LEGISLATIVE COUNCIL

Monday 24 March 2003

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 147-160, 197 and 219.

UNDERSPENT FUNDS

147-160. **The Hon. R.I. LUCAS:** A question directed to various ministers:

1. Will the minister outline what is the share of the $322 million underspent in 2001-02 claimed by the government for each department and agency for which the minister is responsible?
2. What is the detail of each proposal and project underspent?
3. What is the detail of any carry over expenditure for the financial year 2002-03 which has been approved by the Department of Treasury and Finance for each of these departments and agencies?

The Hon. P. HOLLOWAY: The Premier has provided the following information:

A response to these questions has been printed in the House of Assembly *Hansard* dated Thursday 20 February 2003, page 2404-2405.

SOCIAL INCLUSION

197. **The Hon. DIANA LAIDLAW:**

1. Has any person been appointed, assigned or engaged to assist Arts SA develop policies and programs to accommodate the government's social inclusion agenda?
2. If so:
   (a) Who has been appointed; and
   (b) What is the cost?
3. (a) What new social inclusion arts related programs and policies have been developed in 2002-03?
   (b) What is the cost of any such programs and policies?
   (c) What funding has been allocated to Arts South Australia to implement the new programs and policies in each instance?

The Hon. P. HOLLOWAY: The Minister for the Arts has provided the following information:

1. Arts SA was allocated the services of Ms Jan Chorley, who was on contract to the SA Tourism Commission, from June 2002 until 31 October 2002, to assist with the development of social inclusion initiatives, including the running of a social inclusion and the Arts forum on 2 October 2002.
2. (a) This was a temporary secondment. No other staff member or other person has been engaged for social inclusion purposes.
   (b) The secondment was undertaken at no cost to Arts SA. The SA Tourism Commission contributed Ms Chorley's services until the end of her contract.
3. (a) Two new initiatives have been developed in 2002-03, to apply from the 2003-04 financial year. These are within the Health Promotion Through the Arts program. The first is an expanded Community Arts initiative with a funds pool for 2003-04 of $250 000, for projects undertaken by arts and community organisations. The second is a $250 000 initiative for longer-term alliances that will see human service agencies and bodies such as local government partnering with the arts and specific communities, with the arts becoming the catalyst for improved social and physical health outcomes. Arts SA has also established new funding criteria for other programs, including project grants and funding for small-medium arts organisations, emphasising community outcomes.
   (b) There is no additional cost for these initiatives.
   (c) No new funds have been allocated for these initiatives.

MEMBERS, STAFF

219. **The Hon. R.I. LUCAS:**

1. (a) What is the current staffing allocation for each of the 69 members of parliament (excluding ministerial staff); and
   (b) What is the salary classification range for each position?
2. What increases in staff allocation has been provided by the government since 5 March 2002?

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. (a) Staff allocations for state members of parliament funded from the support services to parliamentarians budget are detailed in the attached table.

Members of both houses are also entitled to apply to engage a trainee through the government youth traineeship program and these requests are granted subject to availability.

Given the continual fluctuation in trainee appointment numbers, this staff resource has not been included in the table.

(b) Salary classification ranges, as at 28 February 2003:

Personal Assistant, level 1
- 1st year increment $42 722
- 2nd year increment $44 973
- 3rd year increment $47 224

Personal Assistant, level 2
- 1st year increment $53 705
- 2nd year increment -
- 3rd year increment -

Research Officer (Legislative Council)
- 1st year increment $65 807
- 2nd year increment $67 825
- 3rd year increment $69 844

Trainee
Weekly salary is determined by education level achieved and age
$219.00 to $410 per week

Research Officer (House of Assembly)
$49 440

2. The following staff increases have been introduced since 5 March 2002:

- 0.6 FTE (full time equivalent) personal assistant to all metropolitan members of the House Assembly, except the Premier who has an existing allocation of 2 FTE personal assistants, implemented from 1 July 2002;
- 1 FTE personal assistant to the Speaker of the House of Assembly and 0.4 FTE personal assistant to the Deputy Speaker of the House of Assembly, implemented from 1 September 2002;
- 0.6 FTE personal assistant to the President of the Legislative Council, implemented from 1 September 2002;
- 1 FTE research officer to the Hon. Ian Gilfillan MLC, implemented from 1 May 2002;
- 0.4 FTE personal assistant to the Hon, Terry Cameron MLC, the Hon. Andrew Evans MLC and the Hon. Nick Xenophon MLC, implemented from 1 May 2002;
- 0.6 FTE personal assistant to the Australian Democrats (0.1 FTE to the Hon. Ian Gilfillan MLC and 0.5 FTE to the Hon. Sandra Kanck MLC) to provide each of the Australian Democrat MLCs with 1 FTE personal assistant each, implemented from 27 May 2002.

Staff allocations funded from the support services to parliamentarians budget as at 28 February 2003:

House of Assembly	Personal Assistant (FTE)	Research Officer (FTE)
Atkinson, M	1.6	
Bedford, F	1.6	
Brindal, M	1.6	
Breuer, L	1.6	
Brokenshire, R	1.6	
Brown, D	1.6	
Buckby, M	1.6	
Caica, P	1.6	
Chapman, V	1.6	
Ciccarello, V	1.6	
Conlon, P	1.6	
Evans, I	1.6	
Foley, K	1.6	
Geraghty, R	1.6	
Government Whip	1	
Goldsworthy, M	1.6	
Gunn, G	2.6	

House of Assembly	Personal Assistant (FTE)	Research Officer (FTE)
Hall, J	1.6	
Hamilton-Smith, M	1.6	
Hanna, K	1.6	
Hill, J	1.6	
Kerin, R	1.6	
Leader of Opposition	1	
Key, S	1.6	
Kotz, D	1.6	
Koutsantonis, T	1.6	
Lewis, P	1.6	
Speaker	1	
Lomax-Smith, J	1.6	
Matthew, W	1.6	
Maywald, K	1.6	0.5
McEwen, R	1.6	0.5
McFetridge, D	1.6	
Meier, J	1.6	
Opposition Whip	1	
O'Brien, M	1.6	
Penfold, L	2.1	
Rankine, J	1.6	
Rann, M	1	
Premier	1	
Rau, J	1.6	
Redmond, I	1.6	
Scalzi, J	1.6	
Snelling, J	1.6	
Stevens, L	1.6	
Such, R	1.6	
Deputy Speaker	0.4	
Thompson, G	1.6	
Venning, I	1.6	
Weatherill, J	1.6	
White, T	1.6	
Williams, M	1.6	
Wright, M	1.6	

Note: .5 FTE Research Officer positions for Maywald, K and McEwen, R are currently vacant

Legislative Council	Personal Assistant (FTE)	Research Officer (FTE)
Cameron, T	2	
Dawkins, J	1	
Evans, A	2	
Gago, G	1	
Gazzola, J	1	
Gilfillan, I	1	1
Holloway, P	0	
Kanck, S	1	1
Laidlaw, D	1	
Lawson, R	1	
Lucas, R	1	
Leader of Opposition		1
Redford, A	1	
Reynolds, K	1	1
Ridgway, D	1	
Roberts, R	1	
President	0.6	
Roberts, T	0	
Schaefer, C	1	
Sneath, R	1	
Stefani, J	1	
Stephens, T	1	
Xenophon, N	2	
Zollo, C	1	

MEMBER'S REGISTER OF INTERESTS

The PRESIDENT: Pursuant to the provisions of section 3(2) of the Members of Parliament (Register of Interests) Act 1983, I lay on the table the register statement March 2003 prepared by the primary return of a new member of the Legislative Council.

Ordered to be published.

PAPER TABLED

The following paper was laid on the table:

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

National Environment Protection Council—Report, 2001-2002.

QUESTION TIME

PRISONERS, WORK

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

Leave granted.

The Hon. R.D. LAWSON: Recently the minister was interviewed by Leon Byner on radio station 5AA on the subject of work programs within prisons. During the course of that on-air discussion the minister said (and I quote from the transcript):

> We've got about 70 per cent of eligible prisoners, and it depends on their eligibility and availability to work.

That was in response to a question about what proportion of people in the correctional system now do work. Mr Byner somewhat perceptively responded that he thought those figures could be 'a little suss'. Under the subject heading 'Prison industry' the annual report of the Department of Correctional Services states:

> It is recorded that Prison Rehabilitative and Manufacturing Enterprises SA (PRIME) is the corporate division of the department that manages industry business units in most of the state's prisons. It employs an average of 360 prisoners per day throughout the state's facilities.

The report goes on:

> The development of a work ethic is regarded as [a] significant prisoner rehabilitation issue. PRIME fosters work ethics, develops prisoner skills and trains prisoners in modern work techniques. PRIME's workforce covers a broad range of processing operations including metalwork, spray painting, assembly textiles and general engineering.

The section concludes with the statement:

> During the year 2001-02, PRIME contributed almost $3.3 million to the prison system.

My direct questions to the minister are:

1. What proportion of the state's prison population is actually engaged in productive labour under the PRIME system?

2. What proportion is engaged in some form of vocational education and training?

3. What measures or plans does this government have in place for providing appropriate vocational training and rehabilitation to prisoners through work?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his very important question. The figures given to me indicated that the employment rate for prisoners is usually around 70 per cent of eligible prisoners, depending on their eligibility and the availability of work. Obviously, maximum security prisoners are not included in those figures. They are not in a position to work unless they are knitting beanies in their cells, which would not be very productive. The type of work ranges from kitchen and laundry services to prison industry, such as assembly of electronic components, woodwork and agriculture in regional prisons. If you include kitchen and laundry

services within prisons, and if you include the work done at Cadell in the prison farm, which supplies goods but not services to other prisons, then those figures probably would be accurate.

If you are talking about productive work that would be expected to lead to exiting skills—that is, if you are working on electronic componentry assembly, which is a part of the focus at Mobilong Prison, you would probably expect at the end of that work there would be certificated work that could lead to permanent work outside—then that figure would probably drop. I suspect it would be similar for laundry and kitchen work, but many prisoners who are cooks or chefs would be picked up immediately they left prison.

South Australia has some unique models in relation to cross-servicing. In relation to the type of work and the certification programs upon which the prisons services are building, work is being done outside the prison to reduce the bushfire risk in the Hills. They work with the Department for Environment and Heritage and emergency services. They clear bush, scrub and dead material, which can add to the fuel load in bushfire seasons and which is earmarked for selective removal. They would be regarded as working perhaps not in prison but, rather, outside the prison. Of course, in relation to community service work orders, over 300 000 hours of community service work is being done. Much of that is not done in an organised, certificated way, although some programs, such as working in schools within regions and working in employment that could lead to permanent employment on exit, are being put together.

Along with many other people who have an eye on rehabilitation and skills development for exiting the prison system, I am a great supporter of these sorts of work programs in prisons. I know the honourable member has a similar interest and supports the programs, and certainly would like to see an extension of the programs with private sector partnership. In the case of those areas where work is brought into prisons, as long as it is not competing unfairly in the private sector against small business, we would encourage that. We would certainly record our support for work in areas such as import replacement and work that could possibly go overseas: if it could not be done with the labour saving that goes with prison work, if that is not a feature, then that work could escape to overseas countries such as India or Asian countries where low wages are paid. Those are the areas in which we would encourage more partnerships with the private sector.

I will bring back a reply in relation to the numbers that are involved in vocational education and training, and the same with the third question in relation to vocational training programs. I will provide an update of those that are being put together.

MURRAY RIVER FERRIES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the Murray River ferries.

Leave granted.

The Hon. DIANA LAIDLAW: Across the length of the Murray River in South Australia, Transport SA owns and contracts out the operation of ferries at 10 locations. As far as I can recall, the ferries at each of these locations have always operated on a 24-hour basis, serving as an invaluable all-weather alternative to a bridge linking townships and the state's rural arterial road network on either side of the river. In recent days, however, I have been made aware that, as part of the government's requirement that Transport SA make savings of $23 million next financial year, the hours of operation of ferries will be reduced. Apparently, the only issue yet to be resolved is whether the reduced hours of operation will apply to all or just a selected number of ferries at these 10 locations.

Late last week I rang the AWU about this matter and senior officers had not been made aware of these secret plans being hatched within Transport SA. I know that the unions and the work force that they represent want to know what is going on, and I have no doubt that local councils, regional development boards and emergency services along the length of the Murray River will be equally interested. Therefore, I ask:

1. Which of the 10 ferry services currently operating on the Murray River on a 24-hour basis has Transport SA identified for reduced hours of operation as part of the government's proposed budget cuts to the agency from July 2003?

2. Do Transport SA's contracts for the funding and operation of the ferries provide for the government to cut the hours of operation at any stage during the term of the contract, with or without the agreement of the contractor and the operator? If so, what are the specific provisions of the contracts that provide for such amendments to be made?

3. Will the government require a regional impact statement to be considered by cabinet before any cut is made to the operational hours of any ferry service and, if not, why not? Would such a regional impact statement be released prior to the decision being made?

4. What savings target is the government seeking to gain through Transport SA by a cut to the current operating hours of service, and how would this target impact on the more than 60 jobs, I think it is, related to ferry operations in this state and/or the income of ferry operators?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am surprised that the honourable member had to ask the last part of the question. If the detail associated with the 2003-04 budget is known, including the fact that a $23 million reduction will be made to the transport portfolio, she certainly knows a lot more than we on this side of the council.

Members interjecting:

The Hon. Diana Laidlaw: You don't know what is happening at all. You just accept what the Treasurer says.

The Hon. T.G. ROBERTS: I just made the statement: I am not going to debate the issue. I will refer those very important questions to the minister in another place and bring back a reply and, certainly, if the figures are right, he will want to ask a lot more questions in relation to the budget formulation.

CABINET CONFIDENTIALITY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about cabinet confidentiality.

Leave granted.

The Hon. A.J. REDFORD: On 12 November I lodged an FOI application with the Premier seeking access to 'itineraries, invoices and other records of costs for travel undertaken by members of parliament, other than ministers,

at the government's expense since 6 March 2002.' On 10 December I received a letter, together with documents, from the FOI officer in which I was granted access in full to 16 documents, access in part to two documents and a refusal in full to three documents.

In relation to the documents, I received information concerning trips taken by you, Mr President, to Hobart to represent the state at the funeral of Mr Alex Campbell—a most worthwhile exercise; by the member for Napier, Michael O'Brien, representing the state in Canberra at a wreath-laying ceremony for the RAAF—again, a most worthwhile exercise; and by the member for Wright (Jennifer Rankine) to Perth, for reasons not stated.

Surprisingly, documents relating to the overseas travel of the Hon. Carmel Zollo in September last year and the Hon. Rory McEwen to Dubai, Kuala Lumpur and Singapore in October last year were refused in full on the basis that (a) they were documents specifically prepared for submission to cabinet, and (b) the documents were briefing papers specifically prepared for the use of a minister in relation to a matter submitted to cabinet. How itineraries or invoices can be part of a cabinet process mystifies me but, until last Friday, I was prepared to accept the FOI officer's assertion; indeed, no documents concerning the member for Fisher's travel overseas early last year were disclosed at all.

To my surprise, last Friday I received a letter from the Minister for Trade and Regional Development (Hon. Rory McEwen) together with his itinerary for his trip to Dubai. The itinerary disclosed that the minister stayed at the Hotel Raffles; the Plaza, which offers a 10-layer luxurious bed with layers of pure bliss; the Shangri-La Hotel in Kuala Lumpur; and the Fairmont Hotel in Dubai. The documents, which are the subject of cabinet confidentiality, according to the FOI officer, were released to me. The Ministerial Code of Conduct states:

> A minister who deliberately or recklessly breaches cabinet confidentiality should resign from the ministry. The Premier may ask a minister to resign in any case.

My questions are:

1. Will the minister resign from the ministry for breaching cabinet confidentiality by providing me with these confidential documents? If not, why not?

2. In the event that the minister does not resign from the ministry, will the Premier ask the minister to resign?

3. In the absence of the minister's resignation, does the Premier now assert that the documents, notwithstanding the FOI officer's assertion that they are cabinet documents (and that includes invoices), are now not cabinet documents?

4. If they are not cabinet documents, why was the claim made in the first place?

5. Was there any political interference or involvement in the process of claiming cabinet confidentiality?

6. Did the member for Fisher travel overseas last year at his own expense? If not, why was I not given the documents that I requested?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer the detail of those questions on. However, in relation to the issue, it is certainly true that if ministers and people such as my parliamentary secretary travel overseas that is a matter for cabinet approval. So, documents in relation to that are, inevitably, cabinet documents.

The honourable member referred to the visit by my colleague the Hon. Carmel Zollo. Obviously, he was not paying attention during the debate we had last year on the parliamentary secretary's bill, when all of those details were provided by my colleague. If the honourable member wants any further information, I am sure the Hon. Carmel Zollo will be pleased to provide it. That information, including the report, was provided by my colleague. If the honourable member is trying to suggest that there is some sort of secretive behaviour, he is way off track.

The other point I wish to make is that, under the FOI act and the changes that were made at the end of 2001, FOI officers are responsible for making the assessment. I can well understand why an officer might make an assessment that that sort of information was a cabinet document, because cabinet has to approve the details of trips and so they are part of a cabinet submission. As I understand the FOI act, if the amendments to the Freedom of Information Act that are now before the parliament are approved, it would be possible to grant exemptions from that requirement. I will bring back an answer to the honourable member's questions.

The Hon. D.W. RIDGWAY: In light of that very good question, who paid for the Speaker's trip to Dubai? Was it the parliament or the government? When will information and documents be released relating to that trip?

The Hon. P. HOLLOWAY: That is obviously a matter for the other place.

FISHERIES ACT

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the review of the Fisheries Act.

Leave granted.

The Hon. J. GAZZOLA: As members are aware, the government is conducting a review of the state's Fisheries Act to provide a more effective and relevant framework for the management of the state's fisheries. As a keen but hopeless fisherman, I was pleased to see the number of public meetings conducted to gauge the views of recreational and commercial fishers and of the community. I understand that this stage is completed and that further work will need to be undertaken before the draft bill stage. Can the minister provide the council with a progress report on the review of the Fisheries Act?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the Hon. John Gazzola for his important question in relation to this very important subject—a subject dear to the heart of the honourable member. As members would be aware, a comprehensive program of community meetings was recently completed as part of the Fisheries Act review. In all, around 500 people took advantage of the opportunity to attend the 18 meetings to comment on the government's green paper and to ask questions about the management of South Australia's fisheries.

The honourable member has a keen interest in what happens on Yorke Peninsula, and I recall the Hon. Caroline Schaefer asking a question last year when I was referring to this Fisheries Act review and reference to the possibility of having a meeting on Yorke Peninsula. In fact, a meeting was held on Yorke Peninsula and the interest in that area was borne out by the fact that the largest meeting took place at Maitland, with over 80 people attending.

I understand that several issues have come out of these meetings, including: the sensitive nature of the marine environment, which has implications for how the marine

environment is managed; the process by which decisions are made about who catches fish, where they catch them and what they catch them with; the desirability or otherwise of granting clear access rights to community-owned resources; the important contribution that recreational fishing makes to the economy of South Australia and the need to ensure that adequate resources are available to facilitate its future development; the adequacy of catch and effort information; and, maintaining the genetic integrity of our native fish stocks. All those issues were part of the discussions during the review process.

It seemed apparent that the purposes for which aquatic reserves, marine parks and marine protected areas are established, and the processes by which they are established, are not well understood by the community. Surprisingly, time was spent at a number of meetings discussing how the state and commonwealth governments determine which fish species are managed under the different jurisdictions. That is a big issue in relation to the shark fishery and I get lots of correspondence in relation to that matter, as I suspect do other members.

The steering committee has now received submissions responding to the green paper and the project team is preparing a summary of the submissions for the steering committee to consider at its meeting on 28 March. I anticipate that that summary will be published on the PIRSA website. In due course the steering committee will provide the government with advice regarding the community's needs and aspirations, and these will be taken into consideration as the government determines its preferred policy for management of the state's fisheries resources. I anticipate that a white paper will be released for public comment around May this year.

WESTERN DOMICILIARY CARE

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 Human Services, a question about Western Domiciliary Care.

Leave granted.

The Hon. KATE REYNOLDS: My office has been contacted about the ongoing lack of action regarding problems within Western Domiciliary Care, an agency that had been until 30 June 2002 administered under the auspices of the Queen Elizabeth Hospital and, more broadly, North Western Adelaide Health Services. In the past two years, four reports have been completed into issues within Western Domiciliary Care. When she was the opposition health spokesperson, the Minister for Human Services raised serious allegations in another place about Western Domiciliary Care. I quote the minister from *Hansard* of 27 November 2001:

> The opposition has been told that the allegations referred to the Dunn Inquiry included the misappropriation of up to $2 million relating to the theft or misappropriation of supplies, drugs and goods purchased for personal use, unauthorised higher duties and overseas travel.

Also at this time in 2001, a then opposition member of this place questioned the then minister for disability services regarding the Dunn inquiry. In *Hansard* of 29 November 2001, the minister answered that he was expecting an interim report on matters referred to the Crown Solicitor for inquiry and an interim report on 7 December.

An election was held before any information was released, and a new government has since been installed. I have been informed that the report of this second investigation—the Mildren report—has now been with the minister for several weeks, after taking more than 12 months to appear. What exactly has occurred in relation to the findings of both the Dunn inquiry and the Mildren report is unclear. My questions are:

1. Considering her concern when she was in opposition about the Dunn report not being released or shown to staff who provided evidence, why has the minister not tabled the completed Dunn report? Will she table it as a matter of urgency and demonstrate that she has acted on its contents?

2. Why has the minister not tabled the Mildren report, which is now sitting on her desk? Will the minister table the Mildren report before the parliament as a matter of urgency?

3. If the allegations in either report have been found to have substance, has the minister acted to instigate the process of criminal charges and/or to recoup the misappropriated funds?

4. Since becoming Minister for Human Services, what action has the minister taken to ensure that the sorry situation that led to all these reports does not occur again?

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

SEX EDUCATION

The Hon. A.L. EVANS: 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 sex education in our schools.

Leave granted.

The Hon. A.L. EVANS: In the *Advertiser* of Monday 10 March 2003 it was reported that a sex education program was being introduced in 14 South Australian high schools for years 8 to 10. It is estimated that the program will reach more than 10 000 students. I understand that the program has been designed by SHine SA and the Department of Education, and has been funded by the Department of Human Services. It was reported that a letter outlining the program was being sent to parents, who had the option of withdrawing their child.

I have been provided with a copy of a letter sent to a parent from her children's school, Port Lincoln High School. The letter purports to inform parents of the program. It has been taken from a standard letter that SHine has sent to all schools for their use when writing to parents. The letter states:

> The school will deliver a comprehensive curriculum to students of years 8, 9 and 10 as part of the health program. Topics include: respect, health and life, puberty, female and male reproductive systems, sexuality, diversity, relationships, gender/power/stereotypes, safer sex/contraception/sexually transmitted infections, negotiation and decision making.

The letter does not provide parents with the option of withdrawing their child. Upon examining the curriculum, one will see that many issues and topics are being raised that have not been outlined in the letter.

Some of the activities in the curriculum include the following. Students are given various words and asked to come up with definitions for each—words such as 'homosexual', 'lesbian', 'gay', 'bisexual', 'coming out', 'homophobia', 'transgender', 'transvestite', 'drag queen', 'cross-

dresser'. Students are asked to talk about various issues. Some sample questions include: 'How can a boy show another boy he likes him?' Students are given scenario cards and asked to imagine themselves as that person. They are then asked a series of questions. Some of the scenario cards are: a young Asian man who is gay; a bisexual young man in a steady relationship with a young woman; and a young homeless lesbian woman. There are scenario cards which the students must discuss in groups. One scenario concerns David and Sam, who are starting to become interested in one another. I quote from the curriculum:

> He (David) had started to think about spending time alone with him, wanting to be physically close and share some personal things.

There is an intimacy card. These intimacy cards must be arranged on the floor so that everyone can see them. This section attempts to teach the children about intimacy—how two people can be intimate without having penetrative sex. Included on the cards are 'Licking parts of the body', 'Sucking breasts' and 'Masturbating each other'. There is a series of 'safe practices' cards where students are asked to organise the cards into safe and unsafe practices. Included in the cards are 'Using a sex toy; using a device for sexual arousal'. My questions are:

1. Has the minister seen a copy of the letter drafted by SHine; if so, does the minister acknowledge that the letter drafted by SHine does not properly inform the parents of the matters referred to in the curriculum and the nature of the activities that the students will undertake?

2. Why have the parents not been given an opportunity to withdraw their child from the program, given the nature of the activities?

3. Will the minister arrange for a further letter to be sent to parents via the high schools which accurately details the content of the program and gives an opportunity for the parents to withdraw their children? If not, why not?

4. How much direct or indirect involvement did the minister have in the drafting of the curriculum?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those important questions to the minister for education for a response as soon as possible.

McEWEN, Hon. R.J.

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 Local Government and Minister for Trade and Regional Development, questions about the new minister's priorities.

Leave granted.

The Hon. J.F. STEFANI: In an article published in the *Border Watch* dated 22 January 2002, the member for Mount Gambier outlined his priorities to his electorate when launching his election campaign at the Blue Lake Golf Course before a gathering of about 150 people. The key plank of Mr McEwen's launch included a 10-point priority plan if he was re-elected. He indicated that his first priority was to the people of the electorate. He also indicated that he wanted to see an end to taxpayer funded overseas junkets for politicians, who are provided with $37 800 annually for this. During the election campaign, the member for Mount Gambier also declared that he rejected reforms to parliament and in particular a proposal for more sitting days. He also suggested that he saw merit in Adelaide and Melbourne being on the same time zone and that we ought to have a decent debate on the different time zones.

When commenting on parliamentary reforms, the member for Mount Gambier said that he did not agree with massive cuts to the Legislative Council and more sitting days. He said:

> I've always had a view with parliament that there is no point sitting more days until we first completely rearrange the way we do business to make use of the time we do sit.

He also said:

> Much of the time we sit now is wasted with antics and stunts and Dorothy Dix questions.

My questions are:

1. Will the minister undertake that he will not respond to any Dorothy Dix questions asked of him in the portfolio areas for which he has responsibility?

2. Will the minister recommend to the Labor government that it should rearrange the way the government conducts its business to effectively utilise the normal sitting days from Tuesday to Thursday, as he saw no point in sitting more days?

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

TAXIS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about taxis.

Leave granted.

The Hon. D.W. RIDGWAY: At the weekend I attended the Clipsal 500, and I must congratulate the organisers and all those involved in staging that wonderful event. However, on Friday afternoon, upon leaving the race, I joined a queue at a taxi rank on Halifax Street. The queues were quite long and I heard some very negative comments about South Australia and Adelaide: 'It's only Adelaide and you have to expect to wait a terribly long time for a cab.' When I arrived at the rank some 30 people were waiting, and when I got my cab about one hour later more than 60 people were at the rank.

The Hon. Carmel Zollo: Where did you have to go?

The Hon. D.W. RIDGWAY: I had to go to Mitcham. Two interstate visitors were ahead of me in the queue. A cab arrived and they were next in the queue. They asked to be taken to West Lakes and the cab driver said, 'No, mate, I'm only going to Norwood and Burnside. You can catch another cab.' I think that is very unAustralian and not in South Australia's best interests.

The Hon. Diana Laidlaw: Did you take the cab's number?

The Hon. D.W. RIDGWAY: Incidentally, I did take the number of the cab and I am prepared to provide it to the minister, if he requires it. My questions are:

1. Is this appropriate conduct for South Australian taxicab drivers?

The Hon. Diana Laidlaw: Is it legal?

The Hon. D.W. RIDGWAY: I continue:

2. Is it legal?

3. Are special arrangements made during times of peak demand such as Christmas and the Festival of Arts? If so, were the same arrangements made for this occasion?

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

ABORIGINAL ART EXHIBITION

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about an Aboriginal art work exhibition.

Leave granted.

The Hon. G.E. GAGO: I understand that there was recently an exhibition of Aboriginal art work done by prisoners in Adelaide. Will the minister provide details of this exhibition, how the Department for Correctional Services encourages such pursuits, and the benefits that this might bring to Aboriginal prisoners?

The Hon. T.G. ROBERTS (Minister for Correctional Services): Too often, those things done by the Department for Correctional Services to provide opportunities for rehabilitation get missed in the hurly-burly of question time and in politics generally. In this case, the Department for Correctional Services set up an exhibition at Tandanya that ran from 13 December 2002 to 2 March 2003. All the art work was painted by indigenous prisoners within the state's prison system. All states have rehabilitation programs, but not all have an indigenous art component, although I did visit a prison in Darwin which had a very good indigenous art rehabilitation program.

The Hon. Diana Laidlaw: So does Western Australia.

The Hon. T.G. ROBERTS: Western Australia runs a good program, as well. Some of the art work produced there was being exported overseas, and the quality was of a high standard. As a result of answers provided to some of the questions, I understand that a lot of the motifs and themes being developed by a lot of prisoners in their paintings have been picked up by batik producers and by those who deal in carpets in Pakistan and those areas now being hit by international troubles.

At Port Augusta and Yatala, we have indigenous prisoners who are encouraged to learn and develop their artistic skills. We try to encourage them to develop an avenue for earning income from indigenous art. We also encourage the learning of new skills, such as painting, that can be of a particular value when they do leave for various reasons. We also like to see the skills that are developed and the contacts that are made inside the prisons being maintained outside the prisons, so those sorts of support systems can be maintained. I congratulate all those people who were involved in the exhibition of the art work in our 'Inside Outside' exhibition. I pay tribute to all the people in corrections who put in not only paid hours but also volunteer time, and I encourage the department to continue to broaden these out to include as many prisoners as possible.

The Hon. DIANA LAIDLAW: I have a supplementary question. I heard the minister's comments about the value of rehabilitation. As part of the government's social inclusion agenda, will the minister confirm that the Department for Correctional Services will continue this initiative on an annual basis? Even better, as is practised in Western Australia, will he establish a permanent art exhibition of works for sale by Aboriginal or indigenous prisoners?

The Hon. T.G. ROBERTS: I will take on board the suggestion made by the honourable member. We are a little behind the other states in the progress that is being made in the development of art in prison. Her suggestions to expand that program within the Correctional Services domain seem to be sensible, and I will pass on that recommendation to the prison authorities.

The Hon. Diana Laidlaw: And, hopefully, fund it.

The Hon. T.G. ROBERTS: And, hopefully, fund it.

YUMBARRA NATIONAL PARK

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mining exploration in the Yumbarra Conservation Park.

Leave granted.

The Hon. SANDRA KANCK: At the last state election, the Labor Party made a number of electoral commitments regarding South Australia's parks and reserves. Within its policy document 'Wildcountry—A Plan for Better Reserves and Habitats', Labor pledged:

> A Rann government will build on South Australia's strong tradition of protecting our state's natural resources in parks and reserves. Labor will defend and conserve our precious network of national parks and ensure that conservation values are not eroded by commercial development.

Later, the policy document states:

> Since European settlement, 24 species of mammals and 28 plant species have become extinct. Unless we take immediate action, 41 more mammals, 6 reptiles, 20 birds and 144 plants on the endangered list may follow in South Australia.

Labor in government committed itself to adopting a 'No Species Loss Strategy', and would 'work towards achieving this by protecting viable habitats, rehabilitating depleted habitats and proactively addressing threats to species.' The government also specifically committed to 'restoring Yumbarra as a single proclaimed conservation park if [the] current exploration lease proves fruitless and expires.'

The most recent Friday and Saturday editions of the *Advertiser* carried reports that the Labor government is considering a second mining exploration application for the Yumbarra Conservation Park. This is the same party that, in opposition, voted against a Liberal government motion seeking approval for mining in Yumbarra Conservation Park. It may surprise members to know that the Yumbarra Conservation Park has more bird and reptile species than any other park in South Australia, including the mallee fowl and sandhill dunnart. It might be even more surprising for members to know that, along with the Yellabinna Reserve, which is adjacent to Yumbarra, this area is probably more biologically complex than the Daintree.

We know that, even if no mining occurs, mining exploration opens up tracks along which travel weeds, feral animals and unauthorised four-wheel drive vehicles. My questions to the minister are:

1. What has changed between the time of the 1999 vote against mining in Yumbarra Conservation Park and now to cause the government to even consider a new application?

2. How will granting a second exploration lease in Yumbarra fulfil the Labor Party's pledge to 'defend and conserve our precious network of national parks and ensure that conservation values are not eroded by commercial development'?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question. She is certainly correct that when the issue

of the de-proclamation of the Yumbarra Conservation Park came before parliament it was opposed by the Labor Party opposition at the time. However, that resolution was, nevertheless, carried by the parliament and, of course, subject to various conditions, a small part of Yumbarra was opened for exploration under an exploration licence.

That licence was taken up by a joint venture of two explorers: Resolute Mining and Dominion Mining. The reason why the previous government had sought to change the status of the park was that, during aeromagnetic exploration of the state some years ago, a significant anomaly was identified within a region of the park. It was a consequence of trying to explore what was in that significant anomaly that led to the previous action.

Up until August 2001, the companies that I have mentioned undertook some exploration of that park with some surface sampling and shallow drilling. As a consequence of those exploration activities, those companies determined that the prospects in that deposit were not the original copper-gold outcrop that they were expecting. If there is any significant mineralisation there, it is more likely to be of a nickel, copper and platinum mineralisation.

One of the partners, Dominion, opened the Challenger gold mine in the north of the state, and it is fairly heavily committed to investment in that new mine in the state. The company has decided to surrender the exploration licence on that. Mithril has two partners (BHP Billiton, one of the world's largest mining companies, and Minotaur Resources, which successfully explored in the Prominent Hill region, several hundred kilometres north-west of Roxby Downs and east of Coober Pedy). Mithril, which has recently listed on the Stock Exchange, is a nickel explorer, and it has other exploration licences within the Gawler Craton.

Clearly, early exploration work undertaken by the previous partners, as authorised by parliament at that time, has indicated a different source of mineralisation than was originally intended, and so there has been a change of companies. Since the honourable member has raised this question, let us get to the heart of it. The original policy was that, if exploration in Yumbarra were to prove fruitless, the park would revert to a single proclamation park. The fact that that company, which is a significant joint venturer involving BHP Billiton, wishes to carry on the exploration in that region following on from the early work scarcely indicates that those exploration efforts have proved fruitless.

The spirit of the Labor Party policy was that, given that the previous government had gone through all the pain of changing the proclamation of that park, at least the exploration should proceed to its logical conclusion. If, as a result of the exploration, there were to be no indication of commercial minerals in that region, the Labor Party's promise would be fulfilled: it would revert to a single proclaimed park. I can assure the honourable member of that. However, to suggest that the exploration has proved fruitless is simply—

The Hon. Sandra Kanck: It's playing with words.

The Hon. P. HOLLOWAY: How can it be playing with words if there are companies that wish to pursue it? Having gone through all the pain of this exercise, if that exploration were not to be taken to its logical conclusion, a question mark would always hang over whether there is a major mineral deposit in that area. I hope that that matter will be finally resolved.

In relation to the particular mining activities that have been undertaken by the previous explorers, it should be pointed out (and I have visited the site and would advise any member of this council that if they want to be informed about Yumbarra they should visit the site) that there are tracks that have been there for many years and locals in the Ceduna area have visited areas for many years, up to the last five or 10 kilometres out to the particular centre of exploration. Those tracks are visited regularly by locals in the area. If you go on the track out there you can see the remains of some rabbit burrows that have been there for many years, long before the exploration tracks appeared.

The honourable member referred to the fact that the first fauna survey back in 1999 indicated that there were no signs of feral predators. The honourable member is referring to the fact that later surveys found tracks of feral predators at six of the impact sites and at two control sites. The only problem with the logic used by the honourable member in her public statements is that the same survey also found for the first time signs of native species never before recorded in the area. If the exploration effort had brought in feral animals, then it also brought in native species never seen before. Obviously, that is not the case. The information means that in fact the base data on which information about the Yumbarra decision was made was obviously incomplete. In excess of $500 000 was spent by the previous companies, at least half of which amount of money went into the biological monitoring survey. Much more is known about that area now than was known in the past.

To conclude the answer to the question about what has changed or what is happening, the exploration process is proceeding. The Labor Party policy will stand until that exploration is completed.

The Hon. SANDRA KANCK: Given that we now have a turnaround from the Labor Party's election promise, would the minister please inform the council whether it is this government's policy to encourage or discourage mining in the Yumbarra Conservation Park?

The Hon. P. HOLLOWAY: There has been no turnaround. The policy of the government is that exploration will continue until it proves fruitless. That is the policy and the honourable member quoted it earlier. If exploration proves fruitless in that region, the park will revert to singly proclaimed status.

The Hon. A.J. REDFORD: Given that the ALP has continued to mislead and let down the green movement in the past and yet has obtained its preferences on every single occasion, is Labor confident of getting the general green movement's preferences at the next general election?

The Hon. P. HOLLOWAY: The Greens will decide where to give their preferences. There has been no turnaround. The Labor Party policy on this matter is consistent.

The Hon. J.F. STEFANI: Will the minister bring back to this chamber the number of exploration licences issued since the Labor government took office?

The Hon. P. HOLLOWAY: I will be pleased to do that because one of the things that has happened in the past 12 months is a significant increase in exploration in the Gawler Craton region of this state. In relation to the exploration of national parks, all members would be aware that during the past 12 months a number of parks in some areas have had their status changed to ensure that they are singly proclaimed.

SMOKING BAN

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the ministers for Health, Industrial Relations and Gambling, a question about a smoking ban in poker machine rooms and the casino.

Leave granted.

The Hon. NICK XENOPHON: A report in yesterday's *Sunday Mail* by David Nankervis headed 'Tax loss may delay gaming smoking ban' stated, in part:

> The loss of millions of dollars of pokie taxes could be used as an excuse to delay the introduction of smoking bans in gaming lounges, health organisations have warned. It is believed the State Treasury Department has estimated $40 million in revenue could be lost due to a downturn in pokie gambling based on recent experiences in Victoria. Pokie gambling fell 12 per cent after the ban on smoking was introduced in Victoria in October last year.

Several days earlier, on 19 March, a report in the Melbourne *Age* by Royce Millar headed 'Tattersalls panned over "smoking gun"' stated:

> A confidential psychologists' report commissioned by Tattersalls as part of a marketing exercise to keep smokers playing gaming machines has identified people with suicidal tendencies as a key group of customers. The report, by international consultancy group The Barrington Centre, also makes the link between compulsive gamblers and smoking. It acknowledges that while smokers represent only 36 per cent of players, they account for 50 per cent of gaming revenue. "Smoking is a powerful reinforcement for the trance-inducing rituals associated with gambling", the document, leaked to *The Age*, says.

The article goes on to say:

> The report, aimed at minimising revenue loss resulting from the State Government's ban on smoking in gaming venues, provides a rare insight into the strategies used by the gambling industry to maximise pokie revenue. It says smoking bans cut revenue because a cigarette break upsets the playing routine and allows punters to consider that "playing the poker machines is a waste of money".

The article goes on to say, extrapolating from the report commissioned by Tattersalls, that the big pokie punters were people with suicidal tendencies, people predisposed to mental illness and with a family history of problem gambling, and people with no history of mental illness but who develop depression through gambling. The report also makes reference to how to keep smokers playing pokies, and the dot points refer to providing free drink and food; increasing the number of pokie payouts and near misses; and allowing reservation of machines during smoking breaks. My questions are:

1. First, in relation to the Minister for Health, has the government undertaken any study to estimate the savings to the health system of such a ban on smoking in gaming rooms? If so, what are the savings and, if not, when will the government undertake such a study?

2. Will the Minister for Health guarantee that the health of South Australians will take absolute priority over any revenue concerns of Treasury in this regard? Secondly, in relation to the minister for industrial—

The Hon. Diana Laidlaw: Or the Treasurer.

The Hon. NICK XENOPHON: —or the Treasurer. In relation to the Minister for Industrial Relations, has the government undertaken any study to estimate the savings in respect of WorkCover claims for claims related to passive smoking amongst workers in the hospitality industry in poker machine venues and in the casino? If so, what are the savings and, if not, when will the government undertake such a study?

3. In relation to the Minister for Gambling, has the government undertaken any study to estimate the reduction in the prevalence of problem gambling that such a ban will bring, based on the experience of Victoria and studies undertaken by problem gambling agencies both here and elsewhere, and will the minister take into account the disturbing revelations contained in the *Age* report?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): There is enough material there to keep three research officers going for a fortnight. I will refer those important questions to the minister in another place and bring back a reply.

ABALONE FISHERY

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about abalone.

Leave granted.

The Hon. T.J. STEPHENS: The *Southern Times Messenger* of 26 February contained an article on page 1 about the illegal poaching of abalone from the waters off the southern suburbs. In the last part of that article, there is a quote from the general manager of PIRSA fisheries division, who said that the two men reported on Sunday are known to PIRSA Fish Watch and have been reported for similar offences in the past. The article also reported that several people were caught taking abalone from near Port Stanvac in January. My questions are:

1. Does the minister agree that the penalties currently handed out for abalone poaching do not act as a deterrent?

2. Will the minister undertake to strengthen the punishment for illegal abalone fishing in South Australia so that this vital industry is protected?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the Hon. Terry Stephens for his question on this important matter. I think it should be pointed out that there has been some difficulty in the past in the officers of PIRSA fisheries compliance achieving convictions in relation to abalone poaching. However, there was a celebrated case that I believe was mentioned in this council last year, where some interstate people, I think, had been intercepted with a significant quantity of abalone in their possession but, for various evidential reasons, it had been impossible in the end to gain a conviction.

However, I am pleased to say that, in recent times, I believe the fisheries compliance section has been able to significantly improve its success rate in relation to convictions in fisheries matters and that this is starting to have a significant impact on ridding our society of the curse of people who are poaching fish stocks—or fishing illegally, breaching bag limits, and so on. I think that, as a result of the additional effort that has been put into fisheries compliance, we are now starting to get some runs on the board in relation to some of these more flagrant breaches of fisheries regulations. In fact, the case to which the honourable member referred is one where, hopefully, now we will be able to get a conviction that will at least give the message to people who seek to poach our fish stocks that they will be unsuccessful in relation to that, and that we do have the means of catching such people.

The question in relation to penalties is a fair one. Certainly, at the time of the case last year, I asked the department to have a look at these matters. It is probably appropriate that the honourable member, through his question, should remind

me to get some follow up in relation to that to see whether, in fact, penalties are part of the answer to this problem or whether it is, as I have just suggested, that the increased effort and the improvements that fisheries compliance has had in terms of collecting evidence—and, I think, in basically improving its practices to ensure that it achieves convictions—is starting to work. I will ask the department to review the matter of penalties and come back with a response to the honourable member.

REPLIES TO QUESTIONS

SCHOOLS, CAPITAL WORKS

In reply to **Hon. A.L. EVANS** (27 August 2002).

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

In the 2001-02 Budget, the former government published an allocation of $2 million for 2001-02 towards the upgrade of the Gawler Primary School with a commencement date of November 2001. However, when the present government came to office in March 2002, the project had not gone to tender. In fact the land required for the particular design for the proposed extensions had not even been acquired. That (privately–owned) land was not available. Work had to be done to identify an alternative solution to the school's accommodation problem.

With the assistance of the Gawler Council, an alternative solution was identified and approval for the project to proceed was granted at the end of October, 2002.

Subsequent consultation with the school has injected new requests for additional work to be included in the construction. Also Gawler Primary School is being funded to reconstruct a toilet block and this will be done at the same time, as well as some minor works that it is sensible to combine with the project. Demolition of a building has been completed in preparation for construction.

The Federal Department of Education, Science and Technology has been notified of the commencement of projects at Gawler Primary and Orroroo Areas School. However the regular monthly commonwealth payments to DECS for major works ceased in August and only $2 million of the allocated $18 million for 2002-03 has been received to date. This is despite communications, both at Ministerial and departmental levels, with the commonwealth government. My most recent letter to the Federal Education Minister, dated 20 March, again points out to Honourable Brendan Nelson that action has been taken on the capital projects involving commonwealth funds and request that he release the funds he has withdrawn from South Australia.

The situation now is that the Federal Liberal Government has, since August, withdrawn $10.867 million of funding to the state and has been refusing to make any payments since August 2002.

As a result of the persistent underspending in the capital program by some $124 million during the eight-and-a-half years of the Liberal Government, the new state government was faced with a huge backlog in unstarted or not completed projects when it came into office in March 2002. Some of that backlog included projects from the 1999 capital works program that had been allocated commonwealth funds but had not yet commenced.

The former Liberal Government had made election promises to schools all over the state about what would be in the 2002-03 and 2003-04 capital works budgets.

At no time did the Federal Liberal Government comment about the fact that the State Liberal Government had not even commenced many of those projects on past programs.

GAMING MACHINES

In reply to **Hon. R.I. LUCAS** (26 August 2002).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

Following announcement of the revised tax structure for gaming machines in hotels and clubs I sent a letter dated 17 July 2002 to the Australian Competition and Consumer Commission (ACCC) asking it to look into suggestions that hotels would raise prices for meals and beer to compensate for a rise in gaming machine taxes on larger venues.

Mr Brian Cassidy, Chief Executive Officer of ACCC in his reply dated 29 July 2002 wrote:

> Dear Minister
>
> Re: South Australian tax implications for hotels and clubs
>
> Thank you for your letter dated 17 July 2002 concerning the SA state budget and tax structure impacting on the hotels and clubs.
>
> The regional director SA has alerted me to the particular issues and has advised me that he has been in contact with Mr John Lewis of the Australian Hotels Association (AHA).
>
> Of particular concern to the ACCC, under the anti-competitive provisions of the Trade Practices Act 1974 ('the Act'), is the risk of AHA members entering an agreement with each other that would contravene s.45 of the Act.
>
> Anecdotal evidence from a membership meeting held last week, confirmed that this message is high on the minds of the industry.
>
> If any suggestion of illegal conduct is evident, the ACCC will follow up in accordance with our investigation and enforcement priorities.
>
> Thank you for bringing this matter to my attention.
>
> Yours sincerely
>
> Brian Cassidy
>
> Chief Executive Officer

The Government remains committed to protecting the public from uncompetitive behaviour.

GOVERNMENT GRANTS

In reply to **Hon A.J. REDFORD** (24 October 2002).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

1. The Premier's Community Initiatives Fund provides financial assistance to non-profit charitable South Australian organisations that offer services and support to excluded, disabled or socially isolated members of the community. The objective of the fund is to make available grants of up to $10,000 to assist such organisations undertake a one off project that will provide a direct benefit to disadvantaged members of the South Australian community. Organisations that support personal interests or hobbies, including sporting and recreation clubs, are not eligible to receive a grant from the programme. The Premier's Community Initiatives Fund operates in a similar manner to the Premier's Community Fund which it replaced, a grant programme created by the previous Liberal Government.

The Office of Recreation and Sport administers several grant programmes including: the active club grant programme, the community recreation and sports facilities programme and the management and development programme. These grant programmes provide assistance to organisations that provide sporting and/or active recreational activities, events and facilities. The eligibility criteria of these programmes states that applicant organisations must be non-profit sport and recreation organisations that are incorporated under the Associations Incorporation Act 1985 (or have a comparable legal status). In addition, the applicant organisations cannot hold a gaming machine licence.

2. The Premier's Community Initiatives Fund supports other government policies such as the various social inclusion initiatives. The focus of the grant programme will be the outcomes achieved by the funded project for excluded, disabled or socially isolated members of the community.

3. Applications received to the Premier's Community Initiatives Fund are assessed on their individual merit and the provision of funding is dependent on the application meeting the objective and the eligibility criteria of the grant programme. Applications are assessed by the Premier's Community Initiatives Fund Evaluation Committee. Recommendations are then forwarded to the Premier for his approval. The evaluation committee is comprised of representatives from several government departments including planning and financial services, the Office of Volunteers and the Social Inclusion Unit within the Department of Premier and Cabinet, the Department of Human Services, the Office of Multicultural Affairs and the South Australian Tourism Commission.

4. Assessment of applications lodged in the Premier's Community Initiatives Fund is undertaken by the evaluation committee as detailed above and it is not considered appropriate that a member of parliament join the evaluation committee.

5. The review that established the Premier's Community Initiatives Fund was undertaken by the Department of the Premier

and Cabinet and accordingly there was no additional cost to the Department or the government of South Australia.

SAND DRIFT

In reply to **Hon J.S.L. DAWKINS** (20 February).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

On Thursday 6 March 2003 the Premier wrote to the district clerk of the Karoonda East Murray District Council advising that the council's request for funds to defray sand drift removal expenses has been sympathetically considered by the South Australian Local Government Disaster Fund and the chairman would be writing to the council shortly.

The Premier also noted that Transport SA advises that it is clearing the arterial roads under its responsibility.

Finally, the Premier was pleased to hear that the Council and affected landowners are also taking action to combat sand drift through various soil conservation measures.

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 18 February. Page 1788.)

Clauses 9 and 10 passed.

Clause 11.

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

Page 10, lines 14-17—Leave out paragraph (g).

Schedule 1 of the current act provides that information related to personal affairs is exempt until the expiration of 30 years from the date on which the document came into existence. This appears in part 2, clause 6 of schedule 1. I remind the committee that that clause deals with documents affecting personal affairs, and its principal requirement is that a document is exempt if it contains a matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person, living or dead. So, until the expiration of 30 years from the creation of the document, there is no ready access to the document under the FOI act. In the amending bill, the government proposes to extend from 30 to 80 years the period during which documents of this nature are unavailable.

The Hon. Diana Laidlaw interjecting:

The Hon. R.D. LAWSON: As the Hon. Diana Laidlaw says, what does this say for the honesty, openness and accountability of this government that it would seek to preclude for a further half century information related to personal affairs? It is interesting to see some of the time limits in the existing act in relation to, for example, cabinet documents. Cabinet documents are exempt until the expiration of 20 years from the end of the calendar year in which the document came into existence. After 20 years any document brought into existence for the purpose of enabling cabinet to function is open to public disclosure. Executive council documents, which are referred to in part 2, clause 2, are also open after the expiration of 20 years. The act currently provides that, in relation to personal affairs, 30 years is the appropriate time. This government seeks to extend that 30 years to 80 years. No cogent argument or reason has been given why this half century extension should be granted.

It is true that in another place the minister mentioned the Scotland Yard report related to the investigation into the death of Dr Duncan, and 30 years after the preparation of that report came up for consideration (this year) the government released the report because it was a matter of public interest. It has in fact been a matter of some public interest and notoriety for the past 30 years. If this provision had been in place, those researchers, those people who were interested to understand what the South Australia Police were investigating into Dr Duncan's death for 30 years, would have to wait another 50 years; they would have to go away and wait another 50 years if they wanted to see all the information in this report.

We do not believe that a satisfactory reason has been shown for extending the period in this legislation. What the government has been saying about its bill to amend the Freedom of Information Act is that it is making it more open and accountable, and things will be more available, yet here in this provision it is extending by 50 years the time within which information can be accessed. We simply do not believe that that is appropriate.

The Hon. T.G. Cameron: It is a contradiction.

The Hon. R.D. LAWSON: It is certainly a contradiction, as the Hon. Terry Cameron says, on the one hand to be saying that it is making it more open and accountable and on the other hand really to be closing the door to access, but it is also quite inappropriate to be extending by 50 years the exemption for material of this kind.

The Hon. P. HOLLOWAY: Let me explain why the government has moved to amend the legislation in this manner. When we debated this bill last November, an amendment to the objects clause was agreed so that the public has a right of access to documents subject only to restrictions that are consistent with the public interest and the preservation of personal privacy. So, when we are debating this clause, let us get it straight right from the word go: we are not talking about government documents but about information related to personal details.

An honourable member interjecting:

The Hon. P. HOLLOWAY: They are in government hands, but it is information related to personal privacy.

The Hon. T.G. Cameron: What are some examples?

The Hon. P. HOLLOWAY: I'll get on to that. The introduction of the extension of time from 30 to 80 years is solely to protect the innocent and vulnerable. The FOI act restricts the release of personal information only if it would involve the unreasonable disclosure of information concerning personal affairs. It is not a blanket exemption, and it is only ever applied when the disclosure would be unreasonable. Currently, personal information that would constitute an unreasonable disclosure of personal information could be accessed by anyone and made public after 30 years had passed. In all other FOI jurisdictions in Australia and, indeed, New Zealand, unreasonable disclosure of personal information has no time limit imposed and therefore is exempt from disclosure for the lifetime of the record or until it can be said that the disclosure would no longer be unreasonable.

The government holds extremely personal information, such as genetic information, child abuse files, health records, allegations of criminal activity, mental illness, etc., of the living or dead. To release this information does not serve the public good; it merely exposes an individual's private information. This is an initiative to protect those most vulnerable in our society.

Perhaps I could illustrate the point by way of an example. Suppose three young people were placed under the guardianship of the minister. Let us say that these children are eight, 10 and 12. After 30 years an application is made for information concerning these children. Some of the information contained in the records may include information of the kind I have already mentioned, such as that related to child abuse. These reports would necessarily contain detailed and very sensitive personal information, and under the FOI regime the information could be protected for only 30 years. At the time of the application the people in the example I have just given would be 38, 40 and 42. Without doubt this information would still be sensitive to them.

I ask members to imagine whether, if they were in this case, they would like it if information were made public because it was no longer protected under the FOI act. Let us dispatch at once this nonsense that somehow or other the government is becoming more secret and protective. After all, we are talking about information that is already protected for 30 years, so it scarcely has any political sensitivity or implications as far as the government and governments of the near future are concerned. We are talking about very personal information and whether it should be released at all.

Another example might well be the case such as one I remember some years ago when we were debating the adoption bill. Immediately after the war a number of young women of that era adopted out their children if they became pregnant. As a member of the lower house at the time when we were doing this review I had a number of letters from very concerned people who had adopted children some 30 or 40 years ago and who were extremely concerned about what would happen if information came out in relation to their personal relationships and so on, so there is a great deal of sensitivity in the community on the part of people who have been in this situation. Thirty years might well be sufficient in relation to public records such as the Duncan case which the honourable member was talking about, and subsequently that information was released.

In relation to personal information, where people may still be alive and where it may have implications for their life, we need to give such people some consideration. That is the context in which the government has made this particular decision, and to suggest that we would be using it for political information or for something that might have political implications is completely and utterly over the top.

The Hon. IAN GILFILLAN: I indicate that the Democrats, in principle, support the amendment which would oppose the extension to 80 years. However, we do have some concern about individual privacy—and it may be a matter that the Hon. Robert Lawson can address—and whether there is any relief through privacy legislation which would give the opportunity for particularly sensitive information even at the 30-year limit. For example, it could be argued that the information's being made public would impose on and break through the normal barriers of privacy that citizens in the community should be able to expect.

I indicate that the Democrats will be supporting the amendment, but we are sensitive to the matter of the odd case where a substantial argument could be put that the release of personal information could be seriously damaging and hurtful to members currently living at that stage in the community. However, in relation to the actual general blanket rule that all this material could be held, I know that the leader says that it would be reasonable—this sort of arbitrary term 'reasonable'—for matters to be retained for 80 years, but it leaves it as an arbitrary determination and I am not sure how much confidence I would have in the person or body making that decision on what is or is not reasonable.

The Hon. A.J. REDFORD: Bearing in mind that the Legislative Review Committee spent a long time looking at this bill, I do not recall a single submission from a single body or person suggesting a difficulty with the clause as it is currently expressed, or requesting an increase. I would be interested to know from the minister who, or which body, has requested this amendment. It appears in the context of the debate on freedom of information to have come from left field.

The Hon. P. HOLLOWAY: It is my understanding that this has come from the Department of Human Services. All the information I have is that it came from the Department of Human Services. Certainly, from my own experience in dealing with the bill on adoption some years ago and the issue of whether or not information should be released in relation to adoptive parents, I can remember there were plenty of submissions in relation to that issue. It was a hot topic as to whether or not that information should be released. It is an extremely complex issue. I can understand both sides of that case—the relinquishing parents, as well as the children who want to know information about their genetic parents. It was an extremely difficult and complex issue with which the parliament dealt. In fact, I think there was a subsequent review when David Wotton was the minister after the change at the election.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, there was before that.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: There had been serious reviews. I do not know that we would fix that particular question to everyone's satisfaction, but, certainly, this issue of privacy in the area of family and community services has been around for a long time.

The Hon. A.J. REDFORD: I understand that the minister's answer is that this is done at the request of the Department of Human Services. Would the minister set out what the Department of Human Services said in support of this suggestion? Secondly, could the minister explain why 80 years has been picked and not 50, 30, 20 or 60? Why was 80 years picked?

The Hon. P. HOLLOWAY: I am not in a position to answer the detail of that question. The figure is arbitrary, as is 30 years but, obviously, in the case of 80 years, for the vast majority, if not for every person who might be affected in a personal case, it would survive their lifetime. In my earlier example, if there was child abuse involving a child at a fairly young age, after 80 years it would be unlikely to be of concern to those people involved, whereas after 30 years it might be of concern. Apart from that general philosophical argument, obviously I cannot answer for those who chose the figure of 80, but it has logic in the context which I have just provided.

The Hon. A.J. REDFORD: I know that the Hon. Robert Lawson has an answer to the Hon. Ian Gilfillan's question, but I want to make a comment. We have been asked to support this amendment on the basis of some advice from the Department of Human Services, which advice has not been proffered, or an argument given, in relation to exactly what the department was concerned about. My suggestion to the Hon. Ian Gilfillan would be to let our amendment pass—

The Hon. Ian Gilfillan: We are supporting it. I have said that twice. We are supporting the amendment.

The Hon. A.J. REDFORD: I congratulate the Hon. Ian Gilfillan for the position at which he has arrived.

The Hon. T.G. CAMERON: I am not persuaded by the lack of argument and substantive reasoning put forward by the leader in relation to why we should be supporting an increase from 30 to 80 years. In the absence of any substantive reasoning, it would be my intention to oppose this section of the bill.

The Hon. R.D. LAWSON: The existing provision provides that the document ceases to be exempt on the expiration of 30 years from the date on which it came into existence and it further provides—and this is important—'or if some longer period is prescribed on the expiration of that period'. The act, as it presently stands, without any amendment, does provide the opportunity to exempt, for example, adoption information (which is exempted under other legislation). The present act does have a measure of protection, that is, the capacity to have a longer period prescribed. On a case by case basis, it is the blanket nature of the 80 years that we find offensive, especially as no satisfactory explanation has been proffered by the government.

The Hon. IAN GILFILLAN: I apologise to the committee if I misrepresented our position. I want to make it quite clear that we support the initiative of the amendment of the Hon. Robert Lawson, that is, to remove the extension from 30 years to 80 years. I make that absolutely plain. However, I personally had concerns about the privacy consequences. The Hon. Robert Lawson provided material, which had been sent to me before and which I do find useful. However, I believe that the New Zealand legislation was promoted strongly by both the Hon. Angus Redford and me. I do not remember that it was dealt with in that legislation, but the Leader of the Government indicates that there is no limitation of time. I am not sure that is an accurate reflection on the New Zealand legislation. While we are in committee, the honourable member might like to give members exact knowledge on the situation in New Zealand. It is a place which, I think, has led the way on freedom of information. Certainly, it has been further advanced than South Australia up to now.

The Hon. P. HOLLOWAY: I repeat the advice I have that the New Zealand act does not have a specific time limit.

The CHAIRMAN: For personal information?

The Hon. P. HOLLOWAY: Yes, for personal information, and that is what we are talking about. One can pose the question: why, ultimately, would you want this information to get onto the public record? One can understand why other individuals might wish to get it, and I imagine that the information could be greatly misused. We would obviously have to be extremely careful when dealing with such sensitive personal information, and I hope everyone understands that.

Amendment carried.

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

Page 10, lines 21 to 25—Leave out paragraph (i).

This amendment relates to the government's proposal to have included, in the schedule of exempt documents, documents that seem to contain any element of advice. The existing act provides that internal working documents of government are, in fact, exempt. It provides in part 3, section 9:

> A document is an exempt document if it contains a matter that relates to an opinion, advice or recommendation that has been obtained, prepared or recorded in the course of or for the purpose of the decision making functions of the government, a minister or an agency.

That is a very wide exemption. It goes on to provide that a document is not exempt if it merely consists of a policy document or factual or statistical material. Through this bill the government seeks to insert the following:

> (3) In determining whether disclosure of a document described in subclause (1) would be contrary to the public interest, due weight must be given to the public interest in ensuring that the government, ministers and agencies exercise their decision-making functions based on opinions, advice or recommendations that have been expressed in a free and frank manner.

The double-speak behind those expressions really is that this seeks to reinforce the proposition that ministers can refuse to disclose advice received on the ground that, 'If this is disclosed, it will deter public servants from giving me', so speaks the minister, 'free and frank advice.'

Once again, the amendment does not seek to expand the information documents available to members of the public; it seeks to contract the class of documents and information that is available for the public and members of parliament to access. Like the previous amendment, this is inconsistent with the government's contention that it is about making information more available. The government's amendment will, in fact, make information less available, and we oppose it on that ground.

The Hon. IAN GILFILLAN: The Democrats support the amendment moved by the Hon. Robert Lawson.

The Hon. P. HOLLOWAY: It is interesting that the Hon. Ian Gilfillan should do that, because the bill he introduced in October 2000 incorporated the very provision that the government has put in. But, obviously, times have changed.

The Hon. A.J. Redford interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: The purpose of freedom of information legislation, in my view, should be to make government better. It should be to ensure that government-commissioned reports and so on that are paid for with taxpayers' money are made freely available. However, what we have seen recently in relation to the activities of the current opposition is, in an unprecedented way, an attempt to seek information regarding not those reports that are paid for by taxpayers but to try to access the advice and opinions given to the government in making its decisions. Is that going to lead to better government? Of course it will not.

If we get to a situation where FOI legislation is so effective that any opinion given to government is made available, then governments will simply change the way in which they seek opinions. It will make it very difficult for governments to get that free and frank information, and it will make government worse. Surely, we have to have a situation where governments make appropriate decisions, where they seek the sort of information that they need and can make effective and efficient decisions. But, if we get to a situation where FOI is such that every single piece of opinion given to government is put on notice, it certainly will not, in my view, lead to better government.

Anyway, it is obvious that the government does not have the numbers on this amendment, so I suppose it will go the way of the rest of the bill. Let us get it over and done with as soon as possible.

Amendment carried.

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

Page 11, lines 18 to 23—Leave out paragraph (k).

In the bill the government seeks to extend the class of exempt documents to those which have been prepared for the

purposes of estimates committees, in shorthand language. This arises out of section 14 of schedule 1 of the existing act. That section provides that documents affecting the economy of the state are exempt, and a document which affects the economy of the state is defined as one which could reasonably be expected to have a substantial adverse effect on the ability of the government or an agency to manage the economy or any aspect of the economy, or which could be reasonably expected to expose any person or class of persons to an unfair advantage or disadvantage as a result of the premature disclosure of information concerning any proposed action or inaction of the parliament, the government, etc. and which would, on balance, be contrary to the public interest.

The government now seeks to extend that class, which is an important class but which relates to significant matters affecting the economy of the state, by including documents gathered in the course of preparing for estimates (receipts and payments) to be laid before parliament, namely, during the estimates committees. It would be well known to all members that, in the estimates committee process each year, departments prepare for their ministers extensive briefings on all aspects of the receipts and payments and of the portfolio that might reasonably be expected to be the subject of questions during the estimates process. It is, indeed, a very valuable resource for governments and ministers, and it is an important exercise for departments to prepare that material because it provides a road map to what is going on within the public sector of this state.

It is true that since the last election the opposition has sought information relating to those estimates briefings, as they are called. Much material has been provided, and it is material of a factual kind. The government clearly does not like the fact that that material has been sought and provided, because the existing legislation requires that it be provided. To avoid having to make that disclosure in the future, the government seeks to exempt these estimates briefings.

Once again, this is entirely contrary to the claims of the government that this bill is about extending information to the public and making the government more open and accountable: it is all about closing the doors and closing the shutters to the public gaze upon this important information. After the estimates committees, a wise government would probably table all the estimates briefings. Certainly, I have heard some people involved in the estimates process saying that that would be a good thing, because it is all public information. However, we certainly and strongly oppose this proposal by the government. I urge support for my amendments which seek to exclude it.

The Hon. IAN GILFILLAN: I indicate the Democrats' support for this amendment. However, I cannot help but make the observation that the road from government to the opposition benches was a road to Damascus as far as the Liberal Party was concerned. It is refreshing, and I give the Liberal Party credit that with these amendments they really carve into the shroud of secrecy and protectionism that prevailed when the Liberal government was in power. Far be it from me to belittle the significance of the amendments it is moving. If the estimates process is to have real value for the public interest of South Australia, the alteration that is included in the bill would prevent that happening. So, it is quite clear that the amendment moved by the Hon. Robert Lawson should be strongly supported for those who are really keen on freedom of information.

The Hon. P. HOLLOWAY: Until last year, it had never happened that estimates information prepared for estimates was released by government. If this amendment were passed and if the bill were to go through (and that is not likely to happen) I would say to my department, 'Don't prepare estimates information.' That would be sad because, as the Hon. Robert Lawson said, it is an important road map. It is useful for government. That is exactly what we are getting to here. We are getting to the stage where a freedom of information act, rather than making good government, will damage government.

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: The Hon. Ian Gilfillan says that the reason you ask not to do it is that you never know what things are likely to come out of left field, so I had asked them not to do it.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Of course, we should ask to do it, but do they need to be addressed in that context? That is what will happen if this bill is passed. It will lead to bad government. That is what you lot are doing, and you ought to think about it for a moment. However, let us move on.

The Hon. A.J. REDFORD: I will respond to that last comment by the minister. He is saying that, 'I won't ask for these things to be prepared, because someone within the Public Service, or within the bureaucracy, might tell me something that I don't want to hear.' That is what he is saying. He is also saying that he does not want full, complete and frank advice. That is an absolutely stunning and startling admission on the part of a minister of the Crown. That is a stunning admission on the part of a member of Her Majesty's loyal government—that, in order to avoid opposition scrutiny, he will ask his bureaucracy next year not to prepare briefing statements in case there is something in there that might be of some concern to him. That is extraordinary.

The Hon. P. HOLLOWAY: It is something that might be taken out of context and misinterpreted by you lot.

The Hon. A.J. REDFORD: At the end of the day, if the minister is across the issue, he can, as is the wont of this government—and there has never been any shortage of this sort of activity—wander in and give a ministerial statement or, during the course of the estimates process (and no-one is asking for these documents before estimates hearings), he can correct the record or explain or add additional information. That, in fact, might demonstrate that a minister is across his or her portfolio. I suggest that that—

The Hon. Ian Gilfillan: And it would cover all points of view.

The Hon. A.J. REDFORD: Exactly. As the Hon. Ian Gilfillan says, it would cover all points of view. At the end of the day, that is what we are after. In fact, that is what good government is about. I well remember, when I visited New Zealand a few years ago, speaking to the Ombudsman about the legislation. The more I go through this whole process of exemptions, clauses and so on, the more strongly I come to the conclusion that we should embrace the New Zealand legislation.

The Ombudsman said to me, 'You know the wonderful thing about open government? It does two things: firstly, it exposes the less competent ministers twice as quickly as would occur in a closed system of government; secondly, it draws the minister's attention at a much earlier stage in the process to problems and difficulties that might be coming down the pipeline to the minister.' Probably the most experienced and well-regarded ombudsman in the western world said to me: 'In the end, good government wins as a

consequence of those two things.' I cannot see how excluding these documents will advance good government at all.

Finally, this point arose after our second reading debate. This clause was introduced not as a matter of principle, not as a consequence of a reasoned thought process based on principle from this government but as a consequence of some conduct on the part of the Leader of the Opposition (Hon. Robert Lucas) in seeking such documents. It annoyed some ministers and it annoyed some people within the bureaucracy. I know that this is a lovely thought process on the part of this so-called open government. It is up there with this lofty claim that documents are not to be made available on the basis of some notion, some concept, of parliamentary privilege.

I ask the minister: should this clause be passed, would it be used to support this claim of parliamentary privilege, or will some other clause in either this bill or the act support this claim of parliamentary privilege that was used in relation to the refusal to disclose documents to the Hon. Robert Lucas, when he sought details of budget cuts in last year's budget?

The Hon. P. HOLLOWAY: As I understand it, the advice in relation to parliamentary privilege applies to the current act.

The Hon. A.J. Redford: On what basis?

The Hon. P. HOLLOWAY: It is really not relevant to the clause we are debating. It is to do with the current act; it is not to do with this.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: No, there were other matters. I do not have that opinion with me at the moment. I will not hazard to debate the legality of that matter, other than what has been put on record already: crown law advice was such that it was a matter of parliamentary privilege. Whether you like it or not, that is the advice that has been given to the government, and the government will have to address that issue.

The Hon. A.J. REDFORD: This is an important question in relation to this clause because if there can be a claim for parliamentary privilege for documents that identify budget cuts to particular agencies, why is it that parliamentary privilege cannot be claimed in relation to the category of documents that falls within this specific clause? For example, I refer to documents prepared for the purpose of processing and involved in preparing the estimates of receipts and payments to be laid before the parliament in support of an annual Appropriation Act. If there is a valid claim for parliamentary privilege under the existing legislation, why on earth is the minister seeking the insertion of this? Alternatively, is the minister seeking the insertion of this to support this newly found concept of parliamentary privilege in so far as FOI legislation is concerned?

The Hon. P. HOLLOWAY: I do not know the background, but I know that this bill was introduced a significant time ago—19 November—and obviously was in the Lower House before that. The matter of parliamentary privilege would have been raised after the bill was introduced: I can say that much with some confidence. The very timing of it answers that question.

The Hon. A.J. REDFORD: Accepting the minister's answer, why, if there is a valid claim for parliamentary privilege, did not the documents in this clause fall within that category?

The Hon. P. HOLLOWAY: I guess if that is the case then, if one accepts that parliamentary privilege applies, it does cover such documents. Is not parliamentary privilege something covered under the Freedom of Information Act? If parliamentary privilege applies to those documents, it is a result of the practice and traditions of the parliament and not because of the existence of the Freedom of Information Act.

The Hon. A.J. REDFORD: In light of that answer, if there is some substance in the claim of parliamentary privilege (and I would say that there is not), the documents that fall within this clause fall within that category. Would the minister agree with that proposition?

The Hon. P. HOLLOWAY: I am advised that it is not quite as simple as that in that under the FOI act there has to be a case by case examination of each document. Obviously, that would be practically a much more complex and difficult exercise if you have to examine every document rather than a class of documents.

Amendment carried; clause as amended passed.

New clause 11A.

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

11A. Schedule 2 of the principal act is amended by inserting after paragraph (f) the following paragraph:

(g) the Essential Services Commission in relation to—

(i) information gained under Part 5 of the Independent Industry Regulator Act 1999 that would, if it were gained under Part 5 of the Essential Services Commission Act 2002, be capable of being classified by the Commission as being confidential under section 30(1) of that Act; and

(ii) information gained under Part 5 of the Essential Services Commission Act 2002 that is classified by the Commission as being confidential under section 30(1) of that Act;

Presently, the definitions within the act provide that an exempt agency is one of those organisations listed in schedule 2 or agencies declared by regulation to be exempt. In schedule 2 are listed a number of organisations such as all royal commissions, the Auditor-General, the Motor Accident Commission, the Ombudsman, the Solicitor General, certain functions of the police and so on. Regulations made on 31 October 2002 include, as one of the exempt agencies, the Essential Services Commission established under the Essential Services Commission Act 2002. Accordingly, the Essential Services Commission is an exempt agency and the general provisions of the Freedom of Information Act do not apply to it.

We believe that not all the documents of the Essential Services Commission should be exempt from FOI. Indeed, many of the documents and much of the documentation and information held by the Essential Services Commission, which after all is a public functionary, ought to be made available for applications under the FOI act so that public access to the commission's activities can be obtained. The Essential Services Commission, established under an act of that name in 2002, has very wide powers in relation to electricity, gas, water and sewerage, maritime and rail services, and section 30 of the act requires that the commission keep confidential information which is obtained by it if the disclosure of that information would have certain negative effects. We accept that some of the information obtained by the commission would be truly confidential and would be damaging to a competitive market for information of that kind to be disclosed.

For example, the commission has the power to require participants in a market to provide details of their operations, their profitability and the like. That is information that is very important for the commission to have in order to make the sorts of ruling and exercise the powers it has, but it would be wrong in our view in a competitive market for competitors

to be able to use freedom of information legislation to obtain from the commission information that its competitors provide on a confidential basis to the commission. For that purpose, we believe it would be appropriate to include the Essential Services Commission not in the regulations as an exempt body but to include it in the second schedule as an exempt body in respect of certain of its functions. The amendment I am moving seeks to put the Essential Services Commission into the class of exempt body but only in relation to:

> (i) information which is gained under Part 5 of the Independent Industry Regulator Act that would, if it were gained under part 5 of the Essential Services Commission Act, be capable of being classified. . . as confidential.

Information that is classified as confidential under section 30(1) of the Essential Services Commission Act is information that could affect the competitive position of a regulated entity or another person or is commercially sensitive in the view of the commission. I apologise to the committee for that long-winded explanation, but it is a fairly complex issue. The amendment seeks to meet the government's principle of openness and accountability by making available information that should be made available to the public, yet at the same time protecting that which is truly confidential.

The Hon. IAN GILFILLAN: We will be supporting the amendment. I find it interesting that there is some information held by the commission that the Hon. Robert Lawson and the opposition regard as information which ought not to be released and which should be kept confidential. I have not explored the issue with the Hon. Robert Lawson in any detail. I am quite convinced that this is better than exempting all material held by the commission, but I question how and who will determine what matters will be regarded as being appropriate to be kept confidential.

The Hon. P. HOLLOWAY: The government supports the amendment. This is a hangover from the previous government, which chose to make the Independent Industry Regulator exempt from the FOI act. The regulation to which the Hon. Robert Lawson referred merely relates to the repeal of the Independent Industry Regulator Act and the introduction of the Essential Services Commission Act.

The Hon. A.J. REDFORD: I have a question that might need to go to parliamentary counsel. As a consequence of this, why is it that we are not also amending the two pieces of legislation referred to in the honourable member's bill, that is, the Essential Services Commission Act and the Independent Industry Regulator Act? In particular, section 25(6) of the Independent Industry Regulator Act provides that information classified by the Industry Regulator as being confidential under subsection (1) is not liable to disclosure under the Freedom of Information Act 1991. I wonder whether there needs to be an amendment to that act—and, if not, why not—to implement what every person has said they agree with in this place?

The Hon. R.D. LAWSON: It was my understanding that parliamentary counsel addressed that issue and deemed it appropriate that this provision be in the Freedom of Information Act, which is, after all, the act which gives a citizen the right to information; and it is the act which provides a mechanism for a citizen to gain documents or information, whereas the other acts do not provide a mechanism for accessing information and have a far narrower focus than the FOI act. However, as the minister says, this matter will be the subject of some discussion between the houses and, if that matter needs to be again examined, it will be a good opportunity to do it then.

The Hon. A.J. REDFORD: I am grateful to the Hon. Robert Lawson.

The Hon. P. HOLLOWAY: Obviously we can deal with this matter at a later time.

New clause inserted.

Clause 12.

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

Page 11, lines 33 to 40—Leave out subclause (3).

This is a consequential amendment. The proposed transitional provision in clause 12(3) specifically deals with extending from 30 to 80 years the time within which information of a personal nature may not be accessed. As that provision has been deleted by an amendment moved by me, the transitional provision, clause 12(3), is no longer necessary and, for that reason, the amendment is consequential and I urge the committee to accept it.

The Hon. P. HOLLOWAY: Given that it is consequential, we will not in that context oppose it.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

The government is disappointed in particular with the changes that have been made to the objects of the bill and the changes to the appeal rights. We already have three merit reviews, and it is disappointing that the bill has now been changed. However, this bill will now go back to another house and, hopefully, as a result of further negotiations in that place, some changes to those matters can be made to make the bill more acceptable to the government. I commend the bill to the council.

The Hon. A.J. REDFORD: I have enjoyed very much the two-man campaign that the Hon. Ian Gilfillan and I have been on, with mixed success, for some considerable time now. I draw members' attention to the report of the Legislative Review Committee that was tabled in this place on 25 October 2000. The fourth paragraph of the executive summary refers to the act that then existed and states:

> What follows in the act is a complex scheme of provisions setting out a range of exempt agencies, exempt documents and involved procedures which often make the implementation of the basic objectives of the act cumbersome, complex and, in some cases, the very antithesis of the objects of the act. Indeed, as one witness put it, the act should be renamed the 'Freedom from Information Act' having regard to their experiences.

We have had two attempts to fix this act since that report was tabled, and I can make the confident prediction that there will be further attempts. Unless and until the government—and, indeed, some of those on my side of politics who still do not understand some of the concepts of FOI—comes to the realisation that what we need is a basically simple piece of legislation with some simple sets of principles and concepts, we will continue to grapple with FOI legislation and the application of that legislation.

I urge that, next time the minister has something to do with freedom of information, he will revisit his view that there was no need to rewrite the legislation and start afresh and that, keeping those fundamental principles in mind, we will continue on a regular basis to visit this legislation. Notwithstanding that, it is an improvement on the current

law. In politics, one ought to be grateful for small steps towards progress and, in this case, I am so grateful.

The Hon. IAN GILFILLAN: It does seem a long and rather painstaking campaign to get a government, and perhaps even the parliament, to grasp the real significance of freedom of information. For more time than certainly I have had experience—and probably since the beginning of parliamentary systems—we have become accustomed to governments, in particular, being very tardy in releasing information and holding material tied to the chest, as if that is a given norm for the operation of government.

It shows a paucity of imagination not to consider the option that the Hon. Angus Redford and I have been promoting as vigorously as we could. If the basic tenet was that public information was freely available and there were no restraints on access by the public, either as individuals or the opposition and members of parliament, the frenzy of attempting to find pieces of information would disappear, because the whole culture would be such that the basis upon which governments make a decision—the input of advice and information and working documents—would, as a matter of course, be accepted as being available for all to assess.

If any member of the government feels that the advice that would be exposed would damage their reputation as decision makers, then I believe they have not really grasped the significance and do not have the confidence of their role as ministers making decisions on behalf of the people of South Australia. If this bill passes in its current amended form it certainly will be a step forward, but the big step forward is a change of culture in which governments, the public and the media expect information to be available. It then loses a lot of people's prurient interest, with documents dropping off the back of trucks and being misrepresented, with allegations and counter-allegations. I believe it would be a much cleaner, simpler and honest form of government and parliament if we really had genuine FOI as a culture, not having yearly battles with amendments to legislation.

Bill read a third time and passed.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 1836.)

The Hon. R.D. Lawson interjecting:

The Hon. DIANA LAIDLAW: I had a very rude interjection from a colleague I used to respect—the Hon. Robert Lawson—who said he had been waiting for this contribution for 20 years and suspected that it would be one of my best. I can say from the outset that it is an exceedingly important bill, but it is not one of my best contributions in this place.

The Hon. Caroline Schaefer interjecting:

The Hon. DIANA LAIDLAW: Yes, it is a very personal opinion. It is based on the fact that I have had to do little research on this bill, because the Liberal Party meeting as a joint party reached a range of conclusions which were supremely well articulated by the shadow minister for human services, the Hon. Dean Brown, in the other place when he spoke at length on the second reading of this bill on 23 October and throughout the committee stage in November last year. I wish to make a few comments, however. The Liberal Party will again be moving the amendments that we moved in the other place during the committee stage, and there will be some pages of amendments, ranging from the reference to the title of 'ombudsman', which we believe should be 'commissioner', to the issues of natural justice, which we consider must be applied as rules of evidence in matters before the ombudsman or commissioner.

We have had incidents with the Auditor-General as another statutory officer to this parliament where, as many would argue, the work undertaken by the Auditor-General in various inquiries would have benefited from the application of rules of evidence and natural justice. Based on all we have learnt from all those experiences, we believe we should learn from them and apply them at this opportunity to the way in which the ombudsman or commissioner should apply his or her role when conducting formal inquiries into health complaints.

I want to make a few general comments about a couple of amendments that we will be moving. We will seek to amend a definition in relation to health services. It relates to a health service, meaning a recreational or leisure service provided as part of a service referred to in the preceding paragraph. That preceding paragraph relates to health matters. I have considerable difficulty with the application of this complaints bill to a whole range of arts activities which I know are undertaken for health purposes and which would easily fit within the recreation or leisure service section of this bill. I highlight for instance just the Schizophrenia Fellowship and the visual arts classes undertaken by volunteers to help people with schizophrenia. There is no doubt that with this mental health affliction the visual arts ability of people with schizophrenia is heightened remarkably, and their work is just phenomenal in so many instances. Because people with schizophrenia retire into themselves and often have difficulty expressing their emotions other than by lashing out at people they love or those they do not know, to deal with that energy with a canvas, brush, paint and oils is also a wonderfully healthy release.

I would find it very difficult to accept that in such instances this bill with its complex arrangements for health complaints should apply to groups such as the Schizophrenia Fellowship and its arts classes. Just today we were talking during question time about corrections and the extraordinary benefits that the arts bring to inmates and the indigenous community. Often there are language barriers, and certainly many times there are cultural barriers in the prison system. I know of the work done by artists going in on a volunteer basis and working with people in prison, indigenous people in particular, and they have had the most remarkably profound impact on the rehabilitation of the person in prison. I remember one incident when there was an exhibition during the Fringe and I purchased work undertaken by women in prison where Ian Abdullah, the most wonderful indigenous artist whose work is selling around the world at this time, had been associated with the women prisoners and their art classes for some three months.

The work I purchased was by a woman from the Far North of South Australia who had had a variety of experiences in her young life, more than I would hope ever to have in my full life. Most of them were against her person. However, she also had infringed and she was in prison. But she refused to talk, no matter how much counselling was undertaken. No matter how much the people who shared the women's prison with her tried to talk to her, she refused to talk. It was not until Ian Abdullah started to work with her patiently through paint that she started to express herself in colour and then

started to express herself in words. It was a phenomenal breakthrough, and she has continued to paint to this day.

It is the same with many young people in the Magill Youth Training Centre. I know of musicians who in the past have helped, and in the future, under social inclusion initiatives, they should be present in the prisons to help young people communicate, to find an activity they love and to express themselves as individuals and groups through music and, possibly, the visual arts. I do not see that in any of these circumstances on a volunteer basis we should look at the arts as being part of the complaint mechanisms as related to this bill. All those instances related to the arts that I have mentioned have very beneficial health applications for individuals.

I want to make a few points, too, about references to the 'needs and wishes' of people. Clause 21 provides:

> In developing or reviewing the charter, the HCS ombudsman may have regard to any matter considered relevant to the provision or use of health or community services and must have regard to the following principles:
>
> . . .
>
> (c) that a person should be entitled to be provided with appropriate health or community services in a considerate way that takes into account his or her background, needs and wishes;

I question the approach taken by the addition of the words 'needs and wishes', notwithstanding sensitivity to cultural diversity in this state and the fact that, because of cultural background, many people have different expectations, needs and, often, wishes. We have to be careful from time to time how we apply these things in our democracy where we have respect overall for the application of the law. In terms of women, some values are not shared in other cultures around the world.

I remember when I was working with the former minister for ethnic affairs, Murray Hill, who was assisting the then premier, David Tonkin, in ethnic affairs. Amendments were made to the then community welfare act to provide for cultural diversity to be taken into account when considering the application of services to clients. On the face of it, it was a big breakthrough in the way in which we conducted services but, in reality, it caused one hell of a nightmare in terms of domestic violence because what is accepted culturally as appropriate for some people around the world, in terms of the treatment of women, such as bashing, and so on, certainly is not accepted in our culture or under our law. It was a very difficult issue for women who were charged with dealing with community services and domestic violence.

What we say in legislation, in terms of what makes us feel good and what may make us feel proud in terms of a culturally diverse society, can often be extremely difficult when applied in the community, whether it be in the indigenous community or a culturally diverse community, particularly in relation to respect for women, their integrity, dignity and person.

I very much question the words in clause 21(c), and I will be moving an amendment, as we did in the other place, to remove the words 'needs and wishes'. I note that in the other place the government did not accept one of the Liberal amendments. However, the nine or 10 pages of Labor amendments, which the government introduced to its own legislation, were all passed. I did find that range of amendments in the other place surprising, considering the minister's gloating about the consultation she had undertaken in relation to this bill. I also highlight that the former government and the former minister, Dean Brown, introduced a bill in 2001. I recall, too, that he had amendments to the bill. The Liberal bill did not progress.

This matter has been around for a long time, and we are one of the last states to act on it. Over the four or five years that the measure has been discussed, a lot has happened in terms of public liability insurance and indemnity matters. I very much hope that the emphasis in this bill on mediation is the way in which everyone will seek to pursue the issue of a health complaint in almost every incident. I fail to accept that a claim of compensation and money will address some of the indignities or complaints that people believe they have experienced in the health system. I think the obsession today in our community, perhaps inherited from the American system, about compensation and monetary payouts to address every form of grievance, is a very sick sign in our society. I am pleased that the emphasis in this bill is on mediation. I do hope that these issues can be dealt with quickly and amicably and that there can be early acknowledgment where there has been error or pressure.

A pilot study undertaken in a hospital in either Boston or Baltimore on the east cost of the United States found that a quick acknowledgment and apology can quickly resolve some of these issues in families and the agony that people feel at that time. Often, the situation becomes a claim for compensation because the complainant feels aggrieved at the treatment that they received subsequent to their complaint, and if we can mediate promptly hopefully that will be to everybody's benefit, including that of our legal system and structure of compensation.

My amendments are not on file but they are known to the government because, as I mentioned, they reflect the amendments moved by the Liberal Party in the other place, but I will promptly seek to have them put on file. There is one amendment on file at the moment which the Hon. Andrew Evans proposes to move arising from an amendment that the government accepted in the other place. It was not a Liberal amendment but one moved by the now Green Party member, Kris Hanna. He moved that a reference to same sex couples be embraced by this legislation. The government accepted that amendment. I note that the Liberal Party spokesmen and spokeswomen did not comment on the inclusion of that provision at the time.

Mr Joe Scalzi, the member for Hartley, moved an amendment in relation to co-dependent couples, an issue that he has been campaigning on for some time. I understand that the Liberal Party did not accept that amendment. The Hon. Andrew Evans seeks to readdress this issue in this bill by deleting the amendment originally moved by Kris Hanna and deleting the application of this legislation to same sex couples. This vote will be a conscience vote within the Liberal Party. I highlight that I intend to support the retention of the same sex couple provision in this bill that is now before us, but I suspect that others of my colleagues may not do so.

The Hon. Gail Gago has a private member's bill before this place and she has recently circulated advice that she wants this matter voted on in the next three weeks. I suspect that that vote and initiative will now be pre-empted by the bill before us (the Health and Community Services Complaints Bill) and the amendments on file relating to same sex couples.

So, with those brief words, the Liberal Party supports the second reading, acknowledges that the issue has been around for some time, acknowledges that this bill advances legislation introduced by the former Liberal government and

acknowledges that we believe that it could be improved with further amendments, which I will move during the committee stage of the bill.

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

VETERINARY PRACTICE BILL

In committee.

(Continued from 20 February. Page 1849.)

Clause 1.

The Hon. CAROLINE SCHAEFER: The Hon. Angus Redford put forward the original contribution on behalf of the Liberal Party. I would like to add a little detail to that. The opposition is in favour of the general tenor of this bill. However, we have raised some concerns, one of which, although I guess it is minor, is that we see some discrepancies between this bill and bills for comparable professionals. For instance, it is part of this bill that it is compulsory for a veterinary surgeon to carry indemnity insurance. I would have thought that any professional person would be at risk of losing their business, amongst other things, if they did not carry that insurance. Certainly, we will not oppose that clause, but I raise the point that it seems unusual that someone should be compelled to carry insurance. I would have thought it more appropriate for the onus to be on the particular owner of the business or, in this case, on the veterinary surgeons themselves.

A number of other issues have been raised. Individual instances which have gone on inquiry to parliamentary counsel—whom I thank for their assistance—will apparently be dealt with in the regulatory process. I appeal to the minister and ask him for a commitment that a broad range of people who will be affected by this bill will be invited to have input into the formation of the regulations. In particular, I ask that the Veterinary Surgeons Board be consulted and invited to join the process, but there are a number of others who, obviously, will also be involved in the eventual outcome, particularly in the process of exemptions, for want of a better word.

There are a number of procedures that, technically, are veterinary procedures but in the real world are carried out by owners of stock. One example is artificial insemination of sheep, cattle and, indeed, of thoroughbred horses. A practice widely used now is pregnancy testing by scanner, and I know that a number of livestock breeders who use that procedure are not veterinary surgeons. Obviously, the top echelons, shall we say, of, particularly, thoroughbred breeding would have at their service a veterinary surgeon, but for bush breeders and farm breeders that may not be the case. I will not argue for or against that practice—I guess I am going to argue for that practice, but I think it will need to be an issue that is dealt with on a case by case basis by either the Veterinary Surgeons Board or, in particular, the minister at the time.

For that reason, the opposition requests that the minister also involve the South Australian Farmers Federation, the peak bodies of the Livestock Breeders Association and the Thoroughbred Breeders Association in the formation of regulations so that we can have practical input. Needless to say, my party will keep a very close eye on those regulations as they are prepared. As very often happens, we can see nothing particularly wrong with the broad framework of this bill, but the devil is very often in the detail, because the regulations will deal with the individual cases as they arise.

My appeal to the minister is that as many interested bodies as is practicable be involved—particularly those that I have named—in forming the regulations, when the time comes for that process. Further to that, I have a number of consequential amendments to which I will speak when the time arises.

The Hon. P. HOLLOWAY: I thank the shadow minister for her comments. First, I have already promised that broad consultation on the regulations will occur. The honourable member mentioned the Veterinary Surgeons Board, the AVA, SAFF and a number of other bodies relating to animals. Certainly, those bodies will be consulted in the development of regulations. Obviously, some complex issues hinge on the definition of 'veterinary treatment' or exemptions from that concept: that is well understood. We hope to develop those regulations very shortly so that they will be ready as soon as possible after the bill is proclaimed. Certainly, we want those regulations to be clear and have as broad a community support as possible. So, I give the undertaking that I will consult with those bodies mentioned by the honourable member in relation to the bill.

Clauses 2 to 37 passed.

Clause 38.

The Hon. CAROLINE SCHAEFER: I move:

Page 22, line 24—Delete '$75 000' and substitute:
$20 000.

There are consequential amendments which seek to reduce the maximum penalty throughout the bill from $75 000 in some cases, and from $50 000 in others, to a consistent maximum of $20 000, in line with the highest penalty anywhere else in Australia, that is, under the Northern Territory act, which was amended in 2001. The Victorian act was amended in 1997. I agree that many of the other acts are quite old. However, those acts are relatively recent, and the maximum penalty for any breach is $20 000. We have sought to bring the South Australian act more in line with other areas.

I recognise that the Veterinary Surgeons Board disagrees with our doing that. I have a copy of the letter that was sent to the minister, and I have had messages from the people involved. They argue that they need such heavy penalties to act as a deterrent; yet, on a number of occasions, they have also said that they have never had the need to use this system of penalties. So, it seems to me that there is another possibility in that deterrent. None of us wants veterinary surgeons who will act in an unprincipled or unprofessional fashion. However, if I were a young veterinary surgeon considering whether I should work in country South Australia or country Western Australia, and if the maximum penalty in one place were $75 000 and the other were $2 000, it might be the deterrent that I would require to stop me from coming to South Australia.

I also note that the maximum fine under the previous legislation in South Australia, which varied, admittedly, from $100 to $5 000, was $5 000. We believe that a $75 000 fine is quite draconian, particularly given that the Medical Practitioners Act, for example, provides a maximum penalty of $5 000 or imprisonment for six months for an unregistered person practising. Anyone who knows me knows just how much of an animal lover I am but, when I compare a maximum penalty of $75 000 for being an unregistered vet and the penalty for being an unregistered doctor of human beings of $5 000, there seems to me to be quite a large gap.

We have left the provision for imprisonment for up to six months and, of course, within the bill the provision exists for deregistering a veterinary practitioner. So, we believe that a $20 000 maximum penalty is consistent with fair governance and not ridiculously draconian governance. I repeat that, certainly on the inquiries I have made, the Veterinary Surgeons Board cannot remember the last time that it implemented a fine; therefore, it seems quite strange to have such a heavy penalty.

The Hon. P. HOLLOWAY: Let me make some general comments in relation to penalties. The reason why the penalties are as they are in this bill is that they reflect the drafting practice in relation to a series of bills covering professional occupations that have similar provisions. The Hon. Caroline Schaefer mentioned the Medical Practitioners Act. Of course, that is an old act, and a new bill was introduced into this parliament prior to the previous election but was not passed. For similar offences, the penalties in those bills were the same as those under the Veterinary Practice Bill, and the level of penalties is also the same as that under the current dental bill. Certainly, other bills will be introduced in relation to other professions and, consistent with good drafting practice, the idea was, where penalties apply in each of those bills for particular offences, the same offence will have the same penalty under all the bills. So, that is the logic behind these amounts.

Certainly, in relation to the existing penalties and those in other states, it is true that the penalties seem significantly larger. However, some of those acts are fairly old. The Hon. Caroline Schaefer mentioned the Northern Territory act, where the penalties have been increased significantly; in other states, they are much less. But, the logic behind the level of penalties is to keep them the same as under other professional acts.

The Hon. Caroline Schaefer referred to a letter from the Veterinary Surgeons Board. For completeness and for the benefit of members, I will read it into *Hansard*:

> Dear Minister,
>
> Re: Veterinary Practice Bill 2002.
>
> I understand there are to be amendments imposed within the draft Veterinary Practice Bill. The board supports the higher penalties currently in the draft bill and would be disappointed to see them reduced. The board would not like to see them lowered because the act once in place is unlikely to be reopened for many years. The penalties will soon appear far less hefty as inflation takes over. In reality, penalties act as deterrents and this is their main use.
>
> In my time as registrar (seven years) I have quoted the penalties on numerous occasions to prevent potential breaches of the act. I can only recall two cases in which the penalty was actually considered when a tribunal was setting a fine. The tribunal sees the penalties as a maximum figure and a guide, not as an actual figure to be applied. These particular penalties as written will act as significant deterrents, making the legislation very clear and easier to enforce. The figures quoted from other Veterinary Surgeons Boards need to be put in context of when they were introduced. The Queensland act, for example, was written in 1936, the Western Australian act in 1960, the New South Wales act in 1986, the Tasmanian act in 1987, so the penalties do not now make useful comparisons.
>
> Yours faithfully,
>
> Registrar,
>
> Veterinary Surgeons Board.

The government will use this as a test in respect of the penalties. It would be my concern that, if they were reduced, one of the problems we might create is a lack of relativity between various penalties.

The Hon. Caroline Schaefer's amendment seeks, where penalties in the bill are set at $75 000, to reduce them to $20 000; and where penalties are set at $50 000 they are likewise reduced to $20 000. There are, however, a number of existing penalties in the bill that are already at $20 000 and would stay at that level. We could have a situation where offences that most people would accept as being much more serious would have the same theoretical maximum penalty as offences deemed to be less serious.

If these amendments were to be accepted, we would have to perhaps look at trying to change them when this bill goes to the other place in order to keep the relativities the same. There are really two issues here. The first is whether we should keep the penalties at the same level with other comparable bills that have either passed parliament or will be passing parliament for similar sorts of offences. Secondly, if we think we should break the nexus and have lower penalties, should we ensure a relativity between those different offences? For example, the particular clause we are debating at the moment relates to contravention of the conditions of registration and provides:

> A person who contravenes or fails to comply with a condition imposed under this act on the person's registration is guilty of an offence: penalty $75 000.

If we reduce that to $20 000, that would be the same penalty, for example, as a veterinary surgeon who has not provided veterinary treatment for a period of three years or more. So, a veterinary surgeon who had been out of practice for more than three years who provided treatment would face a maximum penalty of $20 000, but if this amendment is accepted that would be the same penalty as a person who contravenes or fails to comply with a condition imposed under this act. That could be a serious limitation imposed by the disciplinary board as a result of possible misconduct.

We have the second question of relativity that will have to be addressed if the committee decides to reduce these penalties. Whatever level we choose for the penalties here, they significantly increase what is currently the case. If the amendments were to be carried, we would have to look at the relativity of penalties when the bill goes to the other place. I ask the committee to support the penalties.

The Hon. NICK XENOPHON: I support the opposition's amendments in this regard, for the reasons set out by the Hon. Caroline Schaefer. I take on board the comments made by the Leader of the Government in relation to its concerns, but on the issue of relativity I would have thought that in determining any penalty you need to look at the circumstances and the severity of the offence, and I would have thought that those matters themselves would act as a mechanism in terms of determining the level of the fine. I have been persuaded by the Hon. Caroline Schaefer's argument that $20 000 would bring us into line with the maximum of other jurisdictions and, further to what she put to the committee, she believes that a fine has not been imposed on a veterinary practitioner for a number of years.

Can the government indicate the number and nature of fines imposed in the past 10 years? To provide an idea of the effectiveness of the mechanism and the level of enforcement in dealing with breaches or whether it is a profession in which it is rare for there to be any breaches, I ask the minister to indicate how many practitioners or veterinary surgeons have been disciplined or struck off in the past decade. If the minister could assist in that regard, I would be grateful.

The Hon. P. HOLLOWAY: I do not have exact figures, but I repeat what I read out from the Registrar of the Veterinary Surgeons Board when she said, 'I can only recall two cases in which the penalty was actually considered', in her time of seven years in the position. It is not a matter where

there have been a lot of penalties, and that is probably an indication of the integrity of the veterinary profession within the state. We are looking here at a question of relative penalties for relative offences under different acts. I do not for one moment suggest that the veterinary profession has any problems in relation to contravention of the law.

The Hon. IAN GILFILLAN: I indicate Democrat opposition to the amendment. It seems that the letter from the Veterinary Surgeons Board is quite clearly at ease with the penalties in the bill. The fact that they have not been imposed is irrelevant in my view. I respect the Hon. Nick Xenophon's insatiable thirst for knowledge, but the detail he wants will not influence the Democrats in any way. We oppose the amendment.

The Hon. CAROLINE SCHAEFER: I do not propose to delay this debate unduly, but the minister has spoken about the relativity of fines and that we are seeking to amend the maximum fine to $20 000 across the board. We have done that because we believe there should be some consistency within the act, and that is the maximum fine. There are a number of lists of onerous fines throughout the bill, but probably the greatest deterrent would be imprisonment, and the maximum imprisonment I can find anywhere in the bill is six months, regardless of whether the maximum fine is $75 000 or $50 000.

We have spoken about making a fine of $75 000 a significant deterrent. A number of country vets will tell you that a deterrent of that magnitude would be so significant as to put them out of practice for a year or so. There are people out there who think that hanging is a significant deterrent as well, but it is not particularly relevant to the type of punishment that fits the crime, and that is the case here in that a $20 000 maximum fine serves as a significant deterrent without being out of step with what is practical for the offences outlined in the bill.

The committee divided on the amendment:

AYES (11)

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

NOES (8)

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

PAIR(S)

Cameron, T. G.	Gago, G.

Majority of 3 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 39.

The Hon. CAROLINE SCHAEFER: I move:

Page 23—
Line 9—Delete '$50 000' and substitute:
$20 000
Line 21—Delete '$50 000' and substitute:
$20 000

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 40.

The Hon. CAROLINE SCHAEFER: I move:

Page 23, line 31—Delete '$50 000' and substitute:
$20 000

Page 24, line 4—Delete '$50 000' and substitute:
$20 000

Both these amendments are consequential.

Amendments carried; clause as amended passed.

Clause 41.

The Hon. CAROLINE SCHAEFER: I move:

Page 24—
Line 9—Delete '$50 000' and substitute:
$20 000
Line 12—Delete '$50 000' and substitute:
$20 000

Amendments carried; clause as amended passed.

Clause 42.

The Hon. CAROLINE SCHAEFER: I move:

Page 24—
Line 17—Delete '$50 000' and substitute:
$20 000
Line 22—Delete '$50 000' and substitute:
$20 000

Amendments carried; clause as amended passed.

Clause 43.

The Hon. P. HOLLOWAY: This is one of the clauses where the penalty was originally $20 000. Given that we have now moved to a maximum penalty of $20 000 for other more serious offences, it may well be necessary when we go to the other house to adjust these penalties downward to reflect some relativity. We will have a look at that matter when the bill gets to the other place.

Clauses 44 to 48 passed.

Clause 49.

The Hon. CAROLINE SCHAEFER: I move:

Page 28—
Line 5—Delete '$75 000' and substitute:
$20 000
Line 13—Delete '$75 000' and substitute:
$20 000

These are consequential amendments.

Amendments carried; clause as amended passed.

Clause 50 passed.

Clause 51.

The Hon. CAROLINE SCHAEFER: I move:

Page 29—
Line 10—Delete '$75 000' and substitute:
$20 000
Line 15—Delete '$75 000' and substitute:
$20 000

Amendments carried; clause as amended passed.

Clause 52.

The Hon. CAROLINE SCHAEFER: I move:

Page 29, line 20—Delete '$50 000' and substitute:
$20 000

Amendment carried; clause as amended passed.

Clauses 53 to 62 passed.

Clause 63.

The Hon. CAROLINE SCHAEFER: I move:

Page 36—
Line 19—Delete '$75 000' and substitute:
$20 000
Line 22—Delete '$75 000' and substitute:
$20 000
Line 25—Delete '$75 000' and substitute:
$20 000

Amendments carried; clause as amended passed.

Remaining clauses (64 to 75), schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

TAFE

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to TAFE fraud allegations made on 23 March 2003 in another place by my colleague Jane Lomax-Smith.

ELECTRICITY (PRICING ORDER) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The principal purpose of this bill is to authorise some further amendments of the electricity pricing order that was issued on 11 October 1999 under section 35B of the *Electricity Act*. These amendments to the electricity pricing order (the "EPO") are made by reference to a notice published in the *Gazette* on 5 December 2002 at page 4458. I understand that a copy of this *Gazette* notice has been made available for Honourable Members.

Section 35B(7)*(b)* of the *Electricity Act* provides that the EPO cannot be varied (except as contemplated by the EPO) and cannot be revoked. This provision was included so as to give some certainty to both electricity supply industry participants and their customers at a time of considerable change brought about by the introduction of the National Electricity Market and the privatisation of the State's electricity businesses.

The EPO was previously amended by the *Electricity (Pricing Order and Cross-ownership) Amendment Act 2000* to rectify a number of inconsistencies that had been identified in the tariff control formulae. These earlier EPO amendments were also effected by reference to a notice previously published in the *Gazette*.

As part of the electricity reform and sale program, the former Government made a commitment that electricity prices for small country customers would be no more than 1.7 per cent higher than prices for equivalent small city customers.

This commitment was met through the country equalisation scheme established under clause 8.2 of the EPO.

The country equalisation scheme comes into effect on 1 January 2003 with full retail contestability and requires that retailers not charge a small non-metropolitan customer more than 101.7 per cent of the total amount charged to an equivalent metropolitan customer. Under the EPO, the Essential Services Commission is required to issue an equivalent country rate equal to 101.7 per cent of charges for city customers of that size and load shape.

In reviewing the implementation of the country equalisation scheme as part of the lead up to full retail contestability, the Essential Services Commission has found that the scheme as set out in the EPO is effectively unworkable. Clause 8.2 of the EPO details a very prescriptive approach for determining the equivalent country rate, specifically requiring that it be determined as a $/MWh rate.

Modelling by the Essential Services Commission indicates that determining a single $/MWh rate for a class of customers is not practicable due to the impact of different levels of energy consumption, supply charges and separate peak and off-peak energy charges. Either a very large $/MWh rate must be determined, which makes the value of the scheme questionable, or the Essential Services Commission would have to issue a very large number of customer classes.

The Department of Treasury and Finance, the Crown Solicitor's Office and Parliamentary Counsel developed a simplified country equalisation scheme to be incorporated as a revised Clause 8.2 of the EPO. Essential Services Commission has been consulted as part of developing the revised scheme. The revised country equalisation scheme provides that if a retailer is to make an offer to small country customers, it must be the same as any tariff that is offered to small city customers by that retailer, except that the price for each tariff component may exceed the price for a small city customer by not more than 1.7 per cent.

I note that AGL is required to sell electricity to small country customers pursuant to the recent 'standing offer' amendments to the *Electricity Act*.

A draft of the proposed country equalisation scheme was provided to AGL, TXU and Origin as the retailers most likely to be affected by the changes so as to seek their views.

A special deposit account in the Treasury has been established to fund the country equalisation scheme in accordance with section 21(1) of the *Electricity Corporations (Restructuring and Disposal) Act 1999*.

In addition, to provide consistency with the rest of the Act and current Ministerial responsibilities, the bill provides for the several remaining references to the Treasurer to be substituted by references to the Minister.

The bill will further facilitate the protection for small customers in regional South Australia and I commend it to members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 35A—Price regulation by Commission

References to the Treasurer in section 35A are replaced with references to the Minister. The references relate to a power (currently vested in the Treasurer under section 35A(1)*(d)*) to notify in the *Gazette* goods and services in the electricity supply industry that may be the subject of price regulation by the Essential Services Commission. The power is a fall-back power, the principal subject-matters for price regulation by the Commission being set out in section 35A(1)*(a), (b)* and *(c)*.

Clause 3: Amendment of s. 35B—Initial electricity pricing order

Section 35B allowed for the making of an initial electricity pricing order by the Treasurer and prevents variation of the order once made. The initial electricity pricing order was made in October 1999. A variation of the initial order was specifically authorised by a provision enacted and inserted into section 35B in July 2000. This clause authorises a further variation of the order—the contents of the variation having been notified by the Minister in the *Gazette* on 5 December 2002.

Clause 4: Exclusion of Crown liability in relation to electricity pricing order

The clause excludes any Crown liability in connection with the further variation of the pricing order.

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

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

ADJOURNMENT

At 5.30 p.m. the council adjourned until Tuesday 25 March at 2.15 p.m.