised and run with minimal impact on the environment. I detected a high level of energy and enthusiasm at the mine site, and I believe that this augurs well for the project and other potential mines in the region. I congratulate Dominion Mining.

Dominion Mining produced 10 206 ounces of gold in the December quarter at an operating cost of $296 an ounce. More than $5.7 million worth of gold was sold at an average price of $615 an ounce, resulting in a royalty payment of $95 232 to the state. I was fortunate to take part in one of the gold pours during my visit on 11 December. The open cut mine began processing ore last October and the run-up to full production was completed in December.

Production should rise in the March quarter. About 45 000 tonnes of ore containing 5 400 ounces of gold has been stockpiled by the end of December. Dominion plans to work the open cut mine for about 20 months, then develop a drive from the pit to access the higher underground resource, currently estimated at 345 000 ounces. Test drilling for the proposed underground mine has returned very high grades to enhance its production potential. The conceptual plans for an underground mine are based on a gold price of $500 per ounce so, at present levels of more than $600 an ounce, the Challenger project is looking good.

In addition, a regional drilling program has commenced to identify potential shallow resources within five kilometres of the Challenger treatment plant that may support a small open pit with trucking of ore to the Challenger plant. Results

have been encouraging with a number of gold anomalies identified for further detailed follow-up drilling.

As I said earlier, the development of the Challenger goldmine bodes well for the mining future of the region. Industry is bullish about the future of the Gawler Craton and this government gives strong support for this important industry, one which stands to have a significant impact on the economy of this state for years to come.

TAFE FUNDING

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Employment, Training and Further Education, a question about the Kirby report and the TAFE system in South Australia.

Leave granted.

The Hon. KATE REYNOLDS: The Kirby report into the governance of South Australia's TAFE system was released by the Minister for Employment, Training and Further Education on 6 February this year. As a former TAFE lecturer in community services, the state of our system in South Australia is an area that very much concerns me. The report identifies a number of areas where major problems exist in our TAFE system and makes recommendations—some of them urgent—to address these issues.

Page 41, paragraph 4 of the report clearly identifies the urgent need for additional funding for TAFE if the system is to operate at a minimum level while the problems of leadership, governance and financial management are addressed. The report shows a debt of $11 million, though latest figures from the Australian Education Union show the current accumulated debt is now $19.2 million. The Kirby report predicts debt for December 2002 of $9 million for the Regency Institute alone, but recent figures suggest an even higher figure. Reports would suggest that the equivalent of receivers have been sent to Regency Institute to deal with the financial troubles there. Where and when the overall debt has been accumulated is unclear, despite the fact that there are signed documents from TAFE directors to the previous CEO of DETE, Geoff Spring, identifying serious concerns over debt levels of the institutes. My questions to the minister are:

1. Is the debt a result of the previous Liberal government's attempts to impose a Partnerships 21 type system upon the TAFE sector, or is it an ongoing issue of poor management and service duplication, as identified in the Kirby report?

2. What processes will be in put in place to ensure that the current crippling level of debt within the TAFE system does not occur again?

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. KATE REYNOLDS: To continue:

3. What urgent action is the minister taking to inject additional funds into the TAFE system, as recommended by the Kirby report?

4. If these additional funds are not made available, what will be the immediate and longer term impact to the TAFE system?

5. Will the minister be negotiating an improved long-term funding arrangement with the federal government for the TAFE sector?

6. What recommendations will the minister be implementing to address the critical lack of leadership identified by the Kirby report?

7. What is the minister doing to prevent the Regency Institute of TAFE from financial collapse?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her first question and congratulate her on the way in which she handled the inane interjections from those members on her side—but not on her side of politics. I will report those important questions to the minister responsible in another place and bring back replies.

ASCOT PARK PRIMARY SCHOOL

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question about asbestos and asbestos removal in public schools.

Leave granted.

The Hon. NICK XENOPHON: On 6 February 2003, the *Advertiser* carried a report entitled 'Asbestos scare as school's roof repaired', concerning removal of asbestos at the Ascot Park Primary School and closure of some areas to students after dangerous asbestos material was found. On 7 February, the *Advertiser* followed it up with a report headed, 'School site danger check "inadequate"', again about the Ascot Park Primary School, with an acknowledgment by the Minister for Administrative Services that there was a 'serious breakdown' in asbestos removal procedures at the school. The *Advertiser* also reported that the minister was concerned that the subcontractor who carried out asbestos removal work was on a restricted licence.

Following the reports, I was contacted by parents of students who had been at the school, who raised further concerns. These parents alleged that the problems began in November 2001, when a whirlwind at the school lifted up asbestos roof tiles and students were injured by flying debris. Several months later, in the 2002 school year, a student reported picking up asbestos material a number of metres away from the roof during yard clean-up, and handed this material to a teacher.

I understand that these renovations at the school began during the 2002-03 Christmas break, and that on 14 January 2003 witnesses saw a number of children playing at the school (I understand that their access was not authorised) and that at least two children were jumping up and down in a large refuse bin, with dust being generated. Parents and students I have spoken to recently tell me that, when the school reopened this year, parts of the school were closed off because of the asbestos renovation work, but two junior primary students went into an area that was supposed to be closed off and were subsequently cleaned by a teacher for the purpose, presumably, of removing dust.

Further, parents have made a number of serious allegations about the clean-up, including that parents of children who were at the school over the Christmas break under vacation care (that is, their presence was authorised) were not told of the clean-up work, and there was widespread dust from the renovation work. It is also claimed that the classroom airconditioning vents were not covered properly during the rectification work, and that the plastic over the vents had come off at times. Also, parents complained that they were informed of the asbestos removal work only after the first

report in the *Advertiser* on 6 February, and they were given to understand that, were it not for that media report, they would not have been told about the asbestos removal work.

In his ministerial statement yesterday, the Minister for Administrative Services rightly acknowledges community concern about the dangers of asbestos, especially when it comes to children, and that there is a legitimate expectation that the removal of asbestos should occur with the greatest of care and in line with the strictest of protocols so as to protect public safety. The minister also announced that DAIS had enlisted two independent experts to assist with the investigation of the incidents at Ascot Park Primary School and also review DAIS's procedures with respect to asbestos management and removal in public assets, with the minister stating that 'there will be consultation with key stakeholders'. My questions are:

1. Will the inquiries and results of the investigation being conducted be made public?

2. Given the serious concerns of a number of parents at the school, will parents and students of the school over the past three years—that is, since the November 2001 incident—be invited to give evidence to the investigation? If so, how will that be facilitated?

3. Can the minister confirm whether any material contained in the bins referred to in the incident of 14 January 2003 contained asbestos and, if so, whether attempts will be made to locate these children playing in these bins and creating dust as a result of jumping up and down in that material?

4. How long does the government expect the investigation to take, when is a report expected and to what extent will the independent experts called upon to assist the inquiry have the autonomy and authority to be able to direct the course of the investigation and the publication of any report?

5. Does the minister acknowledge that the parents and students of the school were poorly treated in not being advised when the school year began earlier this year of the fact that asbestos removal work was being carried out?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I think members on both sides of the council recognise the dangers associated with asbestos, particularly in relation to the protection of children against the scourge that was made almost mandatory as an insulation material in the forties, fifties, sixties and seventies—

The Hon. Nick Xenophon: And eighties.

The Hon. T.G. ROBERTS: And eighties, yes—after knowing that asbestos qualities were dangerous to health, and known internationally to be dangerous, as early as 1930, a fact that was re-established in the fifties and, finally, established more publicly internationally in 1966. The dangers associated with not just the existing asbestos materials in buildings currently but the dangers associated with removal and exposure need to be carefully managed.

I share the concerns of the Minister for Administrative Services, and I certainly share the concerns of the Hon. Nick Xenophon. I will take those important questions back to the ministers. Both the Minister for Health and the Minister for Administrative Services may possibly be involved, but I will make sure that they receive these questions, and I will bring back a reply.

MINISTERIAL CODE OF CONDUCT

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation, representing the Minister Assisting the Premier in the Arts, a question about open government and the Ministerial Code of Conduct.

Leave granted.

The Hon. A.J. REDFORD: Last year—namely, on 20 November—I asked a question concerning who is responsible for what in terms of ministerial responsibility and for which acts of parliament will the Minister Assisting the Minister for Environment and Conservation be responsible. I have still not received a reply.

The Ministerial Code of Conduct is described by the Premier as introducing 'the most comprehensive accountability measures'. Clause 8 provides:

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

In November last year, via the FOI process, I sought from the Premier and the Minister Assisting the Premier in the Arts, any documents evidencing the mutual understanding, priorities, directions, targets, and so on, concerning the Chief Executive Officer of the Department of the Arts. To my surprise, I received a response from the Premier's office stating that no such document existed. Minister Hill's office, however, advised me that there had been some discussions and that a document had been produced but that it had been produced to cabinet.

So, we have some confusion between the minister, in the guise of the Premier, and the assistant minister's office as to the very existence of such documents and, in a complete betrayal of 'most comprehensive accountability'(measured by the Premier), a refusal to release such a document.

Indeed, my attention was drawn to the Public Sector Review of December last year in which the President of the PSA, Lindsay Oxlad, in his column, asked a number of questions, including whether agency Chief Executive Officers have sat down with their ministers and clearly mapped out how they and their agencies will deliver on all aspects of the government's policy agenda. Further, he went on to ask:

> Is the performance of chief executives being monitored by the Premier and his ministers?

In light of this, my questions are:

1. Why are the documents evidencing government priorities with senior departmental officers and agency managers secret?

2. How can the public determine whether the performance levels of these officers and managers are up to scratch in this secret environment?

3. Does the minister agree, in the case of Mr Oxlad's second question as to the monitoring of performance by the Premier and his ministers, that the answer is no in the absence of any documentation evidencing the clause 8 requirement?

4. How can the public determine whether the ministerial code of conduct is being complied with when such documents are kept secret?

5. Can the government advise one way or another whether clause 8 of the ministerial code of conduct has been complied with in so far as the Chief Executive Officer of the Arts Department is concerned?

6. If there are such documents, can the minister release them or do I have to go to the Ombudsman?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I did not think you had ever been out of the company of the Ombudsman over the past six months. This is the sort of question you get asked after

members have had a long break and a long time to evaluate the questions they asked at the end of the last session.

Members interjecting:

The Hon. T.G. ROBERTS: By your own admission there was a reply to the first question you raised. There was no reply at all to that?

The Hon. A.J. Redford: The first question was, 'Who is responsible for what?'

The Hon. T.G. ROBERTS: You are still waiting for a reply to that question. It makes it difficult for me as minister assisting with the environment to answer this question in my own right. The questions raised are important in relation to responsibility and accountability, and synchronising the ministerial codes of conduct with performance contracts between CEOs and ministers is very important. I am sure the honourable member is asking the question for serious reasons, and I will treat the questions in the same way and bring back a reply.

SCHOOL LEAVERS

The Hon. J.F. STEFANI: 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, a question about school leavers.

Leave granted.

The Hon. J.F. STEFANI: Last year the state government introduced legislation to raise the school leaving age from 15 to 16 years. In proposing changes to the legislation, the state Labor government identified that students dropped out of school for many reasons, some in search for work and others because they become bored, disruptive and unruly in classrooms. Teachers who are endeavouring to educate some of these children certainly face a challenge. In supporting the legislation, I clearly indicated to the minister's advisers that this initiative must be matched with increased funding and resources. Now that the school year has commenced, my questions are:

1. How many 15 year old students who were expected to drop out of the secondary school system have been retained for an additional year of learning?

2. How many school campuses are involved in providing extra teaching for these students?

3. How many additional teachers have been employed by the Education Department to achieve the government's objectives?

4. What specific amount of additional funding has been allocated by the government to keep students at school for an extra year?

5. What specific courses and syllabuses have been developed to provide additional education and training?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his important question, which is timely now that school has gone back. I will seek to get a response as soon as possible from the Minister for Education.

CORRECTIONAL SERVICES STAFF

The Hon. G.E. GAGO: I seek leave to make a brief statement before asking the Minister for Correctional Services a question about extra staff for correctional services.

Leave granted.

The Hon. G.E. GAGO: In December last year the minister announced an additional $1.656 million in extra funding for staff in corrections. Will the minister provide details of how this funding will be used and why it was needed?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for her question. It just so happens that I have the figures in front of me. The amount of funding that I announced for allocation to Correctional Services on 10 December was $1.656 million. That was to fund 23 new custodial and community correctional staff, 13 in the state's prison system and 10 in Community Corrections, which was being weighed down by the increased activities in Community Corrections. It was certainly needed. As the previous minister (the now shadow minister) would admit, there was continual growth in prison custodial numbers and the workload in Community Corrections, particularly in the Port Adelaide area but also in the northern areas and in the south.

We looked at the staffing levels and I spoke to the union, the PSA. Dangers were starting to emerge of excess overtime and stress levels within Corrections, and it was felt that there needed to be some immediate rectification of the situation. We would like to have provided more relief in relation to staff but, as I said yesterday, we are limited in the amount of funds that are allocated to Corrections. We have now decided to work through these difficulties to try to alleviate some of the occupational health and safety matters associated with staffing levels and for the safety of prisoners and the public. In addition to these budget announcements, that is, to the $3.8 million, we have now also announced the 50 new prison beds noted yesterday, and there are other applications for funding in the coming budget to try to come to terms with some of the problems that we face in our correctional system.

The Hon. A.J. REDFORD: As a supplementary question, if the minister had $1.65 million lying around, why did he cut psychological and psychiatric services in the budget last year? If he did have this money lying around, why did he not bring these services back towards the national average that we would expect in those services?

The Hon. T.G. ROBERTS: This money is new money: it is not money that we have cut from other programs. There was some change to some of our internal policy programs, and the honourable member is correct that that money was taken from the Correctional Services budget after our first budget. The difference is that psychological services will still be provided but certainly not at the level at which they were provided before those cuts. This is for staffing levels, to try to alleviate some of the problems associated with the stresses and strains of Correctional Services numbers in relation to managing the number of prisoners we have in the system at the moment.

FLINDERS UNIVERSITY HEALTH AND COUNSELLING SERVICE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Health a question about the recent scrapping of the drop-in service at the Flinders University Health and Counselling Service.

Leave granted.

The Hon. SANDRA KANCK: The Flinders University Health and Counselling Service offers students year-round access to doctors and counsellors. Up until 14 February, the centre included the drop-in service, which incorporated

several nursing staff employed by the university to give students immediate access to a health care worker without making an appointment. With doctors and counsellors regularly booked up three to four weeks in advance, the nurses who were trained in basic counselling were on hand to provide students with limited counselling, vaccinations, blood pressure and cholesterol readings and to treat minor illnesses and wounds.

In mid-2002 the university launched a review of the health and counselling service. Headed by Mr Stephen Jones, manager of academic and student services at Flinders University, the review found the services provided by nursing staff to be 'invalid'. It was decided that the drop-in service was to be scrapped and the positions replaced by one full-time nurse to be employed to give assistance to the doctors, and one nurse employed 0.5 to specialise in community health.

Students no longer have walk-in access to a health care worker and are now forced to make an appointment with a doctor for even the most basic health matter. Waiting three to four weeks to see a doctor about contraceptive advice could create complications for some women students. Nursing and medical students who require something as simple as vaccinations will be forced to have these done through a doctor. My questions are:

1. Does the minister have concerns about the waiting times that students now face on a regular basis to access doctors and councillors at Flinders University?

2. Does the minister acknowledge that the scrapping of the drop-in service will result in even greater accessibility to students wishing to use the health and counselling service?

3. Does the minister consider it an appropriate use of medical resources to have doctors providing services to students that could easily be provided by nursing staff?

4. Does the minister agree that mandatory doctors' appointments will have financial ramifications for students?

5. Will the minister provide a briefing to academic and student services at Flinders University so that they can understand the capabilities and professionalism of nurses in the twenty-first century?

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

WASTE WATER, RECYCLING

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, questions regarding government plans for the recycling of waste water.

Leave granted.

The Hon. T.G. CAMERON: I have received correspondence from Mr Trevor Starr, the chief executive officer for the City of West Torrens, regarding the announcement by Premier Rann on 11 February for the new $1.8 million state government study into the recycling of suburban waste water to feed gardens, parks and industry. In his correspondence, Mr Starr enclosed a copy of the 'Vision for re-use of Waste Water' conducted jointly for the western metropolitan councils and other authorities, including the catchment boards, into the re-use of reclaimed water in the western region.

The report released in April 2000 proposed a pipeline be built to deliver some of the non-potable water back to some of the western suburbs industries, parks, golf courses and recreational areas, including the Adelaide parklands. However, the proposal to re-use treated water from the Glenelg waste water treatment plant was rejected at the time by SA Water who regarded the scheme as uncommercial. Apparently SA Water did not want to sell re-used water at 55¢ per kilolitre when it could sell new water at 92¢ per kilolitre. In his letter, Mr Starr writes as follows:

> This important study was subsequently pigeon-holed, getting no further in 2000 than the desk of the senior administration levels of SA Water. This council was verbally asked to surrender all our copies, but we did not do so, believing that this foresighted proposal did not deserve to be shredded just because SA Water was apparently not willing to support a project that would provide non-potable water at a far lower price than they could manage or make a significant profit out of.
>
> It has been estimated that over $120 million worth of water is wastefully discharged each year into the gulf to be replaced by more water pumped at great expense from a dying River Murray. The many water-related problems we are experiencing, such as gulf pollution, stormwater control, urban flooding, all need to be urgently addressed, and we are alarmed that necessary action is apparently to be further delayed in order to facilitate yet another study.

The government has done plenty of talking lately about the need to make better use of our water resources. I would have thought that this proposal deserved more merit than SA Water has given it. My questions to the minister are:

1. As a matter of urgency, will you investigate why the original western metropolitan council study, 'Vision for re-use of Waste Water' was rejected by SA Water in 2000?

2. Was it because SA Water was more interested in its bottom line than good environmental practice, being able to sell new water at 92¢ per kilolitre, while it received just 55¢ per kilolitre for used water?

3. How does SA Water's refusal to engage in its commitment to waste water recycling sit with the state government's expressed commitment to environmental best practice?

4. Why is it necessary to undertake yet another study at a cost of almost $2 million, when the western metropolitan councils' study and plan has already been completed?

5. Why did SA Water ask the City of West Torrens to surrender all its copies of the original report?

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

GASTON, Mrs C.

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Health a question about the Intergenerational Health Review.

Leave granted.

The Hon. R.I. LUCAS: As members will know, the government has appointed a review team, headed by Mr John Menadue and others, to conduct the Intergenerational Health Review. The deputy chair of the review is listed as Professor Carol Gaston. Members will be aware of a number of public statements that Professor Gaston has made, both on radio and at public meetings, in terms of the operations of the Intergenerational Health Review.

My attention has been drawn to the financial donations disclosure list for the Australian Labor Party for the last financial year, 2001-02. Together with a number of Labor

members, like the Hon. Lea Stevens, who made a donation of $1 879, and the Premier, Mike Rann, who made a donation of $2 000, and others, is a Mrs Carol Gaston, PO Box 3061 Rundle Mall, Adelaide SA 5000, who is listed as having made a donation to the Australian Labor Party of $2 000.

A number of people who have drawn this to my attention have inquired as to whether Mrs Carol Gaston, financial donor to the Australian Labor Party, is indeed Professor Carol Gaston appointed by Minister Stevens and the Rann government and is a prominent spokesperson for the Intergenerational Health Review team. My questions to the minister are:

1. Is the Mrs Carol Gaston listed as a donor to the Australian Labor Party the same person appointed by the minister as deputy chair of the Intergenerational Health Review?

2. Is Professor Gaston being paid or having her costs reimbursed for her work on the Intergenerational Health Review? If so, what is the rate of payment or cost reimbursement? My understanding is that it is in relation to cost reimbursement. What have been the total payments or reimbursements made by the Rann Labor Government to Professor Carol Gaston since her appointment to the time of this question?

3. Was it the minister's recommendation that Mrs Gaston be appointed, and did the minister or a representative of the minister discuss her possible appointment with Professor Gaston, and, if so, what was the date of the first discussion about such a possible appointment with Professor Gaston?

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

STED SCHEMES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation a question about septic tank effluent disposal schemes.

Leave granted.

The Hon. J.S.L. DAWKINS: Septic tank effluent disposal (STED) schemes have been operating in South Australia for more than 30 years. The schemes provide very important environmental, social and business development infrastructure for over 105 communities in regional areas. As I understand it, demand is such that it will take many years to complete the remaining schemes that are desired to be built in those communities. The Local Government Association of South Australia recently made a submission for funding to the Minister for Government Enterprises (Hon. Pat Conlon) calling for an increase in STED funding from the current $4 million per annum to $5.5 million per annum. In addition, the Local Government Association is calling on councils to ensure that the relevant ministers—the Minister for Government Enterprises (Hon. Pat Conlon), the Minister Assisting in Government Enterprises (Hon. Jay Weatherill), the Minister for Local Government (Hon. Rory McEwen) and the Minister for Environment and Conservation (Hon. John Hill)—are made aware of the value of the program.

I am sure that the environmental value of STED schemes, particularly in many seaside and Murray River localities, is well recognised by members in this chamber, as well as across the state. My question is: will the minister urge the Minister for Environment and Conservation to put a strong case for increased funding of STED schemes to ensure that as many communities as possible can be given access to effluent treatment plants?

The Hon. T.G. ROBERTS (Minister Assisting the Minister for Environment and Conservation): I will relay that question to the minister in another place and bring back a reply. I will certainly take up the question of STED schemes and the prioritisation of STED programs in those areas where the environmental imperatives are the key to the advancement of the prioritisation of STED schemes, but there are also other factors that come into play. I will refer those questions to the relevant minister and bring back a reply.

FIREARMS

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the use of handguns in primary industry.

Leave granted.

The Hon. IAN GILFILLAN: We were handed today a ministerial statement under the hand of the Minister for Police, entitled 'Amendments to the Firearms Regulations 1993'. The first paragraph states:

> I rise to advise the house that the government will shortly be making amendments to the regulations under the Firearms Act to maintain the status quo for existing class H firearms licence holders and to provide certainty and consistency for future applications.

Of course, members will know that class H firearms are in fact handguns. Further on, it states:

> There are approximately 146 class H licences issued by police for use in relation to carrying on the business of primary production or in the course of employment by a person who carries on such a business and as approved by the Registrar of Firearms. An applicant must therefore demonstrate a genuine reason for the use of a handgun.

Members may be surprised to know that I have been a primary producer and associated with primary production for 50 years. I have never felt the need or seen the need for the use of a handgun. Our society at large is very concerned about the proliferation of firearms and, in particular, handguns. I ask the Minister for Agriculture, Food and Fisheries, who must be very familiar with the requirements and demands of primary production and for handguns: why should the average primary producer—or even the unusual primary producer—have need for a handgun when perfectly suitable long arms, namely rifles, are available for any necessary agricultural use?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It is my understanding that the provisions in relation to the use of class H firearms by primary producers apply to those on properties greater than 150 square kilometres, or something of that order. Clearly, in those pastoral regions of the state, where pastoralists may need to drive around on motorcycles to herd cattle, the carrying of rifles might be a problematical proposition. I can only assume that the original intention, which the government intends to restore, was for those pastoralists who may need to use a firearm to deal with stock or to put down a suffering animal, for example, might be a legitimate use of a firearm. I think those provisions, which have existed for some years under the Firearms Act, are very sensible and I believe that most South Australians would believe they are reasonable.

The Hon. IAN GILFILLAN: I have a supplementary question. I am sure the minister is aware of the use of horses in pastoral areas—the areas to which he has referred in his answer—and the carrying of rifles or long arms for use on

pastoral properties. I think the minister agrees with me that he does not have the answer to my question. Therefore, I ask him to explore the answer more fully to satisfy the council that there is a genuine need for the use of handguns in primary production in South Australia.

The Hon. P. HOLLOWAY: I thought I explained it adequately. Within those large pastoral properties, where the pastoralists may need to move around in rugged terrain in a vehicle, carrying a long arm may not be appropriate. A class H firearm might be entirely appropriate in such circumstances for those pastoralists. I am happy to refer the question to my colleague, the Minister for Police, who is responsible for these regulations, to see whether he can come back with an explanation that is more likely to satisfy the Hon. Ian Gilfillan—although I suspect from his comments that the honourable member will not be satisfied with any explanation. I repeat that what the Minister for Police announced today is simply a restoration of the situation that previously existed in this state. I think most South Australians would support that.

BRANCHED BROOMRAPE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about branched broomrape.

Leave granted.

The Hon. D.W. RIDGWAY: Following the interesting negotiations with the member for Hammond and the member's compact for good governance with the minister's government, I was interested to note the number of terms and conditions, one of which was as follows:

> To commit to a program of fumigation to eradicate branched broomrape wherever it is discovered in South Australia, and thereby provide certainty for the release of land from quarantine and fairly compensate the landowners who make their living from the land upon which this infestation occurs.

It was interesting to note last week—

Members interjecting:

The PRESIDENT: Members will appreciate that I am allowing this question to be completed. I would rather it was completed in silence so that we can get an answer and go about the business of the day.

The Hon. D.W. RIDGWAY: It was interesting to note last week that, as the Constitutional Convention roadshow was travelling from Murray Bridge to Loxton, you, Mr President, and the Attorney-General (Hon. Michael Atkinson) had an opportunity to observe how the eradication program was progressing. My questions are:

1. What percentage of the $2.3 million budgeted last year has been spent on the project?

2. What discussions has the minister or his department had with landowners in respect of the fair compensation mentioned by the member for Hammond?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): That program is under the control of the Animal and Plant Control Commission. I will seek that information from my colleague, the Minister for Environment and Conservation, and bring back a response.

KOURAKIS, Mr C.

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

Leave granted.

The Hon. R.D. LAWSON: In answer to a question in another place yesterday, the Attorney-General made statements which misrepresent me. The statements related to the appointment of Mr Chris Kourakis as Solicitor-General. The Attorney-General claimed that I provided him with one recommendation for the appointment of Mr Kourakis. Without breaching the confidentiality of the consultation, I can say that this claim is wrong. After the resignation of the previous Solicitor-General, the Attorney-General had a discussion with me in which he mentioned several names and I provided comment on the professional standing and expertise of those named.

The name of Mr Kourakis was mentioned. The Attorney did not seek my recommendation, and it would have been presumptuous of me to offer a recommendation. The Attorney says that he told me that Mr Kourakis had done 'some pro bono legal work' for him and that I replied, 'You should hold that against him.' My recollection is that the Attorney said that Mr Kourakis had acted for him, and that I responded that that fact 'did not disqualify him from appointment'. The substance of the conversation was that the Attorney was seeking my comment. He did not seek my recommendation, nor did I give him one.

Later, on 27 November 2002 (which was some weeks after the first conversation), the Attorney-General offered me a lift from Carrington Street to Parliament House. During that short journey he again raised the appointment. He again mentioned the name of Mr Kourakis, and some other names (not all of whom had been previously mentioned), and some of those names were most unlikely to have been candidates under serious consideration by the Attorney. I did make some comments; once again, they were not recommendations.

The Attorney stated yesterday that he had 'upheld the tradition adopted by Trevor Griffin in consulting the opposition about appointments'. However, one important tradition that was not followed in this matter was the confidentiality of the consultations. This breach of accepted protocol is bad enough, but to provide information to create an erroneous impression is deplorable.

Finally, the consultation process is intended to provide a formal mechanism to enable the Attorney to obtain relevant information about potential appointees from a wide range of sources. It is not intended to provide a shield from criticism of appointments. Judicial and similar appointments are the sole prerogative of the cabinet, on the recommendation of the Attorney-General. The cabinet and the Attorney-General should be prepared to defend appointments on their merits.

REPLIES TO QUESTIONS

AUTISM

In reply to **Hon. I.F. EVANS** (2 December).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

1. In 2002-03 the Department of Education and Children's Services (DECS) provided $890,461 to the Autism Association of SA through the Ministerial Advisory Council Children with Disability fund to assist in education and support of children in school diagnosed with Autism Spectrum Disorders. This is an increase of 17.6 per cent over funding provided for the previous year.

The Department of Human Services provided $464,342 to the Autism Association of SA in 2002-03, up from $451,342 to assist in the provision of support to children diagnosed with Autism Spectrum Disorders.

In addition, DECS employs specialist teachers who work with students with Autism Spectrum Disorders who experience learning

and behavioural difficulties as a consequence of their disability. Ongoing training and development is also provided to DECS staff who either have a child with Autism in their class or who wish to especially study this area.

2. Because Autism is a spectrum disorder there is not a one size fits all approach to meeting individual learning needs of students diagnose with Autism Spectrum Disorder. However it is recognised that the approach taken by Applied Behavioural Analysis (ABA) may play a valuable role in assisting with the learning needs of young people with Autism Spectrum Disorder.

The Department has funded the training of officers in the use of ABA, in order that it may be used as one of the tools when working with young people diagnosed with Autism Spectrum Disorder.

While I am advised that Applied Behavioural Analysis (ABA) will not assist all children diagnosed with an Autism Spectrum Disorder, including Aspergers Syndrome, the principles of ABA are used to aid in reaching improved learning outcomes for students diagnosed with Autism Spectrum Disorder and other students experiencing learning difficulties.

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 1759.)

The Hon. SANDRA KANCK: In making my contribution on behalf of the Democrats, I begin by noting that driving on our roads is a privilege and not a right. Unfortunately, there are too many people who treat it as a right and drive as if they own the road, and that is usually to the detriment of others on the road and sometimes, sadly, people who are not even on the road. Despite reductions in the road toll over the years, the toll is still unacceptably high, and that is clearly a motive behind this bill. It was interesting to read in the *Australian* of 10 February on the opinion pages an article by Mark Carter, who is an Adelaide-based rail industry consultant.

He was talking about the Waterfall incident in which seven people were killed, and the recent incident at Melbourne where a driverless train crashed into another at the Melbourne railway station. He observes that, in the nine days since the Waterfall incident:

> On average, about 40 people will have lost their lives as the result of traffic crashes in Australia, with a further 330, on average, being injured. Yet, this will have raised barely a whimper in the media, and the word 'disaster' will not have been used once in regard to this tragic waste of life.

I think that we all agree, from the contributions we have had so far, that we do need to address the road toll. But we need to ask whether the measures proposed in this bill will deter reckless, stupid or dangerous driving and whether they will reduce the road toll. We need to ask whether there are downsides to any of these measures and whether, in fact, those downsides are worth it. It is not a simple bill; it deals with, amongst other things, the issues of the length of time on P plates—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: The Hon. Diana Laidlaw interjected and said she thought that some of the bill was hogwash.

The Hon. Diana Laidlaw: No, 'hotchpotch'.

The Hon. SANDRA KANCK: That's better.

The PRESIDENT: The Hon. Ms Laidlaw will interject from her place or not at all.

The Hon. SANDRA KANCK: As I said, the bill deals with a variety of issues, including the length of time that people are on P plates, demerit points for speed camera infringements, penalties for speeding and running red lights, presenting licences to police officers and random mobile breath tests outside the metropolitan area—and that is not an exhaustive list. Some of these issues were in a bill that we dealt with in the Legislative Council a little over a year ago, but that bill failed to get through the House of Assembly before parliament was prorogued for the state election.

I will go through the contentious issues in the bill and give an indication of what the Democrats' position will be on them. We support the extension of demerit points to cover those people who are caught speeding by speed cameras. If you are caught by a laser gun or a radar, that speeding offence results in demerit points. So, it makes no sense at all to allow speeding that is observed by a camera to not be covered.

I note that, in the *City Messenger* in late November or early December, Terry Plane in his column was very upset about this measure, but my reading of it is that there is no reason to be concerned. Processes already exist to ensure that the person who commits the offence is the person who receives the fine. If it is your car that is detected and you are not the driver, you can fill out a statutory declaration explaining the circumstances and the details of who was driving, and court action still remains a last resort option if all else fails. If it is a company car, there are financial incentives for the company to reveal who the driver was. There is a much higher financial penalty to the company if the driver is not identified. The expiation fee that is set is up to $2 000 for the company, as opposed to $1 250 for the individual, with an additional fee for the company of $300—and that is on top of the expiation fee.

The Democrats, while supporting the extension of demerit points, do find ourselves at odds with the government on the extension of mobile RBTs beyond the metropolitan area. We opposed this previously in the government's bill back, I think, in 2001 and we will do so again. I note the remarks, for instance, of the Hon. Caroline Schaefer concerning the example of the young woman and that feeling of being almost terrified when having an unmarked police car pull her over. I certainly recall an incident (and it is obviously going back some years) when I was about 12 years of age, and my parents were in Adelaide on holidays. It was New Year's Eve at about half past 12, and we had the experience of a police officer in an unmarked car pulling us over. We had no idea that it was a police officer.

Certainly, at that time (on New Year's Eve), with a man and a woman in the car, we thought that we had a couple of young hoons chasing us. As a child, I can remember being very scared by that incident in the countryside. The fact that it occurred back in 1962 does not alleviate the sort of concerns that people have when they are pulled over in those circumstances.

The Democrats' concerns that we expressed 18 months ago remain the same. We believe that, with the random nature of this measure, it would be young people, people in old cars and Aboriginal people who would become a target. Nothing has been presented to us to the contrary to show that that would not be the case. I repeat what I said at that time: if people are driving in an unsafe way, the police have all the powers that they need to be able to pull them over and charge them with driving in a manner dangerous to the public, or whatever.

The debate in 2001 resulted in amendments to limit the application of mobile random breath tests. I understand that the Liberals in the other place had amendments that would have reinstated those amendments. If that were to occur, I indicate that the Democrats would support them. However, even then, if those amendments were to get up, it would not be satisfactory for the Democrats, and we would vote entirely against the clause.

I indicate that we support the extension of time on L-plates to six months. In principle, we support the increase in the period of time between a failure and a retry for a practical driving test. However, we also recognise that nervousness might play a part in failing such a test the first time, and a retry a short time afterwards, when the nervousness has been overcome, might work for some people, in which case a retry, perhaps on the same day, might be an option for some. I also understand that, for people in country areas, having any length of time between tests might create problems when they have to travel into a rural centre to undertake a test. So, although we support the clause in principle, we will reserve our final judgment until we hear all the arguments teased out during the committee stage.

We are not happy about the government's proposal in respect of the length of time that a driver must be on P-plates. We recognise that young people are a substantial part of the road crash statistics. However, the statistics also show that the real offenders are young men aged 20 to 25 who are not on P-plates and who will not be netted by this measure. As a means of reducing the road toll, it means that the government's proposal is not targeting the right group.

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: The former minister is again expressing her view that it is a hotchpotch. The Democrats express a concern that this measure is discriminatory against young women. We are trying to overcome a problem that is caused by young male drivers but, at the same time, we will net young female drivers. So, from that perspective, it is sexist and discriminatory.

Last year, when this measure was first mooted via the media, I contacted the Youth Affairs Council of South Australia, which was also very concerned about this legislation. When I met with the council, I was told that South Australia was out of sync with other states, and the council brought to my attention the Road Ready scheme in the ACT. I know that South Australia has a Road Ready scheme, but it works only in terms of education in primary schools, although I understand that last year some sort of version was being piloted in secondary schools, but I am not certain what stage that has reached. I would certainly welcome some advice from the minister at the end of the second reading as to what is occurring.

I want to put on record a little about the ACT scheme. This comes from an article in the Australian College of Road Safety Yearbook 2000. It is an article written by Robin Anderson entitled 'The ACT begins innovative new novice driver program'. It describes Road Ready as being a four-stage program. The first stage is the pre-learner stage, which involves young people as passengers, learning about driving and the road environment; stage 2 is pre-licence, which involves young people, usually in year 10 of high school, who are learning about the complexities of driving, and it culminates in their being eligible for a learner licence; stage 3 is the learner stage for those young people who have their learner licence, and it promotes the need for plenty of driving practice; and stage 4 is the solo driver, and in this stage newsletters assist new solo drivers to continue learning about driving. Drivers will also be given the opportunity to undertake a provisional driver course six months or more after they obtain their P licence. The article states:

> As part of the changed licensing system, the age for first-time drivers has been lowered to 15 years and nine months, and a different qualifying and testing system has been introduced. All applicants for a learner licence are now required to undertake a 15-unit road safety course and successfully complete a computerised road rules test. Those who attend ACT high schools will undertake the course as part of their school curriculum, beginning in year 10. Other applicants will have to pass similar courses run by adult education providers.

I will not read all of it but, if any member is interested in seeing a copy of this article, I am very happy to provide it.

When I met with YACSA, I was told that this scheme was being implemented at a cost of only $65 per person, presumably because the education system was bearing some of the cost through its implementation at high school level. However, in framing this legislation, I wonder whether the government looked at replicating the ACT Road Ready scheme and, if it did so, why the government did not take it up.

I will certainly listen to whatever arguments the government and the opposition may put, but at this stage I indicate that the Democrats are not inclined to support the measure, because we believe that it is targeting the wrong group and, in the process, it is netting a lot of smaller fish that do not need to be caught. The government needs to consider an option of allowing P-plate drivers to undertake an accredited defensive driving course to allow suitable drivers to come off their P-plates earlier. It may be that, as a result of what I hear during the second reading debate, I will move an amendment to that effect.

I was a member of the Joint Committee on Transport Safety for 18 months and, for a short time, the former minister was also a member. The committee took up a reference on driving training and testing. I cannot remember how long we deliberated, but I think it was probably a six-month period. However, none of the evidence received by the committee led it to believe that it needed to make any recommendations along this line. In fact, the recommendation was:

> . . . the current minimum ages and periods for acquiring driver's and rider's licences remain unchanged.

I have not received any new evidence that gives me reason to alter the view that I held as part of the Joint Committee on Transport Safety. I believe that most young people are responsible drivers. Considering the amount of time that they spend on the road compared to older drivers, their involvement in crashes and incidents on the road is certainly not as bad as the raw statistics show. Treating all young people as if they are idiots is not the way to go. For example, some young people have driven vehicles on their rural properties for years before getting their driver's licence.

We will listen to the arguments to have this measure passed in its existing form, but we remain to be convinced. The issue of the mandatory loss of licence for blood alcohol content covering the .05 up to .079 range is very contentious. I note the minister's observation that this applies in all other states. My own observation is that .05 is a somewhat hit and miss mark in deciding whether one's driving is impaired. I note in the briefing paper I was given by the minister's advisers, a graphical representation about drivers' blood

alcohol concentrations and the relative risk of police reported crash involvement. Underneath that it says:

> For drivers with a BAC of .05 milligrams, the risk of being involved in a crash is about 1.5 times that of drivers with a zero BAC. For drivers with a BAC of .08 milligrams, the relative risk is about 2.5 times and for those with a BAC of .15 it is about 11 times.

In other words, it is exponential. To look at this graph, the minister and his advisers are telling us that at .05 milligrams, the point at which they want to begin this measure, you have about a 1.5 times greater risk than you do when having a zero blood alcohol content. I also note when I look at this that at .02 it is also about 1.5. So .05 seems to be very arbitrary and, if you are to base it on this sort of statistical representation, you would have to say, 'Why not make it at .02?'

Members interjecting:

The Hon. SANDRA KANCK: It certainly could be .06, as the Hon. Caroline Schaefer says. Pick a number, as the Hon. Di Laidlaw says. Certainly again we see a discriminatory measure in favour of men because of the lesser body mass of women. Men are able to drink more than women before they reach the .05 limit. As an example of the arbitrary nature, I said, 'Why do we not make it .02?' I am what people traditionally call a two pot screamer and, if I had two glasses of alcohol in an hour, I would not be capable of driving the car and I would not have reached .05. If I had a blood alcohol level of .02 I would be a danger on the road, yet we pick .05. It is very much a case of individual body size, weight and metabolism making the difference.

One of the thoughts that crossed my mind in conversation with other people about this is whether the minister would consider an option, which would be at the driver's expense, of being able to undertake a supervised medical test, measuring the driver's response rate when they have a recorded blood alcohol content of .05, to see whether they would be capable of responding in emergencies, because it clearly is a very different kettle of fish for almost every driver.

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Again I will listen to the arguments—I still have an open mind on this one. When the Youth Affairs Council came to see me, I was given an article from a magazine called *The Road Ahead*. This is from February/March 1996 and in it it says:

> Although most young drivers are newly licensed and restricted to a zero blood alcohol limit, 41 per cent of those who cause fatal crashes have a BAC greater than .05, compared with the national average of about 30 per cent.

That makes me consider that maybe part of the solution might be in setting standards and limits on alcohol advertising and the behaviour of some publicans. Members may recall that last year I asked a question about the targeting of young women in hotel happy hours by some publicans. Most of the problem is very much attitudinal and I am not convinced that what we have in this legislation will achieve what we are setting out to achieve, particularly with figures like that when young people will lose their licence when on P-plates and are prepared to go out and risk driving with that level of blood alcohol. It shows that other factors are putting them at risk.

I note also that in the House of Assembly debate the issue was raised of people losing their licences in terms of their need to have a licence to carry out their job. Again, in doing some talking about this issue to people, one of the suggestions made is that where it is a first time loss of licence and not as a consequence of demerit points, which show a record of being very supercilious about the responsibilities we have on the road, consideration might be given to a provision for the person who has been caught out to apply to the registrar for a limited licence where the earning of their income is tied to the licence. Some people will not be able to get to their place of work. Out in the fringe hills areas many young people would be in that situation as they have no public transport. At the very least they need to be able to get to a bus stop in their cars in order to catch the bus.

For some others, driving may be part of their job. I can see an argument for people who have lost their licences to be given a special licence that allows them to drive under restricted conditions such as the hours and place of work and this could be at the discretion of the registrar. I envisage that, if such a scheme could be implemented, this information would be included on the driver's licence. In responding to the second reading debate, will the minister advise what sort of agreements can be negotiated with the registrar at present.

The Hon. Diana Laidlaw: Essentially, it undermines the legislation.

The Hon. SANDRA KANCK: Perhaps we will debate this in committee.

The PRESIDENT: That would be in order.

The Hon. SANDRA KANCK: If the sort of scheme I am suggesting is to be put in place, it would need a visual message for the enforcers of the law, and I suggest the simple red and white P-plate would not be good enough. I suggest something like a yellow and black P-plate so the police would be able to see very clearly that we are dealing with people who have very restricted licence conditions as it would need to be monitored and not abused.

The Hon. R.K. Sneath: Crows colours.

The Hon. SANDRA KANCK: I am not advocating football colours. On the issue of separate penalties being applied when someone runs a red light and exceeds the speed limit at the same time, the government has our support. Running a red light is a potentially fatal exercise and when you combine it with speed any resultant crash will have a far greater impact. In our view, it is absolutely irresponsible to be running a red light in the first instance and doubly so when you are exceeding the speed limit. Anyone who does that deserves a very harsh penalty.

We would be very happy for the demerit points, under those circumstances, to put them out of harm's way for a while. The Democrats will be supporting the bulk of the measures in this bill. We will be listening very carefully to some of the arguments that the minister makes in his summing up and the arguments made in the committee stage on some of the more contentious issues, but at this stage we support the second reading.

The Hon. R.D. LAWSON secured the adjournment of the debate.

CHICKEN MEAT INDUSTRY BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 1761.)

The Hon. A.L. EVANS: Good business practice comes from win-win situations and, sadly, the chicken meat industry and its particular relationship between the processor and the grower has not been a win-win situation. Growers have struggled, yet profit margins for the processors have either remained the same or increased even more. This is because the bargaining power has been in favour of the processors. The bill gives the grower greater bargaining power and will

allow the processors and the growers to negotiate on an equal footing. The bill helps struggling farmers whose livelihood has been at the whim of the processors. It allows them to stand on a better footing when negotiating their contracts with the processors.

The bill also supports growers by enabling them to seek advice from consultants and experts when engaging in collective negotiations with their processors. It has been estimated that there are about 80 farms in this state, a substantial number of them family owned. These families will clearly benefit from this bill, and for this reason Family First supports its second reading.

The Hon. CAROLINE SCHAEFER: This is a difficult and contentious bill. It has been introduced as a result of the required review of the act under National Competition Laws and seeks to provide a competitive environment while at the same time providing surety to chicken growers. Unfortunately, it appears to do neither. The process is of concern to processors who believe it restricts their ability to have a successful industry in this state, and in my view it also fails to protect growers. There are 80 broiler farms in South Australia with an average value of over $1 million. Production of chicken meat is approximately 58 000 tonnes a year. This is estimated to be about 820 000 birds a year, approximately 10 per cent of the national market.

The wholesale production value is approximately $250 million per year and 10 per cent of our chicken meat is exported from the state. Contrary to that, some 10 per cent is imported from Victoria into this state. There are now only two processing companies in the state, and chicken farmers are contractually tied to one processor. Birds are owned and supplied by the processor. So, too, is feed and pharmaceuticals. The growers are paid a fee per bird delivered live back to the processor. The growers invest their own capital, erecting specialised sheds (average size of 50 000 square feet), and must keep the equipment and ventilation systems updated and efficient according to the processor's requirements.

Processors do not guarantee utilisation of the farm capacity, nor an ongoing contract, although of course processors need their growers to take the daily chicken hatchings. Growers believe that they are at risk without an ongoing contract. Contracts are usually of five years duration. The proposed regulatory scheme has five central elements:

1. The establishment of an industry register. It should be noted that other states operate with a committee, but it appears that both growers and processors will accept a government-appointed registrar in this case.

2. Processors are to notify growers with whom they wish to have an exclusive arrangement; in other words, a tied contract.

3. Growers are to be granted the option of collective negotiation with the processors.

4. The establishment of a mandatory code of practice, which will prescribe minimum industry standards and conditions to the parties of a collectively negotiated agreement.

5. The establishment of a compulsory mediation and arbitration process between growers and processors.

Sadly, there appears to be very little trust or goodwill between the growers (who have lobbied me) and the processors. This is most unfortunate, because they are of course interdependent. There is a perceived imbalance in bargaining power between growers and processors, although the processors are quick to point out that there have been few or no grower bankruptcies in recent years while there have been a number of processors placed in receivership, the most recent of these being Joe's Poultry. It is important for us to view each section of this supply chain as just that: an interdependent link in a chain, not mortal enemies or competitors for the same dollar.

Having said that, I should note that I took the opportunity to visit some broiler sheds recently and I am convinced that, while there are many growers unhappy with the current legislation and system of bargaining and contracts, there are probably an equal number who are in fact quite satisfied and who enjoy a good relationship with their processor. I should also note that, while I made every effort to circulate the bill widely via House of Assembly members and to individual growers, I have had very little feedback, other than from the South Australian Farmers Federation, which I acknowledge has worked very hard for its grower members. I am less certain that in this case SAFF is truly representative of the majority of growers.

The chicken meat industry in recent years, like so many other primary industries, has become highly technically advanced, to the stage where, whether we like it or not, those with large tunnel-ventilated sheds will have better economies of scale and will be the preferred and sought-after producers. These growers under this bill will have the right to negotiate individually and have no part in collective bargaining, so it is not hard to see that the bigger, more efficient growers will negotiate on their own terms and will probably be paid efficiency bonuses, thereby further isolating the smaller growers, who will be paid by an average of the lowest common denominator because they have chosen collective bargaining.

This is reminiscent for me as a wheat farmer of being paid FAQ, that is, fair average quality for wheat, with no bonus for protein: it sounds great but simply does not work. The system of voluntary collective bargaining is already in place, has received ACCC clearance and, if that is the preferred method for some or most producers, then my party fully supports it. But I sound a note of warning. All parties, including the growers, have indicated to me that, regardless of this legislation, a restructure of the industry is imminent. Older sheds simply cannot produce as many chickens as they would like. They use more gas and electricity for the same results, their ventilation systems are less effective (through no fault of their own) and their costs are higher.

Additionally, many are in peri-urban areas where they will be continuously encroached on by planning laws, zoning laws, environmental planning, and so on. No matter how much we wish to help these people through regulation, we can only help to slow the tide: we cannot turn it around. In the not too distant future, processors will be seeking to drop off large quantities of chickens and collect them not by the semi-trailer load but by the B-double load. My view is that this government would be more helpful if it were to seek out and develop specific areas in close proximity to power, water and sealed roads for intensive animal husbandry. There is the possibility that smaller growers could then sell their current sheds for real estate value and develop modern sheds in clusters, but there appears to be no forward planning for this type of development at all.

Our party supports this bill, but there are some sections that we simply cannot in good conscience support, and in due course we will be filing amendments to these clauses of the bill. Specifically, we do not support the right of a grower

boycott. Nowhere in Australia is this allowed under the collective bargaining process. The right to boycott may well not pass National Competition Policy laws and, above all, would raise significant animal welfare issues. My understanding is that eggs are ordered well in advance and have a three-week hatching period. Once the day-old chickens are hatched, they must go into a chicken shed. This is more than a bargaining tool—it is blackmail—and most importantly, if as under this legislation there is already a right to compulsory mediation followed by compulsory arbitration, it is unnecessary.

I am not a lawyer, but I would query the very structure of this bill. It is written in terms of an industrial award as though the growers were employees of the processors, yet clearly they are not. I have said that their position is quite unique, but I would have thought they are much more like contractors than employees, particularly since many of them are in fact employers in their own right.

The Hon. P. Holloway interjecting:

The Hon. CAROLINE SCHAEFER: Exactly, and they cannot boycott because they would be breaking the contract. I do not believe it can be written into legislation that they have the right to boycott, because they would be breaking their own contract. I must say that, whilst I have no objection to compulsory mediation at any time during the contract, I am uncomfortable about compulsory arbitration at any other time other than during the collective bargaining process.

I note that under the voluntary process this mechanism has hardly ever been used, so I imagine that this is more of a safety measure than anything else. As I understand it, the registrar has the right to dismiss trivial claims. This then gives some protection to both parties from spending too much time in the courts on small issues and, indeed, incurring the legal costs that go with that.

At an early briefing I made the comment that this bill is a con, and I still believe that it is a con. It purports to help chicken growers, but I do not believe that it does so. To back that up, I will read some of the issues raised yesterday in a speech by the Hon. Carmel Zollo, who is parliamentary secretary to the minister, when she stated:

> . . . but even at this late stage down the track, negotiations are still continuing seeking amendments on behalf of the processors. Some of those concerns have been expressed since the minister's second reading speech, so I will not try to preempt those amendments, if any, but speak generally to the bill.

It should not be assumed that I am the only one who has some concerns with the way this bill has been written. In fact, I am hoping that the government will be able to negotiate some amendments that perhaps will be fairer to all concerned. Further in her contribution, the Hon. Carmel Zollo stated:

> For the processors' part, it is recognised that there should be no hindrance to their establishing their 'home farms' if this is their preferred option. There should also be no hindrance to their being able to contract with new growers, even if it does mean it would occur at the expense of those growers who are found to be inefficient. What no-one wants to see is unreasonable and subjective refusal to deal with a grower who is considered to be efficient, especially when there is a need for a level of growing services that can accommodate that grower. It stands to reason that only the least efficient of growers would be at risk.

But there is nowhere in the bill or from what I can see within a contract to establish what is and what is not an efficient grower. She states further:

> The need to promote best practice and fair and equitable conditions in the chicken meat industry, and the need to be dynamic and commercially viable, must be taken into account. . . As the minister pointed out, this bill does not stand in the way of change in the industry.

She continues:

> . . . the government believes that if the industry in South Australia is to remain healthy in the long term then it must be dynamic and both parties must be subject to competitive pressures. These pressures include those provided by new entrants in the industry and, of course, there is always the requirement to adopt new improved standards which are consumer and industry driven, as well as new technology.

She states further:

> However, it is important to spell out that the bill mandates a code of practice, strengthens collective negotiation and creates a chicken meat industry committee that oversees the industry without any price fixing power or any ability to impose barriers to entry into the market.

So, my message is simply this: this bill does not protect the people it purports to protect, and it throws into question why it has been written in the first place.

I will finish by saying that nowhere in this bill is the real issue addressed, which is continuity of supply, or even guaranteed minimums of supply. It would be my personal preference to oppose this bill, send it back and have something that is more rational drawn up. However, at the request of the chicken growers and, in particular, in an effort to reach some sort of cooperative mechanism, our party has agreed to support this bill but with the amendments that I have foreshadowed.

The Hon. T.G. CAMERON: I rise to indicate strong support for this bill. It is important to the chicken meat industry and the rights of growers that the effective deregulation of the industry be reversed. The chicken meat industry is like no others. Growers do not own livestock but grow it only on behalf of processors. They receive a 6 per cent growing fee of the retail chicken price, but must, in return, provide feed, veterinary care, shelter, chicken sheds, etc. Often these growers are tied to buy these products from the people for whom they are growing the chickens. In some cases multimillion dollar investments must be made in order to gain the benefits of one batch agreements from processors. There are no contracts, only batch agreements, and growers must take the risk that they will get the next batch agreement.

Currently, the chicken processing industry is governed by the Poultry Meat Industry Act 1976. The act provides for a committee to regulate entry into the market and the conduct of market participants. However, in 1997 there were concerns about the exposure of PMI committee members to the Commonwealth Trade Practices Act 1974, and the committee ceased to function and the act has become inoperative.

This bill will restore a pro-competitive regulatory scheme to the industry that complies with the Trade Practices Act, protects the rights and interests of growers and gives effect to a regime of negotiation and arbitration of disputes through the appointment of a registrar. It will be an offence, for example, for a processor to attempt to tie a grower to their operations unless tied growing operations commenced before the act began, or by giving three months notice that they wished to commence tied growing agreement negotiations, and inviting the grower to indicate whether they wished to join or withdraw from the negotiating group. A negotiating group has the ability to negotiate personally, through agents, advisers and consultants, and agree on behalf of the group to a tied growing arrangement.

The registrar will appoint negotiators, taking into account size, the interests of the members and any other relevant

factor. If the processor or a majority of negotiators decide that the matter should go to arbitration, then it shall be so referred. For the operation of tied growing agreements, they shall be for a maximum of five years, renewable once. Any negotiated agreement takes precedence over a direct agreement or understanding between an individual grower and a processor.

For the purposes of the Trade Practices Act, the following are given authorisation: notices for the commencement of negotiations; engaging in collective negotiations; making a collectively negotiated agreement; giving effect to that agreement (only to the extent of restricting the freedom of a grower to grow meat chickens for a person other than the processor); restricting the freedom of a grower to obtain feed, medication, vaccines or sanitation chemicals from a person other than the processor or their delegate; the sharing among growers of their right to provide services; and a common pricing scheme—including discount allowance, allowance rebate or credit.

The registrar, if asked by a processor or grower, must refer to mediation an issue related to duties arising from processor or grower obligations. If the mediation is terminated without resolution, or there is little prospect of resolution, the registrar must refer the dispute to arbitration. Similar provisions apply to tied growers if the dispute relates to their exclusion from the group of growers by processors for the purposes of negotiating agreements. A review of the act is to be prepared after six years and to be laid on the table of both houses of parliament. There are also general transitory provisions, including the repeal of the Poultry Meat Industry Act as well as standard arbitration provisions included in the schedules.

I consider it important that this bill passes. The chicken meat industry is unique and worth over one quarter of a billion dollars to the state's economy. What is more important is that the growers of chicken meat need a legal leg to stand on. Without this pro-competitive regulatory scheme they will continue to be at the mercy and whim of chicken processors who will continue to use them to mitigate the more expensive commercial risks inherent in the industry. Multimillion dollar chicken sheds will continue to be built by growers and mortgages and loans will be entered into—all with a significant amount of uncertainty. This bill protects the interests of the growers and I indicate my strong support for it.

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

VETERINARY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 1687.)

The Hon. A.J. REDFORD: On behalf of the opposition, having had this task delegated to me by the shadow minister, I indicate the opposition's support for this bill. Indeed, the issue of delegation is one on which I will spend a short amount of time later in this contribution. This bill was introduced as a result of a review of the 1985 act. It has been reported by the government that this bill is consistent with national competition principles and it has a number of features, in particular. First, it enables ownership of practices by lay persons; secondly, it redefines veterinary treatment; thirdly, it amends the disciplinary process; fourthly, it changes the constitution of the board; fifthly, it purports to simplify the appeals process; sixthly, it provides for accreditation of veterinary hospitals; and, finally, it makes provision for continuing professional education. Most of the work that will be done in so far as this legislation is concerned will be done via the regulation making process that will impact on the public, including exemptions from registration for various types of veterinary practice.

I must say that I have had some dealings with veterinary surgeons over the years and I can say without any shadow of a doubt that I have never met a vet I did not like. Whether I have met veterinarians in professional practices or out on the golf course, they are to a person a group of people whose company I have enjoyed. They seem to have an extraordinary, pragmatic attitude to life in general and to their practices, in particular. I looked at the bill in detail and saw a whole slab on disciplinary proceedings and I must admit that I would be very surprised, based on the veterinarians I have met and dealt with, if there were to be any need for their use. Notwithstanding that, I suppose out of an abundance of caution, there are such provisions.

Powers are given to the board to investigate complaints in order to determine whether or not a formal hearing is required. It reduces the size of the tribunal, and in that respect the current practice, and legislatively reduces it to a specified number of three. It also provides for mechanisms to deal with veterinarians who have been out of practice for a considerable period of time and wish to re-enter the field. Indeed, the member for Morphett, who has been of great help to the opposition in coming to its conclusions on these issues, is probably an example of a person who may at some stage, at the end of his long and successful political career, seek to re-enter his profession.

The opposition has formed some tentative views in relation to the matters contained within this bill. In that respect, the opposition will be watching and considering very carefully the response of the minister to the issues that I am about to raise. We have received a letter from the Veterinary Surgeons Board of South Australia which expresses some concern about the definition of 'unprofessional conduct'. The bill before the parliament today defines unprofessional conduct as follows:

> (a) improper or unethical conduct in relation to professional practice; and
>
> (b) incompetence or negligence in relation to the provision of veterinary treatment; and
>
> (c) a convention of or a failure to comply with—
>
> (i) a provision of this act; or
>
> (ii)a code of conduct or professional standards prepared or endorsed by the board under this act; and
>
> (d) conduct that constitutes an offence punishable by imprisonment for one year or more under some other act or law;

The Veterinary Surgeons Board has suggested to the opposition that an appropriate definition of unprofessional conduct could be further enhanced and made easier to enforce by the addition of the following words, which are taken from the Victorian Veterinary Practice Act 1997:

> (a) professional conduct which is of lesser standard than that which the public might reasonably expect of a registered veterinary practitioner; and
>
> (b) professional conduct which is of a lesser standard than that which might reasonably be expected of a veterinary practitioner by his or her peers.

I would be grateful if the minister in his response could indicate the reasons why unprofessional conduct is defined in the manner in which it has been, as opposed to adding those words which were suggested by the board. In saying that, I suspect the government has very good reason for

introducing the bill in the form in which it has been introduced.

The second issue which the Veterinary Surgeons Board has raised with the opposition relates to the issue of formal and informal hearings. In that respect, I understand that the current practice of the board under the current legislation is to receive a complaint and then determine whether it ought to be handled in a formal or informal manner. There are occasions where the complaints are of a minor level when they are dealt with informally and lead merely to reprimands or requests to complete refresher courses, and so on. The board informs the opposition that the system works well. It is cost and time efficient and less stressful on all parties. The board acknowledges that it is not recognised within the current legislation. In that respect I will refer to some legal advice that the board has received recently in that regard.

The board does point out that in a recent appeal, His Honour Justice Duggan complimented the board for attempting to act expeditiously and expediently to resolve a complaint by requesting the veterinarian to attend a refresher course without going to formal prosecution. Indeed, it would seem to me that that is an appropriate way in which to go about it.

It has been suggested that clause 13(g) of the bill goes some way towards recognising that the board is able to operate other than by formal proceedings. In that respect, I have been given a copy of a letter dated 12 February 2003 to Helen Ward, the Registrar of the Veterinary Surgeons Board, from Paul Leadbeter, a partner in Norman Waterhouse. He is a solicitor for whom I have some regard, and I am sure that those members who have had dealings with this legal practitioner would concur with that—in particular, the Hon. Ian Gilfillan, I am sure, has had dealings with Paul Leadbeter over the years.

The Hon. Ian Gilfillan interjecting:

The Hon. A.J. REDFORD: Oh, he has not. He says, in relation to this (and I apologise for reading it out but I think for those advising the minister it is important that they have this read out fully):

> It is suggested that this particular provision gives the board the power to deal with complaints via a Complaints Committee. That provision provides that the board's functions include 'to establish administrative processes for handling complaints received against veterinary surgeons or veterinary service providers (which may include processes under which the veterinary surgeon or veterinary services provider voluntarily enters into an undertaking)'. In my opinion, this provision might enable the board to use a Complaints Committee for dealing with some complaints if the board had the power to delegate some of its powers under Part 5 of the Veterinary Practices Bill to another person or body. Section 62(2) provides that if a complaint is laid under that section (which deals with the complaints alleging matters constituting grounds for disciplinary action against a person) then the board must inquire into the subject matter of the complaint unless the board considers that the complaint is frivolous or vexatious. It is the board that is required to undertake that inquiry not anyone else. The Complaints Committee does not constitute the board. I do not believe that the provision in section 13(1)(g) would enable the board to establish an administrative procedure that can override this requirement.

I digress. I think informal processes in disciplinary proceedings are very important and certainly enable things to be dealt with quickly and fixed up with goodwill on the part of both the complainant and the veterinary surgeon. Indeed, I think that is a principle that applies in all walks of life. The letter continues:

> Similarly section 62(3) provides that if a complaint has been laid under section 62 by or on behalf of an aggrieved person and the board is satisfied that the complaint arose from a misapprehension on the part of the complainant or from a misunderstanding between the parties, the board may before proceeding further with the hearing of the complaint, require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding. If it is suggested that this particular provision will allow a Complaints Committee of some board members or the Registrar to deal with such complaints then that is not correct. A complaint in these circumstances would have to be put before the board and the board would have to formally resolve to require the parties to attend before the Registrar in order to clarify the misapprehension or misunderstanding. Surely the more efficient way of dealing with this would be if the Registrar or a sub-committee of the board could make the initial decision on this matter and then refer the matter to the Registrar to deal with.
>
> I believe the problem could be overcome if the board had the power to delegate powers under part 5 of the Veterinary Practices Act to a sub-committee of the board or to the Registrar. If parliament is concerned that the board may delegate its powers to hear and determine a complaint completely to a sub-committee or to the Registrar then the power of delegation in section 16 of the Veterinary Practices Act could be limited to restrict the board's delegation power to the initial consideration of a complaint or to the circumstances contemplated by section 62(3) of the bill.
>
> As a general comment it seems to me that parliament has contemplated that all complaints against veterinary practitioners will require a full blown hearing. Experience has shown that this is not the case. Many complaints can be dealt with administratively. Unless parliament is prepared to establish a separate Veterinary Practices Conduct Tribunal then it is important that there be amendments to recognise and legitimise the informal administrative processes which the board has adopted over the last few years in relation to many complaints.

I have to say as a legal practitioner that the comments made by Mr Leadbeter are absolutely accurate in terms of the disciplinary processes to which lawyers are subjected. It seems to me that, if there is to be a policy decision on the part of the government (and the opposition would not seek to interfere with that policy decision), there should be no establishment of a separate tribunal, and there must, therefore, be some force in what Mr Leadbeter is suggesting on behalf of his client, the board, in terms of informal hearings. In that respect, unless the government indicates that there is some degree of urgency, I would propose to await the government's response to those issues and, depending upon that response, we would then move to drafting amendments and have the matter dealt with through that process. I do not anticipate (and I have not had any indication) that there is an urgent need for this bill to pass this place.

An honourable member interjecting:

The Hon. A.J. REDFORD: I have just been advised that there is an urgent need for this bill to be passed by the end of the week.

The Hon. P. Holloway: A preference, shall we say—a strong preference.

The Hon. A.J. REDFORD: I thank the minister for his interjection. Perhaps we can have some discussions afterwards. I do not wish to be difficult, but I think that the board does raise an important issue; that is, in simple terms, every other profession has a tribunal. In this case, we have avoided the cost and expense of a tribunal but then, they say, in those circumstances, there ought to be some legislative protection to enable informal processes to be undertaken. I think that that is a point well made.

The other issue relates to the number of people who are on the committee. I am informed that the disciplinary committee currently comprises four people, two of whom are veterinary surgeons. I understand that that is done by the board in the sense that it delegates the disciplinary process to those four people. Under the current act, if it wanted to

delegate it to five people or three people, that is a matter that it can quite properly and legally do under the current act.

This bill seeks to enshrine the number of people involved in the disciplinary committee to three, of whom only one will be a veterinary surgeon, the others being a judge or a legal practitioner, and a community or consumer representative. The board has suggested that that would place unnecessary pressure on the single veterinarian who would comprise that disciplinary committee. In that respect, I would be most interested to hear the government's response. I do understand that, if you have a disciplinary committee of three, it is easier to work out where the majority lies, because the majority is two versus one.

However, I would have thought, particularly with the establishment of lay committees (and I am not a big fan of lay committees; I am a great believer in the decision of one in these sorts of matters), that these decisions generally are made by consensus of the three people comprising the disciplinary tribunal, or disciplinary body, and one would hope that any person involved in these affairs would operate in that fashion.

Having appeared before these sorts of committees on many occasions, it has been my experience that it is normally the judge whose view prevails, in any event. I would be interested to hear the government's comment about what the board is suggesting—that is, that the committee comprise four people—given that it is likely that these bodies operate on the basis of consensus, and that two of those people will be veterinary surgeons, in order to get a better understanding of what is a normal professional standard in that profession.

Another issue that has been raised by the board relates to the way in which the Veterinary Practice Bill will operate. In that respect, I will read into *Hansard* the letter from the board to the member for Morphett. It states:

> Currently, only veterinary surgeons (and prescribed relatives) can own veterinary companies, and veterinary companies have to be set up for the sole purpose of providing veterinary treatment. Under the new bill, non-veterinarians will be able to provide veterinary services through veterinarians. We believe this creates a potential conflict of interest. We recognise that penalties have been put in place to protect against this, but should a situation exist where a veterinarian is, say, employed by a drug company, then there is a potential for over-servicing or servicing by one brand of drug, and a pressure placed upon the employee would be difficult, if not impossible, to prove.

The view of the opposition is that these are conundrums that face every single professional on a daily basis. Lawyers are employed by non-lawyer clients and non-lawyer employers on a regular basis. However, if they choose to be admitted as a practitioner of the Supreme Court, then they have a primary duty, and that primary duty is to their ethical obligations. Indeed, whilst there might be a conflict, as pointed out by the Veterinary Surgeons Board, it would appear to the opposition that, notwithstanding that conflict, the primary responsibility is to the professional standards, to the professional body and to the board's standards; that prevails, notwithstanding any direction or any requirement on behalf of an employer.

In those circumstances, the employer itself might well be subject to disciplinary action should it choose to conduct its business contrary to professional standards. Whilst that is the opposition's view on this point, I invite the government to make some comment and to indicate whether it has any views about that particular issue.

With those comments, I indicate that, first, the opposition supports the bill and, second, whilst I have spent some considerable time on the disciplinary process based on my personal experience of this industry, it would be rare for the provisions to be used. As I have said, I have found veterinarians to be honest, decent, professional and hardworking people. I can say that about every vet I have met; indeed, I used to play golf with a vet on a regular basis, and I found him to be a great golfing partner who always counted his strokes and who could be relied upon to be absolutely honest.

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: That was an unfair interjection from the Hon. Rob Lawson; I have never played golf with John Cornwall. With those few words, I commend the bill.

The Hon. G.E. GAGO: In rising to support this bill, I acknowledge the important contribution that our canine and feline friends and the wide assortment of pets make to many South Australian and Australian lives, and the value that they bring to many families and households. When perusing the Internet, I found some very interesting statistics. Over 66 per cent of Australian households have a pet, which is the highest pet ownership per household in the world, a fact which I find quite staggering but not surprising.

Pets obviously contribute to our lives in many different ways—as helpers and companions, as well as for therapy—and their beneficial effects upon those who are ill have been well documented. Companion animals work with us in agriculture, and Australia is quite famous for its use of animals in this role. They are used to engender caring and responsibility in our children, and they act as social facilitators. They protect our property and, for many of us, they gift us with lifelong loyalty.

Some 12 million Australians are associated with pets, and more than 80 per cent of Australians have had a pet at some time in their life. Obviously, pets contribute broader economic benefits; for example, the pet care industry, which is already very large and is still growing, contributes $2.2 billion to our economy, employing over 30 000 people.

Pet ownership contributes many benefits, including health benefits, which have been recorded. To quote some statistics that I found on the Internet, pet owners visit doctors less often and use less medication; on average, they have lower cholesterol and lower blood pressure—

The Hon. J. Gazzola interjecting:

The Hon. G.E. GAGO: —highly recommended—recover more quickly from illness and surgery; deal better with stress; and say that they are less likely to be lonely. Clearly, South Australians care a great deal about their pets. This Veterinary Practice Bill before us puts a legislative framework in place to improve the protection of animal welfare, safety and health, as well as protecting public interest. This is achieved in the same way as many other health professions—via regulation of its associated professional body. The bill seeks to ensure quality of veterinary practice. It ensures that members of the public can have reasonable confidence that any veterinary surgeon in whose care they place their animals will act in the best interest of the animal's health, welfare and safety.

The Veterinary Board of South Australia is currently the regulatory body for veterinary practice in South Australia, and this will continue to be the case with the passing of this bill. The code of professional conduct used by the Veterinary Surgeons Board of South Australia is that of the Australian Veterinary Association Ltd. This is the code of conduct used as a benchmark in all matters of conduct for all veterinary surgeons in South Australia. The principles include that the primary concern of the profession is for the welfare of

animals and that the work performed by veterinarians is to the standard of competence acceptable to their peers. Individually, veterinarians act to promote cohesion within the profession and the trust of the profession by the general public, and no personal advantage is sought to the detriment of a professional colleague.

Veterinary surgeons are, on the whole, competent practitioners in their field of practice. They are well-regarded professionals and highly respected for the work they undertake in their pursuit of the protection of animals' health and welfare. As is the case with most professional industries, particularly health care industries, it is important that professional bodies are regulated. This ensures that anyone lawfully calling themselves a veterinary surgeon is a practitioner of an acceptable competency standard in their field of practice.

Regulating a professional body has a twofold effect: first, the public can be assured that anyone using the title of 'veterinary surgeon' is of a standard competent to deliver veterinary procedures and will act in a manner which is complementary to the health, welfare and safety of the given animal; and, secondly, it maintains the high standing and regard of this group of professionals in the eyes of the public. This bill generally achieves these things by replacing the current Veterinary Surgeons Act of 1985, resulting in regulation of the industry, which is in line with national competition policy. I will now outline a few of the specific elements of the bill.

The bill gives the Veterinary Board of South Australia broader powers in relation to dealing with complaints laid about a veterinary surgeon. Specifically, the bill provides for the board to investigate a complaint and to determine whether a hearing is required as a result of the complaint.

Essentially, it will no longer be necessary for a complaint to result in a formal hearing. This is positive in two regards: first, the board will save money by being able to determine if it is necessary for a complaint to have a formal hearing after an investigation; and, secondly, veterinary surgeons will not automatically have to be subjected to the financial and emotional expenses or time of a formal hearing if it is deemed after an investigation that no formal hearing is required. This is effectively a much more sensible and efficient complaints process.

Just as a matter of interest, of the 531 registrants in the 2000-01 financial year, of which 407 were primary registrations, that is, fully registered veterinary surgeons practising within South Australia, 48 of these new complaints were brought before the board. Of these 48 cases before the board nine matters were settled informally and in 10 of those cases no case was found. The process of appealing a decision of the board is also simplified by providing for the lodgment of appeals in the District Court, as opposed to the Supreme Court. Again, this means a process that will result in a smaller financial burden and obviously require less time. Providing a faster appeal process is undoubtedly beneficial for all parties concerned, particularly the appellant.

This bill also provides specifically for the accreditation of veterinary hospitals. According to the Veterinary Surgeons Board of South Australia the definition of a veterinary hospital is 'an establishment where veterinary services are available at all times and where full facilities are provided for examination, diagnosis, prophylaxis, medical treatment and surgery of animals'. Veterinary hospitals are generally expected to offer a higher standard of service than those offered by normal veterinary surgeons. Amongst other things it will involve care when necessary 24 hours a day. The accreditation standards will be in line with other Australian standards, ensuring that any establishment that calls itself a veterinary hospital supplies a consistently high standard and range of services.

The Veterinary Surgeons Board of South Australia recently implemented policy guidelines to encourage veterinary surgeons to undertake continuing professional development on a yearly basis. The board believes that this is a way of maintaining high competency standards within the profession. The board feels that the public has a right to expect that practising professionals, as with any other profession, maintain an up-to-date body of knowledge and information. Continuing professional development is a way of maintaining high standards of veterinary care and is considered by the Veterinary Surgeons Board as a professional ethical obligation of both the veterinary registrants to maintain such development and for the board in turn to regulate it.

This bill provides for the Veterinary Surgeons Board of South Australia to require at a later date compulsory continuing education as a condition of registration. It provides legislative backup to a sound VSBSA policy. The board also removes limitations on those able to own veterinary practices, allowing non-veterinarians ownership of such practices. While non-veterinarians will be able to own veterinary practices, there will be provisions within the legislation aimed at preventing conflict of interest in these situations. The board also provides that it is an offence for a person who is not a veterinary surgeon but provides veterinary treatment by means of a veterinary surgeon, to instruct or coerce a veterinary surgeon to act in a manner reprehensible, prohibited by law, negligent or unjust while engaged in the provision of veterinary treatment. If such a breach occurs, the maximum penalty is $75 000.

While the Veterinary Practices Bill focuses to a large extent on the regulation of veterinary practices as carried out by registered veterinary surgeons, it also stipulates that veterinary practices are not to be carried out for fee or reward by those not registered as veterinary surgeons. Such offences carry a maximum of a $50 000 fine or imprisonment for six months. While it will be illegal for such a person to carry out such practices in normal circumstances, there will be certain circumstances in which an unqualified person will be able to administer certain veterinary treatments. An example of the types of circumstances include obviously an outbreak of an animal disease whereby it is appropriate and necessary to allow limited practice for the prevention, cure or treatment of such a disease and its spread.

While I have obviously only touched on a small fraction of what the Veterinary Practices Bill provides, it can be seen that it is obviously a sound foundation for the regulation of the veterinary practice industry, and indeed it can be seen that this bill once passed will help to maintain the high standards of veterinary practice in this state, ensuring that both the health and welfare of animals as well as the protection of public interest is maintained. I commend the bill to the council.

The Hon. T.G. CAMERON: I rise to indicate my support for this bill. Currently the operation of veterinary practices and veterinarians is governed by the Veterinary Surgeons Act of 1985. This act has been reviewed to comply with national competition policy and efficiency standards. The review took into account the views of the profession and the industries

associated with the keeping and welfare of animals. The bill replaces the old Veterinary Surgeons Act of 1985 with such changes. In effect, it streamlines the provision of registration, investigation and disciplinary proceedings under the act. Changes kept from the previous scheme are:

- It removes restrictions on non-veterinarians owning practices while attempting to avoid conflicts of interest;
- Registers of interest will be maintained so that clients of veterinarians must be informed if their veterinarian suggests a service or product in which they have a pecuniary interest;
- Unnecessary formal hearings may be avoided by giving the board further powers to determine whether or not a hearing is warranted. This will help the board manage its time and prevent undue hardship for those who have been charged for frivolous or vexatious reasons;
- Appeals against decisions of the board lie in the District Court rather than the Supreme Court and this should help reduce legal costs for the parties;
- A consumer representative will be added to the board making its numbers seven rather than six and this will give consumers a voice in the policy decisions of the board;
- Board meetings have been streamlined and informal resolution of complaints arising from misunderstanding is permitted. This should also help save time.

The bill is flexible enough to permit veterinary practice by non-qualified people in the case of disease outbreaks or emergencies. This is essential for the welfare of animals in emergency situations and to prevent the possible spread of contagious diseases.

To outline the specific provisions of the bill, the definition of 'veterinary procedure' includes a diagnosis, treatment or prevention of a disease, injury or condition in an animal, the administration of anaesthetic to an animal, the castration or spaying of an animal, and artificial insemination procedures. Regulations give the power to include or exclude definitions. This is important for common farm practices. This bill provides for a board—the Veterinary Surgeons Board, the same as under the previous act—to be continued as a body corporate. It will consist of seven members appointed by the Governor for terms of three years and they are eligible for reappointment. The Governor is empowered to appoint deputy members. Members whose terms have expired are allowed to continue to hear part-heard disciplinary proceedings.

The board appoints a register and is required to perform its functions with the object of protecting animal health, safety and welfare and the public interest by achieving and maintaining high professional standards of conduct and competence in the provision of veterinary treatment. The board must prepare or endorse codes of conduct and professional standards, guidelines on continuing education and establish administrative procedures for handling complaints against surgeons or service providers. It has the power to establish committees and delegate its function or powers to those committees, a member of the board, the registrar or an employee of the board. Telephone conferences are permitted for board meetings.

Pecuniary interests must be declared and board members may not take part in discussions in which they have a conflict of interest. They may require a medical examination of a practitioner to determine if they are medically fit to practice. The board is not bound by the rules of evidence and must act according to equity, good conscience and the merits of the case without regard for technicalities and legal forms.

Parties to proceedings of the board are entitled to representation, and the board may award costs against a party to proceedings before the board. An auditor approved by the Auditor-General must audit the accounts of the board annually, and an annual report must be laid before the parliament. The Registrar must keep three registers: general practitioners, specialist practitioners and those who have been deregistered and not reinstated. The registers will be publicly accessible and available through the internet. Registered persons must furnish the board with an annual return in relation to their veterinary practice, continuing education and other matters.

The board may deregister a person who fails to comply or pay the annual registration fee. Contravening or failing to comply with a condition of registration will incur a maximum penalty of $75 000 or six months' imprisonment. General offences under the act are:

- unqualified persons must not provide veterinary care;
- holding out as a veterinary surgeon or specialist without qualification;
- holding out limitations or conditions on registration;
- prohibition of unregistered people using registered terminology to advertise and promote themselves;
- a requirement to obtain permission of the board to commence treatment if they have not practised in three years;
- failure to be indemnified against loss.

They must also provide evidence to the board about alleged negligence. Veterinarians and prescribed relatives who have an interest in owning a veterinary service or business that provides veterinary products must lodge their interests with the board. Surgeons may not recommend a service or product in which they have an interest without informing them in writing of their interest in a business or service.

It is an offence to offer to give an inducement to a surgeon or accept an inducement from a person, consideration or reward for recommending a product sold, or service provided by the person, and a maximum penalty of $75 000 applies. Veterinary service providers and people holding positions of responsibility in bodies corporate are prohibited from issuing directions to or pressuring a veterinarian in their organisation that would result in improper, unlawful, negligent or unfair treatment of an animal. The board may provide for accreditation of a facility as a veterinary hospital, and it will be illegal for a facility to hold out as an accredited veterinary hospital unless they are so accredited by the board. This offence carries a maximum penalty of $50 000.

The board may appoint inspectors, who may investigate such matters as the basis for disciplinary action against an individual or the medical fitness of a person to be a veterinarian, if a person has breached the act and whether or not a facility has met the requirements of the board to be an accredited veterinary hospital. It will be an offence with a maximum penalty of $10 000 to hinder an inspector; use abusive, threatening or insulting language to them; refuse or fail to comply with their requirements; refuse or fail to answer questions to the best of the person's knowledge; or falsely represent that they are an inspector. It will be an offence with a maximum penalty of $10 000 for an inspector to address offensive language to another person or, without lawful authority, to hinder or obstruct, use force or threaten to use force in relation to another person.

A person who provides veterinary treatment through the instrumentality of a veterinary surgeon or health professional who has treated or is treating a patient who is a veterinary

surgeon must report to the board if they believe the surgeon is not medically fit to be a veterinary surgeon. The board must cause this report to be investigated. The board may then determine, or determine upon the application of the minister or Registrar, that the surgeon is medically unfit to provide veterinary treatment. If it is in the public interest, they may suspend the person's registration until further order or for a specified period; impose conditions on the person's registration, restricting their right to provide treatment; or impose conditions on their registration, requiring them to undergo counselling, treatment, or enter into any other undertaking.

Disciplinary action may be entered into by the board if a veterinary surgeon's registration is improperly obtained; they are no longer a fit and proper person to be registered; the person is guilty of unprofessional conduct; or a veterinary services provider has contravened or failed to comply with a provision of this act or, in the case of a trust or corporate entity, the occupier of a position of authority has contravened or failed to comply with a provision of this act, in which case the trust or corporate entity as well as the person in a position of authority may be liable to disciplinary action, unless it is proved that the person in authority could not by the exercise of reasonable care have prevented the commission of the offence by the entity.

The board must enter into a disciplinary investigation against an individual if a complaint is received from the Registrar, the minister or from an aggrieved person or their representative, if they are a child or have a physical or mental incapacity. The board may also refuse to investigate claims that it believes are frivolous or vexatious. If a complaint arises from a misunderstanding or misapprehension the board may, before proceeding, require the parties to appear before the Registrar to clear up the matter. If there is a cause for disciplinary action, the board may censure the person; impose a fine of up to a maximum of $10 000; impose conditions on their right to provide veterinary services; suspend their registration for up to one year; cancel their registration; disqualify them from being registered; prohibit them from carrying on business as a veterinary services provider; prohibit them from occupying a position of authority in a trust or corporate entity that is providing veterinary services; and if the person fails to pay the fine they may be removed from the register.

It is an offence to contravene or fail to comply with such an order of the board, with a maximum penalty of $75 000 or imprisonment for six months. For all investigative and disciplinary proceedings of the board, the board will be constituted by the presiding member and two other members selected by the presiding member, at least one of whom will be a veterinary surgeon. Questions of law and procedure will be determined by the presiding member, and all other matters by majority or unanimous decision. The board, in order to determine preliminary, interlocutory or procedural matters, questions of cost, questions of law, or to enter consent orders and make consequential determinations or decisions for those purposes, will consist of the presiding member sitting alone.

Parties to hearings must be given 14 days' written notice, unless the board thinks there are special reasons to give a lesser period. If a person who has been given written notice of the proceedings does not attend, the proceedings may continue nonetheless. The board may suspend the registration of a person before proceedings commence if it is of the opinion that the health, safety or welfare of animals or the public interest must be protected. Transcripts of evidence taken by courts, tribunals or any other body of this state, other states or other countries, and the findings, decisions, judgments and reasons for judgments may be examined by the board.

There is a general requirement that proceedings must be conducted as expeditiously as possible. There is an appeal to the District Court available within one month of a decision of the board where the board refuses to register or refuses to reinstate the registration of a person; the board imposes conditions on a person's registration; the board makes a decision under its investigative and disciplinary powers; or the board refuses to accredit a facility as a veterinary hospital or suspends or cancels its accreditation. The board must provide, if the appellant so applies, the reasons for the board's decisions.

If the board does not list its reasons at the time of its decision and within one month a person asks for its reasons, then the one-month time limit for appeal runs from the date the board provides its reasons in writing. The District Court may also vary or invoke a condition imposed by the court in relation to a person's registration under the act upon their application. The minister and the Registrar are entitled to be heard in such an application. Under the miscellaneous provisions of the act, it is an offence to provide false or misleading information under the act, with a maximum penalty of $20 000. It is an offence to procure registration by fraud for oneself or for another person, with a maximum penalty of $20 000 or six months' imprisonment. It is an offence to victimise a person because they may provide information or make a complaint under this act. This may be actionable as a tort or as an act of victimisation under the Equal Opportunity Act 1994.

Self-incrimination and legal professional privilege are not excuses to not furnish information under this act, but such information or the fact that it is being produced is not admissible in evidence in proceedings against the person except proceedings of making a false or misleading statement or perjury. Disciplinary action taken under this acts does not mean that legal proceedings cannot also be taken and vice versa. The occupier of a position of authority of an entity such as a trust or a body corporate is vicariously liable for the breach of the act by the trust or body corporate unless it is proven that they could not have, by the exercise of reasonable care, prevented the commission of the offence by the entity.

The act also complies with the confidentiality policy of the government; that is, a person cannot release information gained under the administration of the act unless required by law or with the consent of the person to whom the information relates, or the release of statistical anonymous data. It is also an offence to use information so released for any other purpose, or to gain access to that information. Both cases carry a maximum penalty of $10 000.

The act indemnifies, with liability instead lying with the Crown, acts of good faith committed under this act by members of the board, the registrar, a member of the board's staff, a member of a committee of the board, or an inspector. The act also sets out evidentiary aids for the purposes of proceedings and sets out the methods by which notices may be served under the act. The board has the power to vary or revoke a gazetted notice by publication in the *Gazette*.

A general regulation making power is prescribed, among which the powers are: to prescribe or empower the board to fix fees and charges under the act, or for services provided, or to waive, reduce or recover such fees; to provide penalties not exceeding $5 000 for the breach of non-compliance of a regulation. If a code, standard or other document is referred

to or incorporated in the regulations, then it must be available for public inspection during normal office hours, free of charge, at an office or offices specified in the regulations.

The act also contains repeal and transitionary provisions in its schedule. These include the repeal of the Veterinary Surgeons Act 1985, the continuance of the register and of the board, and a general regulation making power of a transitional or savings related nature. I support this bill. It has been arrived at with consultation with the veterinary industry and provides for the update and the provisions governing veterinary services with competition and legal principles.

The Hon. R.D. LAWSON secured the adjournment of the debate.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 21 November. Page 1450.)

Clause 6.

The Hon. P. HOLLOWAY: Before we proceed any further, let me say that the government will find it very difficult to live with some of the amendments that have now been incorporated into this bill. Nevertheless, we are prepared to proceed with the bill to its conclusion in this place, and the government will need to negotiate with the other parties in relation to this particular bill to see whether an acceptable outcome can be reached. Whereas we do have some great concerns about some of the amendments that have already been passed, nevertheless we hope that, as a result of the full legislative process, which may involve negotiations and possibly a conference of the houses subsequently, we will endeavour to see whether we can recover something from this bill.

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

Page 8, after line 15—Insert:

(2a) Where an application for review is made under Division 1, an appeal cannot be commenced until that application is decided and the commencement of an appeal to the District Court bars any right to apply for a review under Division 1.

The committee will recall that the proposed section 40 in the government's amendment provides that an appeal to the District Court existed only where a determination had been made on a review. In other words, one could not be seeking a review at the one time and also seeking to appeal. They had to be consequential. We agree with that proposition and accordingly have had to insert, as proposed, clause (2a). It is a provision which has the same effect, namely:

Where an application for a review is made under Division 1—

that is an application for review to the ombudsman—

an appeal cannot be commenced until that application is decided, and the commencement of an appeal to the District Court bars any right to apply for a review under Division 1.

One cannot take two paths: one can only take one. We agree with that, and I would hope that, consistent with the fact that this is a proposition that the government had in its bill, it would be supported by the government.

The Hon. P. HOLLOWAY: The government fundamentally objected to the amendment of the opposition, which was carried when we last met, the effect of which was to basically reinstate into the bill full appeal rights to the District Court. This government has argued, in line with the practice in other states and in line with the recommendations of the Legislative Review Committee, that there should be appeal on matters of law only. However, given that this particular clause is actually incidental to what was already carried last time, we do not seek to oppose it.

The Hon. IAN GILFILLAN: We supported the government's position on this, but we did not have the numbers, so we are opposed to the intention of the original amendment and this consequential amendment, but indicate that, for logical process, we do not intend to push for a division on it.

The Hon. P. HOLLOWAY: As indicated, we had opposed the original amendment. Given that this is in a sense consequential, we do not seek to oppose it.

Amendment carried.

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

Page 8, lines 16 and 17—Leave out subclause (3) and insert:

(3) The following are parties to proceedings under this section:

(a) the agency;

(b) in the case of an appeal against a determination of an agency following an internal review or a determination made on a review under Division 1—the applicant for the review;

(c) in the case of an appeal against a determination that has not been the subject of a review—the applicant for the determination.

This is a procedural amendment which merely defines the parties to an appeal under the section as it now stands. They will be the agency and, in the case of an appeal against a determination of an agency following an internal review or a determination made on a review under Division 1, by the ombudsman, the applicant for review, and, thirdly, in the case of an appeal against a determination that has not been the subject of any review, the applicant for the determination. It merely clarifies what is, in a sense, an obvious proposition.

The Hon. P. HOLLOWAY: Again, this is consequential to the amendment which was carried and which the government opposed last time we discussed this bill, so we will not divide on it.

Amendment carried.

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

Page 8, lines 28 to 29—Leave out subclause (6) and insert:

(6) In proceedings under this section—

(a) in the case of proceedings commenced by an agency—the court must order that the agency pay the other party's reasonable costs; or

(b) in any other case—the court must not make an order requiring a party to pay any costs of an agency unless the court is satisfied that the party acted unreasonably, frivolously or vexatiously in the bringing or conduct of the proceedings.

New section 40(6) provides that, where proceedings are commenced by an agency, the court must order that the agency pay the other party's reasonable costs. That sentiment is supported and, in fact, is incorporated as the first limb of our proposed amendment. In any other case, that is, a case where the proceedings are not commenced by the agency, the court must not make an order requiring a party to pay the costs of an agency unless the court is satisfied that the party acted unreasonably, frivolously or vexatiously in bringing the proceedings or the conduct of those proceedings. The possibility of an adverse order for costs against a citizen is a massive disincentive to exercising rights of appeal to any court or tribunal. This jurisdiction ought to be one in which the government pays the costs if the government starts the appeal, but the citizen will not be ordered to pay costs unless the citizen has acted unreasonably, frivolously or vexatiously.

There already does exist in the District Court Act a similar provision. Section 42G provides:

However, no order for costs is to be made unless the court considers such an order to be necessary in the interests of justice.

However, we have sought here to adopt the language which is consistent with the words used in the Workers Rehabilitation and Compensation Act to protect parties in that jurisdiction from adverse orders unless they act unreasonably, frivolously or vexatiously in the bringing or conduct of the proceedings. The principle here is that this act should be friendly to the citizen and that any unnecessary disincentives to exercising rights under the act should be removed. I hope that the government, which says that it is interested in open and accountable government, supports it.

The Hon. P. HOLLOWAY: It is the government's view that the current act is strong enough on costs already. As the deputy leader just pointed out, there are provisions in the act, and I think he mentioned section 42G(2). Therefore, we would not see this as necessary.

The Hon. IAN GILFILLAN: The Democrats are persuaded by the valid points made by the shadow attorney-general. The only thing I will say, with some mischief, is that I suspect that they expect to be on the opposition benches for many years. It is not the sort of initiative which comes from a party that is expecting to form government.

The Hon. R.D. Lawson interjecting:

The Hon. IAN GILFILLAN: On a matter of principle the shadow attorney-general and I are as one. Therefore, I indicate that we will support the amendment.

The Hon. NICK XENOPHON: I support the opposition's amendment on the issue of appeals.

Amendment carried.

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

Page 9, after line 11—Insert:

42. If, at the completion of any proceedings under this Division, the District Court is of the opinion that there is evidence that a person, being an officer of an agency, has been guilty of a breach of duty or of misconduct in the administration of this Act and that the evidence is, in all the circumstances, of sufficient force to justify it doing so, the court may bring the evidence to the notice of—

(a) if the person is the principal officer of a state government agency—the responsible minister; or

(b) if the person is the principal officer of an agency other than a state government agency—the agency; or

(c) if the person is an officer of an agency but not the principal officer of the agency—the principal officer of that agency.

This proposed provision is comparable to new section 39(16) of the government's bill, which appears at the foot of page 7. New section 39(16) provides that if, after conducting a review under this section, a relevant review authority is of the opinion that a person, who is an officer of an agency, has been guilty of a breach of duty or misconduct, the relevant authority may bring the evidence to the notice of the minister (in the case of a department), the agency (in the case of a government agency) or the principal officer of the agency. That provision relates to someone engaging in misconduct in relation to the conduct of a review and the power is given to the relevant review authority. My proposed provision will allow the District Court to exercise the same power in respect of the misconduct of an officer. This provision is consistent with the approach taken by the government in its amendment, namely, that a review authority should have a certain power, and if this clause is passed the District Court will have the same power.

The Hon. P. HOLLOWAY: This amendment is consequential to the earlier decision to restore appeal rights to the District Court on merit and points of law. Given the action we have taken with other amendments, we will be consistent and we will not oppose the new clause, given that it is consequential to that.

Amendment carried.

The Hon. P. HOLLOWAY: The government is unhappy with clause 6 as it is now because it re-inserts appeal rights. However, we will deal with that matter at a later stage of the legislative process.

Clause as amended passed.

Clause 7 passed.

Clause 8.

The Hon. R.I. LUCAS: While my colleague has some consultations, I want to take the opportunity to put on the public record a quick response in relation to some of the issues that are being canvassed not only in this chamber but also publicly in relation to—

The CHAIRMAN: Move the amendment and then we will proceed.

The Hon. R.I. LUCAS: Can I not speak to the clause without the amendment being moved?

The CHAIRMAN: All right, you can speak to it.

The Hon. R.I. LUCAS: I think my colleague just needs to do a bit of work. I was speaking to the general clause, which is fees and charges. As I said, I know that a number of claims have been made to members of parliament about the unreasonable nature of some of the requests that have been made by members of parliament and the excessive cost. I know that this issue will be resolved after further discussion between the houses, but I want to quickly place on the record some information in relation to it.

The Treasurer has evidently complained about one particular request that I lodged—and I think that, whilst his article in the *Sunday Mail* did not stipulate exactly which request it was, it indicated that one request from the opposition had covered some 800 documents and 4 000 pages and $43 000 in estimated costs. I put in one particular application back in the middle of last year for 14 distinct and separate documents. As a former treasurer, I was aware that, prior to each bilateral meeting with ministers, one discrete folder is produced for the Treasurer as a briefing for each individual bilateral meeting. So, there is no question of having to canvass thousands of documents: it is one briefing folder.

The first response I received to that request was in June last year, which indicated that there were 14 packs—what I would call a folder—with one minister providing two folders. Each pack holds approximately 60 documents. I suspect that that is where this 800 might have come from—14 times 60 is somewhat close to 800 documents. I remind members, therefore, that what we are talking about is actually 14 folders, and what the Treasurer has described as 800 documents is not 800 separate documents. If one folder is divided into 60 separate briefing notes, that is described as 60 separate documents.

I have another document (to which, if the debate goes beyond today, I will refer in another part of the committee stage) where another agency has responded in relation to another folder where each of the documents (and I cannot remember now whether it is 100, 200 or 300 documents all in one folder) is referred to as some 200 or 300 documents, and one page of a briefing folder that might be on abattoirs is referred to as a document and the next page is referred to as another document.

The impression is being given by the Treasurer and the minister in charge of the bill that the opposition has asked for literally hundreds of separate documents that have had to be

dug up from government departments and records when, in most cases (I cannot speak for all), they have been discrete and specific in terms of the nature of the request. I am surprised, if indeed this is the document or the FOI submission which the minister is complaining about, or the Treasurer is complaining about, and which was going to cost $43 000 to process, because the final letter that I received on 28 January (I remind members that the first letter I received said that there were some 800 documents) said that there were 53 documents, and he refused access in full to all 53 documents. I am not sure how hard it is, or why it costs $43 000 to say no; to refuse access in full to every one of the documents.

I just wanted to place on the record that one specific example. There are many others. As I said, if this debate goes beyond tonight, we might have the opportunity to highlight some others. But I caution members (because I know that they are being lobbied by the government and others) against automatically accepting the government's contention that unreasonable requests have been made by the opposition. The request that was made by the former leader of the opposition, Mike Rann, in relation to ETSA did relate to more than 2 000 documents—this was his request made back in 1998.

I can assure members that that was not one document divided up into 2 000 pages; there were up to 2 000 separate documents of varying sizes in agencies such as ETSA, Optima, Treasury and Finance, Premier and Cabinet and a range of other departments and agencies, and that indeed was a fishing, or trawling, expedition. I was told the estimated cost of processing that application for the former leader of the opposition, and I now have a question on notice trying to refresh my memory as to exactly what that figure was. It certainly was way in excess of $43 000—it was certainly more than $100 000—because they spent literally, as the former leader of the opposition, now Premier, has indicated, some years trying to process that request, which was, indeed, a fishing expedition by the former leader of the opposition, something of which he is now complaining.

The Hon. A.J. REDFORD: I want to add to those general comments. The Treasurer has made comments about these costs without specifically identifying or saying precisely how those costs have been generated or from whom they have been generated. I have not received any complaints from any FOI officer about the extent of the work involved in relation to any application that I have made except once. That occurred when the FOI officer rang me up, within a day of receipt, and said, 'Are you sure you want this? This will involve an extraordinary amount of work,' and explained to me how much work it would involve. Without any hesitation, and with some discussion and goodwill on the part of that officer, I withdrew the application and, with the assistance of the FOI officer, directed the application to a specific document. On every other occasion that I have done an FOI application I have directed it to a specific document or described the document, or documents, with some degree of particularity, because I source the description of a document usually from another document.

If the Treasurer is saying that this is an inordinate cost, it cannot be, with the greatest respect, a cost of searching and it cannot be, with the greatest respect, a cost of looking around and trying to find documents. What it is, from what I can see—unless the Treasurer can come up with some detailed explanation—is an inordinate amount of money and time spent on legal advice trying to work out a way in which they can hang a document on an exemption. That is what he appears to me to be complaining about, because he has not given any specific examples when he has bleated in the media about this.

If he wants to go off and spend inordinate amounts of taxpayers' money on legal advice as to why he should not release a document he should have a good, hard look at himself as opposed to blaming members of the public or members of the Opposition or, indeed, members of the cross benches—and I am sure that they work as diligently and as hard as we do to ascertain what goes on within the bowels of this government. He should identify it, so that we can properly and fairly answer that criticism. To sit there and besmirch us by these ridiculously general allegations about the cost does him no credit and, in fact, probably has hardened our resolve in relation to the course of this debate.

The Hon. P. HOLLOWAY: I wish to respond to one point made by the Leader of the Opposition, when he gave an example of a case where an FOI request had sought several thousand documents. The point needs to be made that, regardless of whether those documents can be easily collated, there is still the necessary step of separately examining each of those documents—all 2 000—to ensure that each of those documents complies with the act; in other words, to ensure that they contain nothing of legal or other privilege, or relate to cabinet issues, and so on. Even if the documents were gathered together for some reason or other, a significant amount work needs to be done in terms of examining each of those documents, which adds to the cost.

In relation to the other matter, with his example of the previous government, the Leader of the Opposition conceded that there are these threshold questions. All of us support the need for freedom of information legislation as part of openness and transparency in government, but clearly there are also significant costs involved and, inevitably, at the end of the day some line will have to be drawn between what is reasonable access to fulfil the necessary openness and accountability objectives of government and practical expense. I do not think anyone would argue that freedom of information should exist at completely open, blank cheque cost. Essentially, this debate is about what is a reasonable cost and reasonable charges. I suspect that is pre-empting the debate we are about to have when the deputy leader moves his amendment.

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

Page 9, lines 14 and 15—Leave out this clause and insert:

Amendment of s.53—Fees and charges

8. Section 53 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (2) 'a threshold stated in the regulations' and substituting 'the prescribed amount';

(b) by inserting in subsection (2) 'reasonable administrative' after 'reflect the';

(c) by inserting after subsection (2) the following subsection:

(2aa) A fee or charge can only be required by an agency under this Act in respect of the costs to the agency of finding, sorting, compiling and copying documents necessary for the proper exercise of a function under this Act and undertaking any consultations required by this Act in relation to the exercise of that function;

(d) by inserting after subsection (5) the following subsection:

(6) In this section—

'CPI' means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

'prescribed amount', in relation to work generated by an application, means $500 adjusted by the percentage variation (to two decimal points)

between the CPI for the quarter immediately preceding the commencement of this subsection and the CPI for the quarter immediately preceding the time at which the work is completed and rounded to the nearest dollar.

This amendment seeks to alter the provisions of the act which deal with the payment of fees and charges. In an earlier contribution, I mentioned the disincentive which high legal costs represent to citizens exercising their rights under freedom of information legislation. A similar impediment to citizens exercising their rights is fees and charges, and the regime of fees and charges can be used by a government to provide a significant barrier to the free exercise of rights under the act.

Members of parliament have a particular responsibility to the community to hold government accountable, and it is important that they exercise the rights that are granted to them by statute and that those rights be not interfered with by mechanisms such as fees. Section 53 provides:

The regulations must provide for access to documents by members of parliament without charge, unless the work generated by the application exceeds the threshold stated in the regulations.

As it stands at present, that threshold is $350. The provision continues:

The fees and charges must reflect the costs incurred by agencies in exercising their functions in this field.

Those costs can be substantial, especially if agencies choose to seek legal or other professional advice at every opportunity and claim that the costs of satisfying the request include those significant costs. Of course, members should be aware that the Attorney-General's Department and the Crown Solicitor's Office do cross-charge agencies for fees incurred in relation to these matters.

My amendment seeks to, first, limit the costs that can be incurred to reasonable administrative costs, that is, the costs of finding, photocopying and compiling the documents, without including the ancillary costs of advice and the like. So, it should be reasonable administrative costs only. In the amendment standing in my name, I had proposed that, rather than the threshold stated in the regulations (which is presently $350), there be a prescribed amount of some $500.

However, I notice that the Hon. Ian Gilfillan has moved an amendment the effect of which would be to allow members of parliament access to documents without the restrictions now imposed. I indicate in advance that that would be a preferable approach to the one proposed by me.

The Hon. IAN GILFILLAN: I move:

Leave out this clause and insert:

Amendment of s. 53—Fees and charges

(a) by striking out paragraph (b) of subsection (2);

(b) by inserting after subsection (2) the following subsection:

(2aa) No fee or charge is payable under this Act by a member of parliament in respect of an application under Part 3 for access to documents.

I made a somewhat facetious remark earlier about criticising the philosophy of the party in opposition not taking into consideration expenses that it may get in government, but I exempt my colleague the Hon. Angus Redford in that respect because, even when he was chairing the Legislative Review Committee for the Liberal government, he was particularly forthright and supportive of legislation which, sadly, was not passed by the parliament. So, I believe his credentials in genuinely wanting freedom of information, regardless of the party in power, are beyond challenge.

The Hon. A.J. Redford: I'm blushing!

The Hon. IAN GILFILLAN: No, it's just the colour of the seating. I appreciate the fact that the shadow attorney has indicated preference for my amendment, which deletes paragraph (b) from section 53(2) of the act, which provides:

. . . must provide for access to documents by members of parliament without charge, unless the work generated by the application exceeds the threshold stated in the regulations.

That would be removed and (2aa) would be inserted:

No fee or charge is payable under this Act by a member of parliament in respect of an application under Part 3 for access to documents.

If freedom of information is a genuine reform, I believe firmly that it is the right of any member of parliament to have access to material which is not exempted legally, free of any cost restraint or any cost imposed. Once we impugn on our colleagues or members of parliament, of either house, that they will misuse, I believe that that is a slur placed on the integrity of members of this place and the other place and should not be part of the debate, nor should it be the influence which determines how the legislation is finally passed. I urge support for my amendment.

The Hon. T.G. CAMERON: I indicate my support for the Hon. Ian Gilfillan's amendment.

The Hon. P. HOLLOWAY: From the government's perspective, the Hon. Ian Gilfillan's amendment is totally unacceptable. At least with the current act, and even under the amendment proposed by the Deputy Leader of the Opposition, there is some theoretical constraint on the use of the FOI provisions. It would be fair to say that, under the current provision, it is very rare for members of parliament to be charged; it would be very rare indeed. The Public Service has taken a very reasonable attitude but, if one were to completely and utterly remove any limitations whatsoever on this process, particularly given that there has been a huge increase in the number of FOI applications from politicians over the past 12 months, that would be quite unacceptable. There would be no limitation at all, because, as I said, it could almost put a blank cheque on the cost of running FOI applications.

Obviously this whole question of fees is one of the more controversial aspects of the bill. The government clearly does not have the numbers in relation to getting its preferred position up but, if the Hon. Ian Gilfillan's amendment gets up, from the government's perspective that would be completely unacceptable.

The CHAIRMAN: We will test the clause by putting the question that the clause stand as printed. If that is lost, I will then put the amendment proposed by the Hon. Mr Lawson and, if that is lost, I will then put the amendment as proposed by the Hon. Mr Gilfillan. I put the question that clause 8 stand as printed.

Clause negatived.

The Hon. R.I. LUCAS: I wish to clarify the order being put in terms of the two amendments. Given that the Hon. Mr Lawson has indicated that the Hon. Mr Gilfillan's amendment is preferred from his and the opposition's viewpoint, do you intend to put—

The CHAIRMAN: The question will be that the new clause as proposed to be inserted by the Hon. Mr Lawson be so inserted.

The Hon. R.I. LUCAS: If that is successful, Mr Gilfillan's amendment would not be put at all. The only way to proceed is for the Hon. Mr Lawson to withdraw his amendment and the committee could vote on the Hon. Mr Gilfillan's amendment. Should that be successful, I under-

stand the Hon. Mr Lawson has some provisions in his amendment which, even if the Hon. Mr Gilfillan's amendment were successful, he might want to test. The only way he could do that, given that he would have withdrawn his amendment, is to either have leave of the committee to move a further amendment or to move at the end of committee to reconsider the provision.

The Hon. Mr Lawson's amendment to section 53 down to and including paragraph (a) negatived; the Hon. Mr Gilfillan's amendment down to and including paragraph (a) carried.

The Hon. P. HOLLOWAY: Given the time, the government will not be dividing on these amendments. Obviously, this is a threshold question. We find both of these amendments unacceptable but we will leave our division for the very end.

The CHAIRMAN: We now need to go back to the Hon. Mr Lawson's proposal to insert some further words in this area.

The Hon. Mr Lawson's amendment to paragraph (b) carried; the Hon. Mr Lawson's amendment to paragraph (c) carried; the Hon. Mr Gilfillan's amendment to paragraph (b) carried.

The CHAIRMAN: We are now going back to the Hon. Mr Lawson's paragraph (d), which has been somewhat superseded. Do you want to proceed with that?

The Hon. R.D. LAWSON: I do not wish to proceed with that.

The CHAIRMAN: The easiest option is to vote it down.

The Hon. Mr Lawson's amendment to paragraph (d) negatived.

Progress reported; committee to sit again.

ADJOURNMENT

At 6.09 p.m. the council adjourned until Wednesday 19 February at 2.15 p.m.