LEGISLATIVE COUNCIL

Monday 31 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 161, 214 and 220.

FREEDOM OF INFORMATION

161. **The Hon. R.I. LUCAS:** Can the Treasurer provide the total estimated cost of processing the freedom of information requests on ETSA submitted by the Hon. M.D. Rann in early 1998?

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

I am advised that it is not possible to provide the total estimated cost of processing the applications submitted by the Hon. Mike Rann in relation to ETSA as I am advised that at that time it was accepted practice not to charge members of parliament when the application was likely to exceed the $350 threshold. Therefore, no records were kept of the time spent processing the applications.

It is not possible to now sensibly estimate what the cost might have been, given the time that has passed and the incomplete and imprecise information upon which the estimate would be based.

GROSS STATE PRODUCT

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

1. (a) Have officers from the Department of Treasury and Finance discussed with the Australian Bureau of Statistics the detailed reasons for the upward revision in gross state product for South Australia in 2000-2002 from 0.7 per cent to 3.3 per cent; and
   (b) If so, what are those detailed reasons?
2. Was there any upward revision in the state final demand figure for South Australia in 2001-2002?

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

1. (a) Officers of the Department of Treasury and Finance had discussed the revision to South Australia's 2000-01 gross state product (GSP) estimate with the Australian Bureau of Statistics (ABS).

   The original estimate of growth in real gross state product for 2000-01, released in November 2001, was 0.7 per cent. This estimate was subsequently revised to 3.3 per cent, in November 2002—an upward revision of 2.6 percentage points.

   (b) According to the ABS, the 2.6 percentage point revision was mainly attributable to revisions in the gross operating surplus for agriculture (predominantly wine grapes, wheat and barley).

   The original 2000-01 GSP estimate of 0.7 per cent growth was derived using preliminary ABARE estimates of agricultural production (released in June 2001). The ABARE annual data (released in December 2001) showed that agricultural production for South Australia had been understated by approximately $1 billion.

   Revision of this GSP component was the main contributor in the upward revision in 2000-01 GSP to 3.3 per cent, in November 2002.

2. State final demand (SFD) estimates are published quarterly by the ABS, unlike GSP which is only published annually. As such, revisions to SFD occur more frequently.

The following table shows the revisions to both 2000-01 and 2001-02 real SFD growth for South Australia as per various annual and quarterly ABS publications.

Real State Final Demand Growth—South Australia

	2000-01	2001-02
2000-01 Annual Publication (released 16 November 2001)	1.3%	
2001-02 Annual Publication (released 13 November 2002)	1.7%	6.0%
September quarter 2002 publication (released 4 December 2002)		6.2%
December quarter 2002 publication (released 5 March 2003)		6.1%

GAMING MACHINES, TAX RECEIPTS

220. **The Hon. R.I. LUCAS:** What are the reasons for the revised growth assumptions in gaming machine tax receipts from 2004-2005 onwards?

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

I refer the honourable member to the answer I provided on 21 October 2002 to questions raised during debate on the Stamp Duties (Gaming Machine Surcharge) Amendment Bill.

SALISBURY RAIL CROSSING

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

QUESTION TIME

GOVERNMENT, BRIEFING NOTES

The Hon. R.I. LUCAS (Leader of the Opposition): My question is directed to the Leader of the Government. Will he indicate whether, upon coming to government, he read all briefings in his transition to government briefing folder?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I certainly endeavoured to read most of those briefing notes. I certainly would have read most of them.

The Hon. R.I. Lucas: You didn't read all of them.

The Hon. P. HOLLOWAY: There were at least six volumes of them, so I went through them—

The Hon. R.I. Lucas: You have had 12 months.

The Hon. P. HOLLOWAY: A lot has happened in the last 12 months. A lot of new issues have come up from time to time but, certainly, it was my intention to go through most of those briefing notes in that folder.

FINES

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

Leave granted.

The Hon. R.D. LAWSON: It has been announced in Victoria that the Victorian government is examining a scheme proposed by Professor Arle Freiberg and Professor Bruce Chapman under which deductions would be made from wages of fine defaulters. It is proposed that those deductions be made by the Australian Taxation Office and that the proceeds be remitted to state authorities imposing such fines.

The Victorian Attorney-General, Rob Hulls, has stated that his government will take on board and consider this proposal. Professor Freiberg stated:

Under the scheme, offenders earning a wage below a set threshold would have their fines set aside until their wages rose. . . above the threshold [level].

Offenders earning above the level would have deductions made on their weekly or fortnightly pay until their fines are paid off.

The more money they earned, the bigger their repayments would become.

My questions are:

1. Has the South Australian government examined this scheme? If not, will the government examine the scheme?

2. If the government has considered the matter, what decision has it reached in relation to this proposal?

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

MINISTERIAL RESPONSIBILITY

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

Leave granted.

The Hon. A.J. REDFORD: On Wednesday 20 November I asked a series of questions of the minister concerning ministerial responsibility. That was nearly 19 weeks ago. In his answer, he said:

I will have to refer some of those questions to another place for an answer.

The Hon. Diana Laidlaw asked, 'Who are you asking?' And the minister responded: 'I will refer the question to the Premier and bring back a reply.' In a response to a supplementary question the minister said:

We will clearly set out the roles and responsibilities of each minister.

Some of the questions that I asked on that occasion were:

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

A further question that was asked was:

. . . will the minister clearly set out the acts of parliament for which he will be responsible and which acts of parliament minister Hill be responsible for. . .

During the course of the answer, the minister said that those matters could be raised during the course of debate on the Constitution Bill. During the course of the debate, this statement was made by me:

I made the comment that under our system of government ministers are accountable to parliament. Parliament has to know who is to be held accountable for what, which ministers should resign when inevitably we uncover hopeless administration, and to whom should a public servant go.

I went on and said:

Will the government come clean as to what is meant by 'minister assisting'?

The only response that we have had to date is a statement made by the minister last Thursday where he said:

I undertake duties that are accorded to and requested of me by the minister. . . In general terms it is an assisting portfolio area, rather than any principal part of the portfolio.

In light of the above, and in the absence of any specific answers to the questions I asked some 19 weeks ago, my questions to the minister are:

1. When can I expect a considered answer to the questions I asked on 20 November 2003?

2. Why has the government continued to duck the questions I asked on 20 November and 28 November concerning the basic accountability of ministers?

3. What does the minister do in determining who is responsible for what conduct in the Department of Environment and Heritage?

4. Does the minister agree that he has a responsibility to independently check advice given to him by the Minister for Environment and Conservation in respect of his duties as minister assisting the minister?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Again, I thank the member for his important questions. My reply in respect of the overall position in relation to portfolio responsibilities in assisting the Minister for Environment and Conservation is as stated. I apologise for the fact that the series of questions that the honourable member has asked have not been replied to up to this point, but I remind him that there have not been a lot of sitting days between 28 November and now—although that is not an excuse for those questions not being replied to. I give an undertaking that I will refer those questions to the appropriate ministers and bring back a reply.

The Hon. A.J. REDFORD: Sir, I have a supplementary question. Will the minister answer the questions now in respect of those questions that I put to him directly—and, in particular, does he agree that he has a responsibility to independently check advice given to him by the Minister for Environment and Conservation in respect of the minister's duties as minister assisting?

The Hon. T.G. ROBERTS: Up until now, my role and responsibility was not to be responsible for correspondence coming across the minister's desk. I have not been asked to carry out any of those responsibilities in relation to dockets, or the signing of dockets, except when responsibility for the portfolio has been transferred to me via the cabinet process in the absence of the minister.

The Hon. A.J. REDFORD: I have a further supplementary question. Has the minister at any stage, in his capacity as minister assisting, sought to correct statements made by the minister either to the parliament or to the media which the minister knows are incorrect?

The Hon. T.G. ROBERTS: To my reckoning, I have not been in the position as acting for the minister for environment—

The Hon. A.J. Redford: Nuclear waste—you ran the debate here, as I recall.

The Hon. T.G. ROBERTS: —in a capacity—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I was carrying out the responsibilities of the minister as his delegated minister in the upper house. I take full responsibility for my role and function in that regard. But that is a different role and function from taking over the role of a minister, as an acting minister for environment, in the cabinet. Deputising for a lower house minister in respect of the passage of legislation through this council is different to acting as the minister.

The Hon. A.J. REDFORD: I have a further supplementary question. Can the minister, in brief terms, outline what things he has done, if anything, in his capacity as Minister Assisting the Minister for Environment and Conservation?

The Hon. T.G. ROBERTS: I think I explained that the last time I answered the question. I have filled in for the Minister for Environment and Conservation as an invited participant in launching environmental programs related to the—

The Hon. R.D. Lawson: Reading briefings?

The Hon. T.G. ROBERTS: No, I do not read briefings on behalf of the minister. That is the minister's job. The Minister for Environment and Conservation is a very busy minister, as you can tell by the amount of legislation that has gone through parliament since we have been in government.

The minister also has a very busy portfolio responsibility as Minister Assisting the Premier in the Arts, which takes him away from his domestic and household duties on a number of occasions. A number of invitations come across my desk in relation to many responsibilities, not only for the Minister for Environment and Conservation but for other ministers who, for a whole range of reasons, cannot meet diary dates because of a build-up of invitations. Members opposite who have held a ministerial position would know that, even if you had two lives running parallel, you still would not be able to keep up with the number of invitations that come across your desk. So, you have to prioritise.

I have filled in for the Minister for Environment and Conservation on occasions in relation to his official duties; and, as I have stated in the council on previous occasions, I was acting minister for only a short period of perhaps one week, while the minister was on leave.

The Hon. Diana Laidlaw: Do you assist him only when he is on leave?

The Hon. T.G. ROBERTS: No. In terms of the official position, I have to draw a line of delineation. When the minister is on duty, he is the Minister for Environment and Conservation and I am the minister assisting. So, I am a faithful servant of the public of South Australia and of the minister, when the minister requires my presence, my input and my diligent duty to assist him in the very busy portfolio area; as such, I agree to assist him.

The Hon. A.J. REDFORD: Is the minister suggesting that, other than attending functions—cutting ribbons and eating cake and so on—he has no practical responsibility as minister assisting?

The Hon. T.G. ROBERTS: The replies that I have given are an accurate interpretation of what happens.

ENDANGERED SPECIES

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation a question about endangered species.

Leave granted.

The Hon. G.E. GAGO: Many people across this state—indeed, this nation—are committed to the preservation of our flora and fauna. This is particularly so with endangered species. As members are aware, often these people are simply concerned citizens who give their time and energy to ensure that these assets remain into the future; sometimes, small grants are attached to these activities. Given this, will the minister inform the council of any project of which he is aware relating to endangered species?

The Hon. T.G. ROBERTS (Minister Assisting the Minister for Environment and Conservation): Perhaps in the reply I can explain to honourable members my role in getting the message out about many important issues relating to the portfolio. If we were to rely on the very busy minister in the other place, we would never hear the reply or the information that we provide to the council on a wide range of issues. I thank the honourable member for her interest in the environment.

The Anangu Pitjantjatjara Land Management has received a grant to look at the use of traditional Aboriginal methods in the conservation of an endangered lizard in the Far North of South Australia. The research project into protecting the tjakura and endangered giant skink that inhabit the state's arid areas is an important initiative by the local Aboriginal communities living in the AP lands. The Aboriginal community is already involved in the conservation of this important and rare outback lizard, and the research project will continue that work by finding additional areas of tjakura habitat by tackling the problems that have contributed to its decline. This work to save the lizard is an innovative approach to conserving native species, because it includes the traditional practices and skills of the Aboriginal people who have lived in the area for thousands of years, as well as the scientific knowledge of the lizard that has built up since European settlement.

A new system has been used at Watarru in the AP lands, which rewards people for hunting introduced predators, such as cats, which have placed increased pressure on the tjakura. Hunting is an important traditional activity for the Anangu and the trial will possibly be expanded to include other areas where lizards are found. The research project will also examine the role of fire in protecting the habitat of the lizard, particularly the importance of traditional patchwork burning of arid lands used by Aboriginal people. Maps will also be drawn of where the lizards' burrows are found, and night trapping will be conducted so that the gender, age and size of the lizards can be recorded.

The tjakura conservation project received a $6 000 grant under the Wildlife Conservation Fund that was one of 27 grants worth a total of $152 748 allocated from the fund in 2002-03. The Wildlife Conservation Fund holds fees collected from hunting permits and other sources. That valuable information would have been held back from members of this house and the South Australian public who read *Hansard* had I not been Minister Assisting the Minister for Environment and Conservation.

GENE TECHNOLOGY GRAINS COMMITTEE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Gene Technology Grains Committee.

Leave granted.

The Hon. IAN GILFILLAN: The Gene Technology Grains Committee (GTGC) was formed in July 2001. It comprises two components, an eastern zone and a Western Australian group. It comprises industry organisations, technology providers, state farm associations and others, including the Australian Wheat Board and the CSIRO, and representatives from state and federal governments are observers. Under the heading 'The strategic framework', a media release issued by the GTGC on 1 August 2002 stated:

> Copies of the document 'A strategic framework for maintaining coexistence of supply chains' can be downloaded from the Agrifood Awareness Australia web site. . .

The release also stated, under the heading 'The next step':

> Following feedback on the strategic framework, the committee will develop a specific canola management plan in anticipation of the commercial release of GM canola in Australia.

I emphasise the words 'in anticipation of the commercial release of GM canola in Australia'. The GTGC has now distributed a set of draft protocols, one notorious factor of which is a five-metre buffer between GM and non-GM canola crops. That particular committee's protocols, as I understand it, will first go to the Plant Industry Committee and then to the Primary Industries Ministerial Council for deliberation.

I was told, and heard with some disquiet, that, at a meeting of the western panel of the GTGC in Perth on Monday, Mrs Julie Newman, a farmer, seed grader and Western Australian Farmers Grain Council representative was evicted. Mrs Newman, who is a member of the Network of Concerned Farmers, explained that she was present at the western panel meeting as an observer and stated:

> I also went to the GTGC meeting for a better understanding as to why the Network of Concerned Farmers' requests for a full economic analysis of the impact of GM crops, the protection of existing cropping systems and industry preparedness for release have not been taken up by the GTGC.

However, she was evicted from the meeting. I ask the minister:

1. When is the next Primary Industries Ministerial Council meeting when the protocols will be discussed?

2. Will the minister attend the meeting?

3. Will the select committee in another place have reported to him in its final report? If not, will he take advantage of a briefing from that select committee so that he can assure us, and himself, that he will be as fully briefed on the risks that some of us see in going down the path of introducing GM crops and, in particular, the commercial release of canola in South Australia?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The next meeting of primary industries ministers will, I believe, be on 10 or 11 April. Given that that is the date for the Economic Summit in this state, I am not sure whether I will personally be able to attend. Certainly, Minister Hill will be there, because the natural resource management ministers' council is held concurrently with the primary industries ministers' meeting. If I cannot attend the meeting, the honourable member can be assured that whoever is attending will be fully briefed on this issue.

In the question asked by the honourable member he referred to the Network of Concerned Farmers and the meeting of the GTGC. The GTGC is an ad hoc industry working group that convened of its own volition in late 2001 to work out how the various elements of the grant supply chain might work together to handle the issue of GM grains. The GTGC is associated with an industry technical canola working committee in Western Australia, but this body is not a statutory committee and is not accountable to government, which does not prevent government from assessing the competence of its outputs and recognising the role that these may play.

A representative of my department and, I believe, representatives of the commonwealth and other states attend the GTGC in an observer capacity so that the government can be informed of progress. As I have made the point on umerous occasions in this parliament, in particular in answer to questions asked by the honourable member, the issue of the marketing of grain is in many ways the core of the GM debate in this country. At the moment environmental and health issues are assessed by the Office of Gene Technology regulator, but the complex issues are to do with the impact on marketing. That is why I have also made the point on numerous occasions that we need input from some of the main grain handlers, in relation to this debate, because they have particular expertise in these matters.

It is appropriate on this occasion to note that this is Grains Week, so it is probably appropriate that many of these issues be thought through. As far as my department is concerned, we have been monitoring the work of that committee. Although that is not a committee accountable to government, we will be taking our own advice, I guess you could say, in relation to what measures we believe are necessary to ensure that it is possible to segregate GM and non-GM crops. While I am on that issue, in this debate it is not just a matter of GM versus non-GM crops as far as issues of segregation are concerned. There is a non-GM crop biodiesel, a form of canola, which is used as fuel. One would not particularly want that crop, even though it is a non-GM crop, getting into the food chain.

So, the issue of segregation does not only involve GM versus non-GM but also other crops where one needs proper segregation. These are all matters that the government will be looking into, and the select committee in the other place is making an important contribution to this whole issue. When the primary industries ministers' meeting comes up next week, there is one item on GM crops on the agenda. Whether that will be able to expand into a fuller debate on the subject, given what has happened in New South Wales and developments in other states, remains to be seen.

Certainly, from the point of view of the South Australian government, we believe that much more consideration needs to be given to this issue. We will be developing our own policies in this area, and I believe that we will be taking a leading role in relation to the ultimate resolution of this issue. Certainly, from the point of view of this state, it would be preferable if we could get national resolution to these important issues rather than having each state going in its own direction. It is too important for that. What role we are able to play in that regard remains to be seen as the debate continues to unfold. As far as I am concerned, South Australia will continue to take a leading role in resolving this issue.

The Hon. IAN GILFILLAN: I have a supplementary question. As the meeting is next week, surely the minister knows whether the protocols are on the agenda to be discussed at the next meeting. If they are, does he not believe it is important for the Minister for Agriculture, Food and Fisheries to make every effort to attend and to be briefed fully by the select committee before he goes?

The Hon. P. HOLLOWAY: It is also very important that the Minister for Agriculture, Food and Fisheries attend the economic summit. That is the choice I will have to make in the next few days because the economic summit will be an important event for the future of this state. As I said, there is a GM item in relation to specific protocols.

An honourable member interjecting:

The Hon. P. HOLLOWAY: As I have already said, a GM item is on the *Notice Paper*, but it does not go to the full extent of resolving these issues. How this debate eventuates ill depend, to a large extent, on the wishes of the meeting. The honourable member would not be aware of the way in which ministerial council meetings are conducted, but the agendas for these meetings are set by the heads of the departments in their meeting beforehand.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I do know that the items on the agenda paper are not, in my opinion, broad enough to discuss all the issues that need to be discussed in relation to the very important issues facing us on gene technology. If I am there, it will be my intention to seek, or I will ensure that whoever represents me at that conference seeks, to expand the debate.

The Hon. J.F. STEFANI: I have two supplementary questions. First, will the minister advise the council whether he is aware of when the select committee is due to report to parliament? Secondly, will the minister give an undertaking that no decision will be made by the government until such time that parliament receives a full report from the select committee?

The Hon. P. HOLLOWAY: I note that the chair of the select committee—the minister in another place—has said he hopes the committee will report by May this year.

The Hon. A.J. Redford: Which minister?

The Hon. P. HOLLOWAY: Mr McEwen. I do not know whether the committee can meet that deadline, but I repeat the point I have made on numerous occasions. This state government will do all it can to ensure that there is no introduction of GM crops in this state—and I believe the companies concerned have given every indication they will abide by this—during the 2003 growing season. I again make the point I have made on many occasions that, in relation to further action taken by this government, we are taking further legal advice, but our advice to date is that it will not be within the legal competence of the state to prevent the introduction of GM crops into this state outside the policy framework and principles, which, on my latest information, is unlikely to come in before August. They certainly have not yet been introduced.

There is significant legal uncertainty about the powers of states in relation to this matter. This government is seeking to get its own legal advice and also to see what other states are doing. That is why officials from my department will be consulting with officials in New South Wales, now that the election has been settled with a magnificent victory to the Carr government, and also with Tasmania and Western Australia, which has a different legal position. We are examining all legal approaches taken by the states.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The agenda is decided by all states. I will be seeking to have a broader debate on this matter. It may be that the commonwealth government would also wish to see the debate expanded, but that is in the hands of the meeting. But I assure the member that there are plenty of other very significant issues that will need to be addressed at the primary industries ministers' meeting. Livestock identification is just one of them.

RIDER SAFE PROGRAM

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, questions regarding the motorcycle Rider Safe program.

Leave granted.

The Hon. T.G. CAMERON: In 1987 the previous Labor government introduced the Rider Safe program to teach motorbike riders driver safety techniques. Recent figures show the phenomenal success of the program. Between 1987 and 2001, deaths from motorcycle accidents fell from 42 to 13, a fall of 323 per cent, while deaths from motor vehicle accidents fell from 256 to 153, a fall of 59 per cent. Casualty figures for the same period are even more impressive. Motorcycle rider casualty rates decreased by 67 per cent, whilst casualty figures for cars fell by just 5 per cent. The current government and previous governments are to be congratulated on the success of the Rider Safe program. Quite clearly, driver education works. My questions are:

1. Have any studies or proposals been considered to offer a similar education program for motor vehicle drivers? If so, what would this involve and how much is it estimated it may cost individual drivers?

2. If not, will the minister ask his department to consider such a proposal?

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. I also report that, on a personal level, I believe that the motorcycle Rider Safe program has been well thought out and well implemented. It has produced very startling results in South Australia, and it is supported by a wide range of motor cyclists.

The Hon. Diana Laidlaw: It is the older motor cyclists who are the worry.

The Hon. T.G. ROBERTS: I was going to say: experienced motor cyclists and those who are learning.

FISHERIES ACT

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

Leave granted.

The Hon. CAROLINE SCHAEFER: I am sure that everyone realises that a review of the Fisheries Act is necessary and has been some time coming. I note the minister's press release last Friday where a series of issues were identified from a range of community meetings. Of the key issues raised, one was that of access to what is termed a 'community resource'. I further note that a comparison between the 1994-96 state survey of recreational boat fishing and the 2001 national survey on recreational and indigenous fishing shows a 301 per cent increase in the level of fish caught in South Australia by recreational fishers in the six year period between the two surveys.

The commercial fishing sector currently contributes over $700 million per annum to the South Australian economy. Will the minister give an unequivocal guarantee that the access rights and commercial interests of professional fishers will not be overlooked in favour of the recreational fishing sector?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Certainly, we have had no intention of overlooking the access rights of commercial fishers. But it is a matter of a balance. The honourable member makes the important observation that there has been an increase in recreational fishing effort, particularly for some species such as whiting and snapper, where the proportion of those highly sought after fish that have been caught by recreational fishers as increased. Clearly, there has to be some balance between the two interests. As the honourable member also correctly points out, a significant financial contribution is made to this state through recreational fishing, because of the impact on

many of the towns around this state, particularly those along our various gulfs. Indeed, their contribution is significant, and no-one would deny that. Of course, every fisheries minister in this state for probably the past 20 years or more would be well aware of the continual complaints that one receives about allegations of netting in particular resort towns of the state, and allegations that those areas have been depleted of targeted fish.

One of the key, most difficult central issues within the fisheries area has always been to get the balance right in relation to recreational versus commercial interests. The honourable member has mentioned the $700 million (I think that was the figure she gave) contribution from the recreational sector. It is important that we showcase our fish in the various restaurants around this state and throughout the world. However, it is also very important for people like me (who do not have enough time to go out fishing) to also have access to the fish. I think that underlines the point that, while there needs to be a balance between the commercial sector—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: The member asks whether I will guarantee that. I am just saying that, whereas you would stress the economic value of the recreational sector—

The Hon. Caroline Schaefer: No, the commercial sector.

The Hon. P. HOLLOWAY: The $700 million to which the member referred?

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: I am sorry; I thought the member mentioned the value of the recreational sector. But, certainly, the commercial sector also makes a significant contribution—although, I guess, to put that figure in perspective, it should be remembered that the total value of the marine scale catch is more like somewhere between $25 million to $40 million, I think, and of course it is really in that sector where most of the competition occurs between the recreational and commercial sectors. With respect to the $700 million value, if the honourable member is referring to commercial catch, of course, half of that would be aquaculture and a lot of the rest would be due to areas where there is no conflict between commercial and recreational fishers for things such as prawns, rock lobster and so on. Most of the conflict is in the marine scale sector—and, even then, it is narrowed down further between certain species such as snapper and whiting, in particular.

There will always be difficult management issues in fisheries to get the balance right. But, given that more than half the catch in some of those areas, such as whiting and snapper, is taken by the recreational sector, quite clearly, to ensure the sustainability of the resource it will be necessary for the government to consider measures to ensure that that resource is sustainable and that it is not over exploited. We will get the balance right as a result of the review of the act, but it certainly will not be easy.

The Hon. T.J. STEPHENS: Sir, I have a supplementary question. Given the fine balance between commercial and recreational fishers, is the government considering imposing licence fee on recreational fishers with a view to using those funds for further resources to protect the industry?

The Hon. P. HOLLOWAY: The answer is no. That has been quite clearly ruled out by the Premier. The government is not considering a licence for recreational fishers.

ENVIRONMENT AND CONSERVATION MINISTER

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Environment and Conservation, a question about his role as Minister Assisting the Premier in the Arts.

Leave granted.

The Hon. DIANA LAIDLAW: My question is particularly pertinent in the light of the endeavour by the Minister for Aboriginal Affairs and Reconciliation to justify the indefensible by saying that the Minister for Environment and Conservation is a particularly busy minister.

In particular, I refer to the minister's admission in the other place late last week that since taking on responsibility as Minister for Environment and Conservation over a year ago he has never had time to read his briefing papers on nuclear waste. This admission is doubly disturbing, considering that he deemed the issue to be so important to the state that he was prepared to commit it to a referendum and/or challenge the federal government in the High Court. I ask the minister:

1. With the benefit of hindsight, does he now consider that he was unwise to accept the added portfolio responsibility of Minister Assisting the Premier in the Arts with everything that the Premier does not want to address or to attend to in the arts?

2. From the outset, as it was clear that he was not coping with his workload in the environment portfolio, did the minister, at any time over the past year, ask to be relieved of his junior role as Minister Assisting the Premier in the Arts? If not, why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I appreciate the note of care and concern in the voice of the Hon. Diana Laidlaw. I will refer those important questions to the Minister for Environment and Conservation and bring back a reply.

PETROLEUM AND ENERGY WORKSHOP

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Petroleum and Energy Workshop.

Leave granted.

The Hon. R.K. SNEATH: I understand that Primary Industries and Resources South Australia's division of minerals, petroleum and energy is planning to hold an open day in April this year. Can the minister please inform the council of the details of this event?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question. This year's PIRSA's minerals, petroleum and energy division's open day will take the form of a core workshop at the Glenside core library. The open day represents a wonderful opportunity for resource industry professionals to hone skills and discuss problem solving by articipating in a workshop that will address selected cores cut in petroleum and mineral wells.

This event is part of a recent tradition of PIRSA open days designed to inform the mineral and petroleum industries about the status of exploration expertise and trends in South Australia and to promote new opportunities. The core workshop is scheduled for Monday 7 April at the minerals,

petroleum and energy's core store in Glenside and will attract participants from South Australia and interstate. Key topics will be candidate selection for coal seam methane projects; reservoir seal relationships; subsurface stress-strain relationships and their bearing on naturally fractured reservoirs; and petroleum engineering. Courses will also be offered on the day before and the day after the core workshop on subjects such as special core analysis, geological assessment of reservoir seals and petroleum geomechanics.

Local service companies, including those whose present focus is mainly on the minerals and coal industries, will be advertising their expertise to attendees. Personnel from the South Australian Geological Survey will be involved in a display of the SARIG database and other relevant products. This event will draw national attention to local university experts as problem solvers for industry. Another aim is to encourage the development of local expertise—

The PRESIDENT: Order! There is too much audible conversation at the other end of the chamber.

The Hon. P. HOLLOWAY: —in coal bed methane, in response to considerable interest to explore for this resource in the state, because—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Stefani, the Hon. Mr Cameron and the Hon. Mr Evans are making far too much noise in that corner. I ask them to desist.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I had completed my answer but I will add that, of course, coal bed methane is now an important source of gas for the future, particularly in Queensland. It is a resource in which we would like to encourage interest in this state. The workshop next Monday to be run by the mineral petroleum and energy division will be a useful contribution to that.

DISABILITY SERVICES

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the minister responsible for disability services, a question about disability funding.

Leave granted.

The Hon. KATE REYNOLDS: I am concerned that two key South Australian disability service providers are unable to receive any disability funding from the state government. As I outlined recently, the Cora Barclay Centre has provided a service to hearing impaired and deaf children in South Australia since 1945 but has found itself facing an uncertain future due to a lack of adequate funding.

However, our office also understands that the Down Syndrome Society of South Australia also fails to qualify to attract disability funding. This society provides services for people with Down syndrome and their families. It is also a resource for the education and training of professionals and the community in general about the abilities and needs of eople with Down syndrome. The society also offers advocacy in areas of service provision, discriminatory practices and a person's right to self-determination, acting on behalf of individuals by providing much-needed advice to government about gaps in services and opportunities for change. It is ironic that this society, which specialises in helping people with disabilities, fails to receive any disability funding for its education services.

Students with Down syndrome have a disability and should therefore, surely, qualify for disability funding. I am puzzled that such a valuable and well-patronised society cannot access an appropriate source of state funding. My questions are:

1. Why are two key disability service providers not allocated appropriate disability funding?

2. After so many years of buck-passing, why has this government failed to step in and rectify the situation?

3. When will the government act to ensure that much-needed disability funding for students is provided to both the Cora Barclay Centre and the Down Syndrome Society of South Australia?

4. Will the disability services minister move to address the situation to ensure that students with disabilities receive the full range of services that they both need and deserve?

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

ABORIGINAL COMMUNITIES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions regarding his portfolio of Aboriginal affairs and reconciliation.

Leave granted.

The Hon. A.L. EVANS: An article in today's *Advertiser* reports serious financial mismanagement in the Anangu Pitjantjatjara lands. Such is the severity of the problem that the Aboriginal and Torres Strait Islander Commission has directed its staff to halt funds to the region until further notice. Along with the communities on the lands, there are approximately 20 major Aboriginal communities and dozens of smaller homelands and emerging communities across South Australia. As incorporated organisations, they are legally entitled to apply for public funding for various community programs and activities. My questions are:

1. Is the minister aware of any other South Australian Aboriginal or homeland communities currently experiencing similar difficulties of management and administration of public funds, specifically in relation to capital expenditure and personal expenses being incurred without the approval of the funding bodies? If yes, which communities?

2. Is there a mandatory requirement for incorporated Aboriginal community councils in receipt of state funding to undertake regular training in key areas of corporate governance, including financial management? If not, why not?

3. If not, is the minister aware of any such requirements from previous governments?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The question that the honourable member asks is a very timely one and, at times, funding regimes and responsibilities are complex and complicated, not only for incorporated bodies representing the interests of ommunities but for homelands that may or may not be incorporated.

The government found itself faced with a difficult task in relation to the AP, as referred to in the article in the *Advertiser* of 31 March (page 13) from which the honourable member quoted. The information in that article has been gleaned from a parliamentary select committee that received a report from Robert Turner, who was the Pitjantjatjara Council finance manager at the time. He oversaw the

accounts and had a very difficult job given to him in relation to how he perceived his responsibilities in being able to deal with the relationship between the commonwealth and state governments' funding regimes and ATSIC's funding regime. To start with, the communities are not overly well-equipped with professional people who are either from the particular community—in this case, Anangu—or trained to the professional levels that you would require for, say, accountancy, law or any of the other professional services.

Because of their remoteness, the communities find it very difficult to attract any such people for long periods of time, so the people who answer advertisements for many of the professional jobs are people who have some experience rather than qualifications in relation to those professional services. In many cases, the difficult job that we have now given ourselves as a government, in recognising what the honourable member raises as an issue across the board, is to try to build up the skill levels of those communities so that self management becomes an integral part of the new management regimes but, in the absence of any immediate self management regimes based on the programs running at the moment, we really need to build up a linkage between community development, education and training, and employment outcomes.

I think that is the key to which the honourable member alludes. The problems that homelands face are different from those that the broad communities face. The honourable member is quite accurate in his representation of the AP lands, where there are some 20 communities plus a number of homelands that I am aware of—in the vicinity of eight to 10—and there are probably smaller ones, which operate in isolation of the communities but which come under the wing of the administrative body, in this case, the Anangu Pitjantjatjara Council. The difficulty that they have had is getting the funds that were promised to them at the time by ATSIC.

As the article states, there were promises of $800 000, which has taken a long time to work its way through the system, but I have been made aware (as recently as today) that a manager is being employed by the AP Council to incorporate a funds manager for AP to make sure that the ATSIC funding body is happy that the community is accountable, and that the funds they offer to the communities are incorporated into their prioritisation for fixing up some of the problems associated with, in this case, the bores. It is not much fun sitting out in remote communities in the heat and dust waiting for your bore to be fixed when funds to be able to do that do not arrive in a community. In most communities we expect, if our water is cut off for whatever reason, to have water within 24 hours.

Electricity is slightly different. Electricity, which is being rehooked up onto internal grids, sometimes takes longer because of spare parts problems and the wait for heavy equipment to arrive. For some reason we put up with the fact that water, in this case, can be cut off for up to three months. People in the homelands cannot live in the homelands when the water is cut off. It is not only quantity but also quality that uffers. If a bore does not operate within a particular time it becomes salty and sandy and the pumps then have trouble pumping the water in the quality and quantity that the community expects. Most of those people move into the nearest community, which then presents that community with difficulties because housing then becomes a problem.

It is important for us as a government to pick up the responsibilities for getting incorporated bodies and/or representative executives to work with state and federal government to try to get the best possible outcomes in these remote regions. We have a responsibility towards all citizens of this state, no matter where they live, to provide housing, clean water and electricity, if that is possible, and sometimes electricity has to be self generated or generated by stand-alone generator facilities.

I thank the honourable member for his question. The detail in the article itself is dated. The select committee has taken the evidence in camera. I am not sure how the evidence given in camera arrived at the *Advertiser*, but I am sure that the journalists at the *Advertiser* know. There is no reason why we would release it. I would say that perhaps the person who gave the evidence gave permission for it to be made available further; I am not sure. I do not pose the question as an accusation against anyone on the committee. In fact, I vouch for the confidentiality of members on the committee to respect the fact the evidence was taken in camera.

I have not sat on a committee in this council—and I have been here for some considerable time and I will not say for how long—where people have deliberately leaked documents or materials that have led to a deterioration of the conditions of the people we are trying to protect. I have been on other committees where I have seen members giving press interviews on the steps of Parliament House before the committee has taken evidence.

The Hon. T.G. Cameron interjecting:

The Hon. T.G. ROBERTS: In relation to the other questions, I will get back to the honourable member if there are any parts of the question he does not think I have answered.

SPEED LIMITS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, some questions about the change of speed limits.

Leave granted.

The Hon. J.F. STEFANI: Recently, the Minister for Transport announced changes to the speed limits applicable within metropolitan and country areas of South Australia. Unfortunately, many people are killed and injured on our roads and this year the fatality numbers, compared with the same period last year, are much greater. It is also recognised that many people are killed and injured on our country roads. My questions are:

1. Will the minister provide a breakdown of the areas where all fatalities occurred last year?

2. Will the minister also provide a breakdown of the areas where serious motor vehicle accidents occurred during last year?

3. Does the minister believe that the lowering of the speed limit on Adelaide's metropolitan roads will reduce the number of serious accidents and fatalities?

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

REPLIES TO QUESTIONS

AGRICULTURE, PERPETUAL LEASES

In reply to **Hon. IAN GILFILLAN** (20 February 2003).

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

The proposed annual service charge was a unanimous recommendation of the Select Committee on the Crown Lands (Miscellaneous) Amendment Bill. The bill is yet to be debated in another place. Lessees with perpetual leases will be able to convert their leases to freehold at a discounted rate. The annual service charge, which will not come into effect until after the application period, will recover administrative costs and provide incentive for lessees to freehold. Ideally all lessees will take advantage of the opportunity and the proposed annual service charge will not be applied to any perpetual leases because none will remain in existence and no administration will be required.

Individual negotiations with lessees will not be required because lessees will make the choice on whether to freehold or not with full knowledge of the proposed annual service charge.

Lessees will be given six months to apply to freehold at the discounted rate and letters are planned for mail out commencing on 11 March 2003. A project team is being set up to process the large number of expected applications but it could take as long as three years to convert all to freehold.

WATER SUPPLY, ERNABELLA

In reply to **Hon. T.J. STEPHENS** (19 February 2003).

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

I would like to respond to the honourable member's questions asked in the council on 19 February 2003, concerning the power supply for the Ernabella or Pukatja community, to use the appropriate Aboriginal name, in the State's Anangu Pitjantjatjara Lands.

As the honourable member is aware, the South Australian government has made a commitment to improving the provision of essential services to remote communities such as Pukatja. This is a commitment that is being honoured through a variety of endeavours. However, before outlining recent and ongoing developments in the Pukatja area, let me reassure the honourable member that the State Government has, contrary to what the honourable member may have heard, in no way cut funding to the Pukatja powerhouse, the maintenance budget or the fuel subsidies budget. The government treats power supply to Aboriginal communities as an important matter and is committing resources accordingly.

I recognise the importance of achieving a reliable and sufficient flow of electricity to the Pukatja community and have therefore taken steps to ensure that the current power generating equipment is appropriately maintained and that additional infrastructure is put in place as a long-term solution to the current problems.

The Department of State Aboriginal Affairs continues to provide funding to Pukatja to enable the community to employ a local Essential Services Officer to ensure that a skilled technician is on hand to promptly respond to power supply and similar incidents. This position is also being supplemented by ongoing maintenance and inspection regimes and the deployment of ETSA Utilities staff to ensure safety and technical requirements are met.

The department is also putting to tender a contract for the provision of protection equipment for the Pukatja distribution system on 11 March 2003. This contract will protect valuable equipment and parts of the distribution system from power surges, however a lightning strike on a bore would still be disruptive.

At the same time, a tender for licensed operators to manage the generation and distribution of electricity in Aboriginal communities, including Pukatja, is being called. The successful tenderer has to be licensed by the Essential Services Commission.

The licensed operators are required to manage the generation and distribution facilities in accordance with the Electricity Act 1996 and Regulations, the same as licensed generators and licensed distribution operators for the state electricity system.

With respect to the current electrical system at Pukatja, I am pleased to advise that the promised inductive reactors for the Pukatja – Umuwa powerline have a confirmed delivery date of 8 May 2003 nd have been programmed to be installed by mid May 2005. This will provide considerable benefit to the community in terms of both reliability and extent of supply.

As mentioned previously in this chamber, the government's longer-term strategy for addressing the power supply issues of communities in the Pukatja area is based on the introduction of the new Umuwa power station and grid. The Umuwa power station is to be constructed with funding from the Aboriginal and Torres Strait Islander Commission, while the State Government, as part of the last state budget, is funding the construction of the power grid.

Stage 1 of the construction of the power generation project at the Umuwa site is being commissioned between February and April 2003. This component of the project is for a 200-kilowatt solar farm, which uses solar concentrators that follow the sun. The solar farm will deliver electricity to the Pukatja high voltage distribution grid.

The overall construction timetable indicates that the power station and grid will be completed within 2 years and the result will be an effective and reliable power supply to seven major Aboriginal communities and around 30 homelands in the region.

The government takes its responsibility to Aboriginal communities, particularly those in remote areas, very seriously and believes it has a workable short-term and long-term strategy that will provide a level of service in accordance with the expectations of all South Australians.

ROAD ACCIDENTS

In reply to **Hon. DIANA LAIDLAW** (5 December 2002).

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

1. Will the minister confirm whether or not Transport SA has included the four fatalities at the level crossing crash at Salisbury in late October in the road fatality figures compiled by Transport SA since that incident?

I confirm that the four fatalities at the Park Terrace railway crossing appear in the October 2002 Road Fatalities In SA monthly report.

2. Will he also confirm whether or not the work being undertaken on behalf of the government by the investigator, Mr Vince Graham, is to be forwarded to the Australian Transport Council subcommittee on level crossings, as they work through to seek to resolve the jurisdictional issues and to provide for a national operation and safety regime for level crossings across Australia?

I announced the findings of Mr Graham's final report on the 7 January 2003. Mr Graham's report has recommended a number of initiatives to improve level crossing safety around the whole State as well as specific recommendations on Park Terrace Salisbury. The report is available to the public and is available on my website and Transport SA's.

I advise that this government is vigorously pursuing all of the recommendations.

The State Level Crossing Strategy Advisory Committee which met on 31 January 2003 is the key consultative group to provide advice on the Statewide issues. The Committee comprises representative from key organisations and reports to me. The findings of Mr Graham's final report will be a key resource into the Committee's deliberations and will also be available for use at a national level.

I will be tabling the issues nationally at the Australian Transport Council (ATC), including formulating a national approach to road/rail safety similar to the "Operation Lifesaver" that has been successful in the US and Canada. In addition, I will be raising the concept of a "Safety Alert" to facilitate sharing the learnings associated with accidents that occur anywhere around the country.

A copy of the Vince Graham report has been provided/circulated to all members of the ATC Subcommittee for consideration in their work toward development of a National Railway Level Crossing Strategy.

MENTAL HEALTH POLICY

In reply to **Hon. A.L. EVANS** (19 November 2002).

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

The Department of Human Services (DHS) has completed the development of a number of policies relating to emergency demand management, including a policy on restraint and seclusion in health units. Policy development included extensive staff consultation. The policy series will be available to health units in January 2003 following editing and publication.

The *EDM Policy on Restraint and Seclusion in Health Units (EDM P6-02)* makes it clear that the use of restraint and seclusion is serious, and that its use must be considered a safety intervention where the benefits are likely to be greater than the negative effects of the intervention, *i.e.*, that use of restraint should be as a last resort.

The Ombudsman's Report, "Treatment of Mental Health Patients: Shackling and other forms or restraint", released on 16 August 2002, outlined 11 "preferred options" for the use of restraint.

Preferred option 1, dealing with clinical assessments, has been incorporated into minimum standard 1 of *EDM P6-02*.

Preferred option 2, concerning time limits for the application of "shackles", has been incorporated into sections dealing with the

principles and guidelines for monitoring restraint and seclusion of *EDM P6-02*, and in minimum standards 2 and 3 of this policy.

Preferred option 3, dealing with minimum standards of qualifications, training and experience of staff, has been incorporated into the principles, and minimum standards 4 and 5, of *EDM P6-02*.

Preferred option 4, concerning management of junior staff, has been incorporated into the principles and review section of *EDM P6-02*.

Preferred option 5, on the required level of supervision and care of patients, has been incorporated into minimum standard 6 of *EDM P6-02*.

Preferred option 6, dealing with reporting requirements, is incorporated within minimum standards 7 and 8, and the reporting and documentation sections of *EDM P6-02*.

Preferred option 7, concerning patients' rights, responsibilities and access to review, is incorporated as a standard in *EDM P2-02 (Admission, Care, Utilisation and Discharge in Psychiatric Intensive Care Units)*. The policy also indicates that the information is to be provided to a family member or another nominated person.

Reference to the installation of duress alarms, preferred option 8, has not been included in the EDM policy series, as health units have local standards and procedures related to these matters, including provision of training in aggression management under occupational health and safety requirements. Health units are aware of their responsibilities in this area and have received copies of the Ombudsman's Report. Safe rooms or appropriate interview rooms are to be incorporated into emergency departments. A number of health units already have these facilities.

Preferred option 9, on access to appropriate medical treatment, has been incorporated into minimum standard 9 in *EDM P6-02*.

Preferred option 10 has been incorporated throughout the EDM policy series, which reflects appropriate practice with reference to the *Mental Health Act* and *Guardianship and Administration Act*, as well as to the National Mental Health Standards for the care of mentally ill persons.

Preferred option 11, concerning staff access to education and training, is incorporated into minimum standard 4 of *EDM P6-02*. The government provides training to public sector employees who are likely to come into contact with members of the community with mental illness.

Training is also provided to medical staff through undergraduate courses as well as staff development activities, through health units. Training specifically for staff in emergency departments is currently underway.

DHS is currently having discussions with the South Australian Housing Trust regarding the training needs of their staff.

The Minister for Police has provided the following information:

Mandatory training on mental health issues is delivered to police officers at a number of different levels:

- Cadets in initial recruit training
- Operational Police Officers and Community Constables
- Operational Supervisors
- Police Officers returning to an operational position after an absence of two years or more
- Negotiators

Training addressing issues relating to mental health are delivered within the Psychology Module of the Recruit Training Course and address issues such as:

- Nature of mental illness
- Relating to mentally ill persons
- Intellectual impairments
- Suicidal behaviour

In addition, SAPOL has working relationships with other agencies with responsibilities within the mental health environment that deliver sessions on an ongoing basis throughout the course.

The SAPOL Operational Safety Philosophy, *South Australia Police aim to safely manage all operations* is supported by four operational safety principles. The first of these is *Safety—the safety of police, the public, victims and offenders is the paramount consideration*, and is a central tenet of the Incident Management and Operational Safety Training course (IMOST).

IMOST was first introduced in 2000. This training is designed to assist the development of members in Incident Management, Tactical Communications and Operational Safety. Annual completion of IMOST is compulsory for all operational police members and community constables.

Mental illness and managing incidents involving persons suffering from mental illness was addressed during a 3.5 hours session in the initial IMOST course and in the subsequent 3 IMOST refresher courses, managing incidents involving mental health subjects has been a reinforced theme. The fourth IMOST refresher due for commencement in February 2003 again reinforces these issues. In particular, one assessment criteria of the tactical communications session is "*discuss special needs in communicating with mentally ill persons*". This lesson focuses on communication techniques with those persons and is highlighted in the SAPOL Operational Companion handbook (2002) issued to all operational police. Extra reference materials and information is also made available to participants.

Training issues relating to mental health are delivered in IMOST for Supervisors—module 1. This course is compulsory for sworn members with operational supervisory responsibilities at the rank of Sergeant and above.

It specifically addresses the establishment of workplace measures to reinforce the appropriate techniques for management of persons suffering mental disorders in order to maximise safety of police, public, victims and suspects.

The IMOST course for members returning to the operational field after an absence of 2 or more years also emphasises issues relating to mental health.

The Operational Companion handbook is personally issued to all operational members and community constables. It has several pages that deal with mentally disturbed persons, and in particular discusses behaviour and recognition of behaviour that is related to psychotic or anti social personality disorders.

In addition, the section on High Risk Situations provides specific reference to considering whether a suspect has a history of mental illness/personality disorder associated with violence when establishing *High Risk.*

Training issues relating to mental health are also addressed in both the Basic Negotiators Course and the Negotiator Interpreters Course. In particular, the content concerning mental illness and personality disorders has the following learning outcomes:

- Discuss personality trait and illnesses of persons initiating in high risk situations
- Summarise responses to stress during high risk situations

The South Australia Police have developed very good relations with other government agencies concerned with persons in the community who suffer from mental illness. Assistance from these agencies has resulted in the development of the training I have just described.

I advise the following:

Trainee correctional officers have received training in working with offenders who suffer from psychiatric illnesses. Dr Ken O'Brien from James Nash House has provided this training. Further, the Department for Correctional Services has, in partnership with the Intellectual Disability Services Council, developed a training program for staff in dealing with offenders with intellectual disabilities. The program has primarily targeted trainee Correctional Officers. It has, however, also been incorporated in conflict management training and delivered to Community Corrections staff in the western region.

RESOURCE AGREEMENTS

In reply to **Hon. CAROLINE SCHAEFER** (12 November 2002).

The Hon. T.G. ROBERTS: The Minister for Trade and Regional Development has provided the following information**.**

Resource Agreements define the purpose, terms and conditions of funding provided by the State Government and participating local Councils to all 14 of the States Regional Development Boards. Clause 9 of these Agreements requires that the minister commission and pay for an external review.

Agreements expired in the case of 5 Boards on 30 June 2002 with a sixth Agreement expiring in December 2002. In response to the elements of the member's question:

1. Performance reviews, conducted by Economic Research Consultants Pty Ltd, have in fact been completed for all 6 Boards currently out of contract. The Government has also commissioned the reviews of the final 8 Boards (6 of which have Resource Agreements which expire 30 June 2003 and 2 of which expire 30 June 2004). Performance reviews have, therefore, been commissioned well in advance of the expiration of the Resource Agreement for the remaining 8 Boards.

2. Crown Law has drafted a new Resource Agreement, which incorporates issues arising from the reviews, which will act as a tem-

plate for all new Resource Agreements. Extensive consultations on the draft was also undertaken with stakeholders, notably Regional Development SA and the Local Government Association.

All 6 Boards with Agreements which expired in 2002, received the final revised Resource Agreement for signing prior to Christmas 2002. Participating Councils to each contract also need to undertake their own funding approval process prior to signing, however, this is currently underway. Once the document is signed by the Councils and each board it will be executed by the Minister for Trade and Regional Development.

New Resource Agreements will then be offered to the balance of the 8 RDBs within two months of the receipt of their final review report (assuming the reports do not indicate issues for further consideration).

3. Resource Agreements have taken some time to complete due to a range of factors, namely:

- the intervening State Government election;
- need for reviews to be completed;
- need to ensure extensive consultation with a range of stakeholders;
- changes under consideration by the new State Government to provide increased certainty to Boards regarding a number of elements of funding (e.g. incorporation of the Business Adviser funding into the Resource Agreement).

However, as a precaution against possible delays in the signing of the new Resource Agreements for the 6 Boards with Agreements which expired in 2002, the Treasurer, Hon Kevin Foley, wrote to these Boards prior to the expiration of their Agreements guaranteeing continuity of funding until the new Resource Agreement is signed.

UNIT PRICING

In reply to **Hon. IAN GILFILLAN** (18 August 2002).

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

As Minister for Consumer Affairs I agree with the honourable member that one of the advantages to Australia being a Federation is that initiatives that are pioneered in particular states or territories can be introduced to other jurisdictions if judged successful.

As mentioned in the Consumer's Voice January 2002, edition the Labor Party supported unit-pricing before the February, 2002, State Election and we continue to support it now.

I am preparing letters to send Consumer Affairs and Fair Trading Ministers in other Australian jurisdictions, informing them that South Australia is interested in broadening unit-pricing requirements. I have also asked the Commissioner for Consumer Affairs to put unit-pricing on the agenda for the next national meeting of the Standing Committee of Consumer Affairs officials.

I am giving my interstate colleagues advance notice of the South Australian Government's intentions about broadening unit-pricing, for these reasons. The nature of the Uniform Trade Measurement Legislation scheme allows States and Territories to implement agreed amendments to their Trade Measurement Acts that acknowledge local issues. It is, however, understood that amendments should be kept to a minimum and usually reflect different drafting techniques used by Parliamentary Counsel in each jurisdiction.

Broadening the unit-pricing regulations in South Australia will not cause the collapse of the nation Uniform Trade Measurement System. I assume that the Hon. Ian Gilfillan shares this belief or he would not be asking me to broaden unit-pricing regulations in the first place.

I hope that the Hon. Ian Gilfillan doesn't think the worse of me or the South Australian Labor Government because we are paying our interstate colleagues the courtesy of consulting them about proposals that could affect them.

The state government has taken these actions in the hope that unit-pricing will be introduced Australia-wide, with the minimum disruption to business and maximum benefit to consumers, through the national Uniform Trade Measurements System.

STATUTES AMENDMENT (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) BILL

In committee.

(Continued from 20 November. Page 1428.)

Clause 8.

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

Page 5, after line 21—Insert:

(ca) by striking out from subsection (1) the definition of 'relative' and substituting the following definition:

'relative' means—

(a) in relation to a person who is a director or senior executive of a public corporation or a subsidiary of a public corporation or the spouse of such a director or senior executive—the spouse, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person; or

(b) in relation to any other person—the spouse of the person;

The definition of 'relative' in the bill is a very wide definition. The amendment proposes to narrow the scope of the definition of 'relative'. The definition which my amendment seeks to have incorporated will provide a fairly extensive definition of 'relative' in relation to directors and senior executives of public corporations and will include for such high offices spouses, parents and remoter issue (including remoter lineal ancestors, sons, daughters, or remoter issues of brothers or sisters of the person, that is, nephews and nieces and the like), which is the current definition of 'relative'. But, in relation to persons who are not directors or senior executives of public corporations but are lower officials and simple employees, the definition will extend only to the spouse of the person.

The reason that we say it is appropriate to have a broad definition, which is the government's existing broad definition in relation to senior executives, is that it is fair that a very stringent standard should be applied to them because they are in a position to influence decisions, whereas other persons who are not in a significant position of authority should not have to examine whether their uncle, aunt, niece, nephew, or remoter lineal ancestors are affected. Those people are not in a position to have a great influence upon issues, and a lesser standard should apply to them.

The Hon. P. HOLLOWAY: The government opposes this amendment, and those that mirror it, for a number of reasons, and I will spend some time outlining those reasons. First, the amendments to the Public Corporations Act will wind back the application of the existing unauthorised transaction and unauthorised interest provisions that currently apply to the relatives of all executives of public corporations and subsidiaries. In other words, the amendments will make the obligations of the relatives of executives of public corporations and subsidiaries less onerous than what they are currently—so we are actually going back on what is already the case.

In order to fully appreciate this, it is necessary to briefly examine the current provisions in the Public Corporations Act. Section 37(1) of the Public Corporations Act currently provides that neither an executive of a public corporation nor an associate of an executive may, without the approval of the minister, be directly or indirectly involved in a transaction with the corporation or a subsidiary of the corporation. The corresponding provision for subsidiaries is clause 15 of the schedule to the Public Corporations Act.

Section 38(1) of the Public Corporations Act similarly provides that neither an executive of a public corporation nor an associate of an executive may, without the approval of the

minister, have or acquire interests in shares and debentures of the public corporation or its subsidiary, or have or acquire a right or option in such shares or debentures. The corresponding provision for subsidiaries is clause 16 of the schedule to the Public Corporations Act. 'Associate' is already defined in section 3(2) of the Public Corporations Act. It states that a person is an associate of another person if, among other things, the other person is a relative of the person or of the person's spouse. 'Relative' is currently defined in the Public Corporations Act as follows:

> 'Relative' in relation to a person, means the spouse, parent or remoter linear ancestor, son, daughter or remoter issue, or brother or sister of the person;

The opposition now proposes to significantly narrow the definition of 'relative' in respect of executives of public corporations or subsidiaries so that 'relative' will only mean a spouse of such an executive. By way of example, as things currently stand, the spouse or children of an executive of a public corporation or the parents or siblings of an executive spouse, all being relatives and therefore associates, cannot tender for a contract with that public corporation without the minister's approval. However, under the opposition's amendments they will be permitted to do so without ministerial approval. Only the spouse of such an executive will continue to be so prohibited. Thus, instead of maintaining the standards of accountability and propriety in respect of relatives of executives of public corporations and subsidiaries, the opposition wants to lower them.

The corresponding amendment proposed by the opposition in respect of the Public Sector Management Act will similarly limit the scope of the unauthorised transactions and unauthorised interest provisions to be introduced by the bill for executives of statutory authorities. The government also opposes the amendments seeking to limit the definition of 'relative' because they will greatly undermine the effectiveness of the conflict of interest provisions for employees introduced by the bill. Under the conflict of interest provisions to be introduced by the bill, where an employee has a pecuniary or other personal interest that conflicts with or may conflict with the employee's duties, the employee must disclose the nature of that interest and the conflict or potential conflict. The conflict of interest provisions go on to say that an employer will be taken to have an interest in a matter if an associate of the employee has an interest in the matter.

As we have seen, the definition of 'associate' includes the relative of a person or a person's spouse. If the definition of 'relative' is limited in the way proposed, it will mean that employees will only be required to disclose as a conflict of interest the interests of their spouse. There will be no obligation to disclose the interests of their parents, siblings, children and grandchildren, nor will there be an obligation to disclose the interests of a spouse, parents, siblings, children and grandchildren.

The opposition's reasoning in opposing the amendments is flawed in three respects. First, it ignores the fact that the limited definition of 'relative' proposed by the opposition will not just apply to ordinary employees but it will also apply to senior executives and executives generally. One would expect executives of public sector organisations to have a significant impact on high level decision-making within their organisation. To say that they should not be required during that process to disclose as a conflict of interest the interests of their parents, siblings, children and grandchildren or those of their spouses, parents, siblings, etc. is unacceptable to the government.

Secondly, the opposition's amendments show a lack of understanding about how things work in the public sector. It is ordinary employees, not board members, chief executives or even executives that manage tender processes on a day-to-day basis, award minor contracts and engage staff. It is, therefore, equally important to ensure that ordinary employees disclose as a conflict of interest not only the interests of their spouses but also the interests of their parents, grandparents, siblings and children and the interests of their spouse's parents and siblings, etc. Under the opposition's amendments, if a business owned by an employee's brother tenders for a government contract in respect of which the employee is managing the tender process, there is no obligation upon the employee to disclose the connection. That is totally unacceptable to the government.

Thirdly, the opposition's amendment demonstrates a lack of understanding of the conflict of interest provisions in the bill. The conflict of interest provisions in the bill do not necessitate a Spanish inquisition into the personal and financial interests of spouses, parents, siblings and grandparents of employees and their spouses as the opposition would have us believe. All of the conflict of interest provisions in the bill make it clear that the provisions do not apply whilst the person remains unaware of the conflict or potential conflict. In other words, if you do not know about it, there is no obligation to disclose it. For these reasons, the government opposes the amendment in question and those that mirror it later in the bill, and urges all members to do likewise.

The Hon. R.D. LAWSON: In relation to the Public Sector Management Act which the minister referred to in that answer, does the Public Service Association agree with the appropriateness of extending the definition of 'relative' to apply to public sector executives and employees?

The Hon. P. HOLLOWAY: The PSA was consulted in relation to the bill. It is my understanding that it did not raise that as a specific issue. It did raise other issues, however, which have been dealt with in the bill. But my advice is that it did not specifically raise this as an issue.

The Hon. NICK XENOPHON: Given that we are dealing with an amendment of the Deputy Leader of the Opposition in relation to changing the definition of 'relative', can he confirm that, if this amendment is passed, it will mean that there will be a narrower class of individuals who would be subject to conflict of interest legislation than currently exists under the legislation as it now stands?

The Hon. R.D. LAWSON: Dealing firstly with the—

The Hon. NICK XENOPHON: Can I clear that up—in terms of unauthorised transactions. I think the issue arises in relation to other clauses but, for the sake of being precise, can the Hon. Mr Lawson comment on whether his amendment would narrow the scope of the people to whom it would apply compared to current legislation?

The Hon. R.D. LAWSON: It is my understanding that it does not, and we have to go back to explain that. The Public Corporations Act currently applies to members of the board and directors of public corporations as well as executives and senior executives. At the moment, the Public Corporations Act has nothing to say on the subject of employees. So, presently, there is no requirement in the Public Corporations Act that covers employees and their associates. Therefore, it follows that it does not cover employees, associates and relatives. However, as a result of these amendments, we are now imposing these onerous duties upon employees of public corporations as well as directors

and the like. At the moment employees are not subject to the stringent regime.

The intention of this amendment is to insist that the stringent regime, which requires people to disclose their associates' interests, applies to directors and senior executives but not in relation to other employees. Their only obligation is to state the interests of their spouse rather than the interests of their wider family and their spouse's wider family. We are not seeking to weaken an existing provision in relation to the employees of public corporations, because they are not covered at all. But in the new regime we are suggesting that it is appropriate that less stringent requirements apply to ordinary employees than to higher officials.

In the current Public Sector Management Act there are no specific provisions relating to the associates of the persons to which that legislation applies. So, again, in relation to public sector employees, I am sure that we are not imposing a less stringent standard than already exists. However, we are proposing that, in the future, with the new higher standards, there will be two levels: one which applies to employees, and another—and higher—standard which applies in relation to executives and those in control of the organisation.

The Hon. P. HOLLOWAY: Section 37(1) of the current Public Corporations Act provides:

> Neither an executive of a public corporation nor an associate of an executive of a public corporation may, without the approval of the corporation's minister, be directly or indirectly involved in a transaction with a corporation or a subsidiary of the corporation.

The key part there is 'executive nor an associate'. So, as the law currently stands, it applies to any executive or an associate of any executive. Of course, as a result of this bill, a distinction will be made between a senior executive, as referred to in the Hon. Robert Lawson's amendment, and then I guess there will be other executives. But the point is that the current act, in sections 37 and 31, applies to all executives and all associates of executives, not just senior executives, to which the Hon. Robert Lawson's amendment refers. In other words, those who are executives, but not senior executives, will be exempted. If the Hon. Robert Lawson's amendment is carried, it will only be their spouse who will be affected, not other associates. In that sense, I would argue that it is a narrowing of the current provisions.

Amendment negatived; clause passed.

Clauses 9 to 13 passed.

Clause 14.

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

> Page 7, after line 35—Leave out 'or may conflict'.

This is the first of a number of amendments which seek to ameliorate one of the provisions which appears throughout this bill. Page 7 line 35 is within proposed section 36B, which is headed 'The duty of senior executives with respect to conflict of interest'. Proposed section 36B(1)(c) provides as follows:

> A senior executive of a public corporation must—
>
> (c) if a pecuniary interest (whether or not required to be disclosed under paragraph (a) or (b)) or other personal interests of the senior executive conflicts or may conflict with his or her duties—

So, the obligation is imposed upon a senior executive who has an actual or potential conflict of interest. It provides:

> . . . or other personal interests of the senior executive conflicts, or may conflict, with his or her duties.

There is a requirement to disclose the nature of that interest. Whilst we believe in high standards of disclosure in the public sector and public corporations, we think it too onerous a duty to require executives not only to disclose their personal interests and actual conflicts but also to be required, under pain of penalty, to disclose that which may conflict with his or her duties. They are potential conflicts of interest. Bear in mind that this section provides for a fine if the senior executive in this case does not make the disclosure required. We take the view that, in the government's effort to cast the net as widely as possible, it has set a standard which is simply too high and too difficult for executives to comply with, because the circumstances in which potential conflicts may arise, or do arise, are simply too onerous.

The Hon. P. HOLLOWAY: These amendments, together with all others that seek to remove the requirements to disclose potential conflict of interest, are opposed by the government. This is yet another example where the government, through this bill, is seeking to maintain and extend obligations of accountability and transparency, whereas the opposition is trying to reduce them.

For years, public servants at all levels—from chief executives to ordinary employees—under existing provisions in the Public Sector Management Act have been under an obligation to disclose potential conflict of interest. This bill simply maintains that obligation for public servants and extends it across the public sector. There is no basis for distinguishing between directors of government boards, who will be required to disclose potential conflict, and senior executives, senior officials, employees and contractors who, under the opposition's amendments, will not.

The government believes that disclosure of potential conflict is necessary to guard against actual conflict and to ensure transparency in government processes and decision making. I believe that I can best demonstrate this with some examples. Let us take the first scenario. A public sector employee accepts a job in the procurement area of a public hospital, and the duties will include the procurement of pharmaceutical products for the hospital. The employee holds shares in the pharmaceutical company that sells the types of products regularly used by the hospital, but the company is not currently a supplier to the hospital; accordingly, there is no actual conflict of interest. However, there is a potential conflict of interest, because it is possible that the company will submit tenders to the hospital to supply its products. It is considered appropriate that the employee disclose this potential conflict of interest in order to put procedures in place in respect of tender processes to guard against the actual conflict.

Here is another scenario. A senior public sector manager is asked to participate on a selection panel for a more junior management position in the same agency. The job is yet to be advertised. A meeting has been arranged to finalise the job and person specification and to discuss interview format and questions. Unbeknownst to the chairperson of the panel, the manager recently had a relationship with one of the likely internal applicants that ended in acrimony. Since the job is yet to be advertised, there is no actual conflict. However, there is a potential conflict that should be disclosed to avoid the time and effort associated with having to abort, subsequently, the selection process.

As a third scenario, we can consider this. A consultant has been engaged by government to advise upon the purchase of highly technical electronic equipment. The technology being sought is so advanced that only two or three companies are capable of satisfying the requirements. Given his expertise in the area, the consultant is acquainted with people in the industry and regularly socialises with an executive from one

of the likely tenderers. There is no actual conflict, because the project has not reached the tender stage. However, there is a potential conflict, since it is likely that the friend's company will submit a tender. Again, it is considered appropriate that the potential conflict be disclosed so that procedures can be put in place to guard against actual conflict and to ensure transparency. Unless the amendments proposed by the opposition are defeated, there will be no requirement to disclose the potential conflict in each of those three instances.

The Hon. IAN GILFILLAN: I indicate our opposition to the amendment. I believe that, if it is passed, it is very difficult to distinguish the subtlety between a conflict of interest and the potential for a conflict of interest. We believe that the government's wording in the bill is appropriate.

Amendment negatived.

The CHAIRMAN: Am I to take it that there is a sequence of these? Is that a test? Do you accept that, Mr Lawson?

The Hon. R.D. LAWSON: Yes, a test for the deletion of the words 'or may conflict' and also 'or potential conflict', which is the next amendment standing in my name.

Clause passed.

Clause 15 passed.

Clause 16.

The Hon. R.D. LAWSON: I will not proceed with the first three indicated amendments to clause 16 on the basis that they were defeated in the test vote on the previous amendment. I move:

Page 10, after line 23—Insert—

(10a) This section does not apply to an employee unless the employee has been given written notice of his or her obligations under this section.

This amendment seeks to ensure that employees are given written notice of their obligation under this section before they can be prosecuted. Whilst it is true that the government will, through various processes, widely disseminate information about codes of conduct and so on (and no doubt there may be some educational programs), to receive a leaflet of the kind that the Commissioner for Public Employment has circulated—excellent as it is—does not, in our view, give a sufficient and direct notification to individuals that they have a special obligation.

In this case, the obligation is one with respect to the reporting of actual and potential conflict of interest. Bearing in mind that the committee has not accepted our amendments to exclude potential conflict of interest, I submit that it is appropriate that employees be given specific notice of their obligation to comply not only with the conflict of interest provisions but also with the provisions relating to potential conflict of interest.

The Hon. Ian Gilfillan interjecting:

The Hon. R.D. LAWSON: The honourable member has sought information about how often notification would have to be given. It is our intention, and my belief, that the words require only that the employee be given written notice on one occasion, so that they have written notice. It may be given to them more often than that, but specifically they ought be given notice of the fact that, under pain of a fine, they are required to make disclosure of their actual and potential conflicts of interest.

The Hon. P. HOLLOWAY: This amendment, together with all other amendments that require written notice of obligation before conflict of interest provisions for employees and contractors can take effect, is opposed by the government. This is yet another example where, through the bill, the government is seeking to maintain and extend obligations of accountability and transparency, whereas the opposition is trying to reduce them.

Under existing provisions in the Public Sector Management Act, public servants at all levels from chief executives to ordinary employees have been under an obligation to disclose conflict of interest and potential conflict of interest for years. It has never been a requirement that public servants be given written notice of their obligations in respect of conflict of interest in order for those provisions to take effect. It is not clear why, suddenly, it should be necessary for public servants and public sector employees and contractors to be given written notice of their obligations. Ignorance of the law has never been a defence.

It is also unclear why the conflict of interest provisions have been singled out in this way. There is no logical basis for distinguishing between them and the myriad other obligations upon public servants and other public sector employees that already exist in the Public Sector Management Act, which, if breached, render the person liable to disciplinary action, such as the requirement that public sector employees conduct themselves in public in a manner that will not reflect adversely on the public sector, their agencies and other employees, as provided for in section 6(e).

Contrary to maintaining and improving standards of accountability and transparency, these amendments, if carried, would create loopholes by which employees and contractors could escape their obligations. As at 30 June 2002, there were over 83 000 public sector employees and innumerable contractors. Under the opposition's amendment, each and every one would have to be given notice, and it would be an ongoing obligation as staff and contractors came and went. Whilst undoubtedly every effort would be made by agencies to ensure that all staff and contractors received appropriate notice, it is inevitable, given the numbers involved, that in some cases the bureaucracy would break down and some employees or contractors would not be formally notified or the notice might be inadequate.

In addition, it might be difficult, years down the track, particularly given the movement of staff between agencies, as well as the dissolution and reconstitution of administrative units, for an agency to prove that a particular employee or contractor had received appropriate written notice of their obligations. If the opposition's amendments were passed, a longstanding public servant, who has already been subject to the obligation to disclose conflict of interest for years, could escape liability if inadvertently she did not receive formal written notice, or, where she had, the agency was not in a position years down the track to prove it. It is acknowledged that employees and contractors need to be made aware of their obligations in order to lift and maintain standards of integrity. However, this is best achieved by an ongoing education and communication strategy, not through a one-off written notice of obligations.

In opposing the amendments on principle, I add that the form of the amendments is also opposed, because they do not specify who should provide the written notice and the form it should be in. In addition, under the Public Sector Management Act, corporate agency executives are treated differently from their counterparts in the Public Corporations Act since written notice is proposed for the latter but not for the former.

The Hon. NICK XENOPHON: I have some sympathy for the intent of the opposition's amendments, given that there will be an expansion of the class of persons to be covered under this legislation, which I support, and with it quite significant penalties for breaches. My question to the

minister is that, given that there will be an expansion of accountability provisions and that there will be penalties for breaches, in what way is the government proposing to let public servants know of the changes? Will there be an education campaign? Will there be some general notification, because, whilst ignorance of the law is no excuse, and that is axiomatic, surely it is reasonable, given the changes proposed, that public servants at least be aware of the increased level of obligation and more onerous provisions that apply to them?

The Hon. P. HOLLOWAY: It is reasonable that, when there is an extension of obligations, people should know about them. The obligation is already there for public servants, but I am not quite sure what number of the 83 000 public sector employees are public servants, although I would imagine it would be about 75 per cent or more. So, most of them would already be covered. We are talking about extending the information to this additional number.

I am advised that the Office of the Commissioner for Public Employment is working with agencies to develop and implement an ethics communication and education strategy across the whole South Australian public sector. This strategy will underpin the requirements of the code of conduct and will make clear the responsibilities of all public sector employees and managers in respect of these types of obligations. Consideration will be given to mechanisms by which contractors can also be made aware of their obligations. I do not think anyone is saying that people should not be made aware of them, but the dilemma will be that, if this amendment goes into the bill in its current form, it will create a loophole that will have almost the reverse effect of what one wants.

The Hon. NICK XENOPHON: I appreciate the minister's advising that the Commissioner for Public Employment or his office is developing some strategies to advise public sector employees. Can the minister undertake that there will be some form of broad publicity or education campaign amongst public sector employees that there have been changes to the act and that there are more onerous obligations upon those employees, so they should at least be alert but not alarmed about the changes?

The Hon. P. HOLLOWAY: The short answer to that is yes, the government will undertake to do that.

The Hon. R.D. LAWSON: I am delighted that the Commissioner for Public Employment will be undertaking an ethics communication strategy, but the fact that he is doing that indicates an acknowledgment on the part of the commissioner that it is appropriate that people be given notice of their obligations. We are suggesting that that should be by written notice to each employee, rather than by some form of generalised notice in the *Government Gazette* or in the PSA bulletin. The statement that an ethics communication strategy is being developed indicates an acknowledgment of the appropriateness of ensuring that people are aware of these important matters. Secondly, it is very easy for people in our position to say—

The Hon. Nick Xenophon: Or what they should do to comply.

The Hon. R.D. LAWSON: Yes, or how they should comply. It is very easy for people in our situation to say that it is as plain as the nose on your face that a conflict of interest exists in a particular situation, but when looking at the literature on conflict of interest, while it is obvious in many cases, there are cases where there are grey areas. People should have their specific attention drawn to the obligation, because they might ask questions such as, am I required to disclose this? Is this a conflict of interest? Am I in a conflict of interest situation because I am a member of a union and I am advancing a particular issue that might increase union membership?

Do I have to disclose the fact that I am a member of a tennis club and that the Office of Recreation and Sport is making some grant for which my tennis club is applying, even though I am not a member of the Office of Recreation and Sport but happen to be employed in another department? These are all situations that will give rise to difficulty and, as very heavy penalties are being imposed for a breach of these obligations, it is only fair, in our view, that these employees be given notice of their obligations. The minister referred in his answer to public sector employees. This amendment that I am now moving is an amendment to the Public Corporations Act, and it is highly likely that people in some of those corporations will not be public sector employees, may not be members of the Public Service Association or even eligible for membership of the Public Service Association.

The minister should also bear in mind that these amendments will extend to persons who are not employees but who are contractors on a very casual basis. Whilst it is all very well to say that public servants should be aware of their obligations—and perhaps they are more aware of obligations than some others—many of the obligations sought to be imposed here will apply to employees of contractors. If a plumber, a school cleaner or someone of that ilk is required under pain of criminal sanctions to avoid certain things, they ought to be given specific notice of it.

The Hon. P. HOLLOWAY: Let us clear up one thing straight away: a breach of new section 38A does not constitute a criminal offence. New section 38A(5) provides:

> Failure by an employee to comply with this section constitutes grounds for termination of the employee's employment.

It is not a criminal offence but it is potentially the same penalty there as is currently the case for public servants who are liable to disciplinary action. We are not talking about criminal offences here. The government's dispute is not with actually giving people a written obligation. Our concern is that, once it is written into the law, it can create this loophole that I referred to earlier where, if it turns out that you cannot prove that the written notice was given, someone may therefore be able to avoid any disciplinary action, even if that disciplinary action is entirely appropriate for what would clearly be a breach of conflict and which is now, for public servants, clearly a breach for which those people are already liable.

The government is quite happy to undertake that we will provide written information to people coming in; that is not the issue. The trouble is that, if you write it into law, particularly in the form in which it is done, we are potentially creating a loophole. Obviously, if there are new people being involved, as there will be, the distinction between public sector employees and public servants for those new people in the net—those people we accept should be advised of new obligations. I guess it would not hurt, either, to remind existing employees. But if we do it in the form that the Hon. Robert Lawson is suggesting, we will actually weaken the overall provision for public servants, because it will create this loophole we referred to earlier by which they can then avoid any disciplinary action by making the issue turn on whether or not the government could prove that they were given written notice at a particular time.

The Hon. IAN GILFILLAN: The Democrats oppose the amendment.

Amendment negatived; clause passed.

Clause 17 passed.

Clause 18.

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

Page 15, lines 10 to 12—Leave out 'or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor'

This is a proposed amendment to the definition of 'contract work'. It is proposed that the Public Sector Management Act be amended by introducing the concept of contract work. 'Contract work' is defined to mean work performed by a person as a contractor or as an employee of a contractor, or otherwise directly on behalf of a contractor, but does not include work performed as a member of an advisory body. The new concept of contract work will mean not only work performed by a contractor but also work performed by an employee of a contractor or directly or indirectly on behalf of a contractor. The significance of this is that the act will not only apply to employees, to executives and to contractors, it applies yet further to employees of contractors and those who are otherwise directly or indirectly employed on behalf of the contractor.

We seek to have removed from the definition of 'contract work' the words 'or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor.' The reason for that is that, once again, the act has been drawn in a way that is too wide. If obligations are imposed upon contractors, fair enough, but we should not impose the same obligations on employees of contractors or of subcontractors and further subcontractors who may not be aware of the fact that they are doing public sector work at all; they just go along to a job at a certain site and perform their work.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Certainly, sanctions apply for non-compliance with the obligation. At the beginning we had the debate about whether or not the definition of 'public officer', should be expanded to include people who are not public officers and who would never consider themselves public officers; who really have no idea that they are performing work for the government or for the crown.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Well, it is unlikely but, in our view, and the reason why we seek the committee's support of the amendment, is that it is overreaching to expect employees of contractors and subcontractors, and the like, to be caught by the definition of contract work and be subjected to all the obligations that are imposed upon the public officers who are really public officers.

The Hon. P. HOLLOWAY: The definition of contract work has been included for the purposes of the new division 8, 'Duties of persons performing contract work', to be introduced in the Public Sector Management Act by the bill. Division 8 imposes obligations of honesty, and in respect of conflict of interest for persons performing contract work for government. The amendment proposed by the opposition is opposed by the government because it dramatically reduces the scope of the new division 8 and creates a loophole whereby contractors can avoid compliance with division 8.

As currently defined, the definition of contract work is very broad and covers not only contractors but also employees of contractors, subcontractors and directors who perform work on behalf of company contractors—basically, any person who performs contract work for government. It follows that, as the bill currently stands, anyone performing contract work for government is required to comply with the honesty and conflict of interest obligations in the new division 8. It makes no difference who actually performs the work. This recognises that the level of integrity of a contractor may be different from that of an employee or a subcontractor and that the interests of a contractor will be different from those of an employee or subcontractor.

The amendment proposed by the opposition means that only the contractor will be required to comply with the obligations concerning honesty and conflict of interest. As long as a contractor does not personally perform the work, but, rather, engages someone else to do it, division 8 will have absolutely no application. It is for that reason that the government opposes the amendment.

The Hon. IAN GILFILLAN: I indicate that the Democrats oppose the amendment.

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

The committee divided on the amendment:

AYES (10)

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

NOES (8)

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

PAIR(S)

Ridgway, D. W.	Gago, G. E.

Majority of 2 for the ayes.

Amendment thus carried.

The Hon. P. HOLLOWAY: I move:

Page 15, line 12—Leave out 'advisory body' and insert:
unincorporated body with a function of advising a public sector agency

This amendment is to the same definition of 'contract work', as the amendment just carried, but it should exist with the amendment. The proposed amendment excludes from the definition of 'contract work' members of all advisory bodies, not just those subject to the new division 4, 'Duties of advisory body members', thereby ensuring they are not inadvertently caught by division 8.

Amendment carried.

The Hon. R.D. LAWSON: My amendment at page 15, lines 33 and 34, has been the subject of a test vote on an earlier clause and I will not be proceeding with it.

The Hon. P. HOLLOWAY: I move:

Page 16, after line 14—Leave out 'the public sector agency' and insert:
a public sector agency

This amendment recognises that an advisory body may provide advice to more than one public sector agency. An example of an advisory body advising more than one public sector agency is the South Australian Government Financing Advisory Board, which provides advice to the South Australian Government Financing Authority and the Treasurer.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 16, lines 20 and 21—Leave out subparagraph (ii) and insert:

(ii) in the case of a senior official or employee appointed under an Act other than this Act—the Minister responsible for the administration of the Act; or

This amendment ensures that a senior official appointed pursuant to an act but not employed by or in an agency is captured for the purposes of determining the relevant minister. An example of someone who might be appointed in this way is someone who is appointed pursuant to section 68 of the Constitution Act for the purpose of heading up a government inquiry.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 17, line 6—After 'declared' insert:
by another Act or

This amendment will enable the honesty and conflict of interest provisions for senior officials to be incorporated by reference into future legislation, thereby obviating the need for future legislation to include such provisions or the need for a ministerial declaration for the provisions to take effect.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 18, lines 2 and 3—Leave out 'in a public sector agency'.

This amendment extends the category of persons who can be declared to be a senior official to include persons who occupy a position under an act that is not attached to a public sector agency. Examples are the Ombudsman and the DPP.

Amendment carried; clause as amended passed.

Clauses 19 and 20 passed.

Clause 21.

The Hon. P. HOLLOWAY: I move:

Page 22, line 31—After 'Division' insert:
(other than an offence consisting of culpable negligence)

This amendment prevents a criminal court from ordering a corporate agency member convicted of the offence of culpable negligence to pay an amount equal to any profit, loss or damage arising from the commission of the offence, and thereby brings the clause into line with the existing mirror provisions for directors in the Public Corporations Act. I refer to section 21(1) of the Public Corporations Act. Apart from ensuring that directors of government boards are subject to the same obligations, it is considered appropriate to exclude culpable negligence from the ambit of the provision in question because it is considered to be going too far to make someone financially liable for losses for what amounts to wholly inadequate work performance, that is, incompetence.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 22, line 40—After 'Division' insert:
for which a criminal penalty is fixed (other than a contravention consisting of culpable negligence)

This amendment prevents civil proceedings being instituted under the act against a corporate agency member for the recovery of an amount equal to any profit, loss or damage arising from the commission of the offence of culpable negligence, and thereby brings the clause into line with the existing mirror provisions for directors in the Public Corporations Act.

Amendment carried.

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

Page 23, after line 4—Insert:
Immunity for corporate agency members
38B. (1) Except as otherwise provided by this Act, a corporate agency member incurs no civil liability for an honest act or omission in the performance or discharge, or purported performance or discharge, of functions or duties as such a member.

(2) A liability that would, apart from the subsection (1), lie against a corporate agency member lies instead against the agency.

The purpose of this amendment is to bring corporate agency members into line with provisions which already apply to directors of public corporations and to other officials who are entitled to indemnity under section 74 of the Public Sector Management Act. The bill creates a new class of persons, namely, 'a corporate agency member', that is, one who is a member of the governing body of a public sector agency. Section 6H will provide that a corporate agency member, that is, a member of a governing body of a public sector agency who has a pecuniary interest, must disclose the same and not take part in any discussions, but it does not provide that this new class of persons to whom the legislation will apply has any indemnity.

Under the Public Sector Management Act, for example, specifically section 74, there is an indemnity in the following terms:

Immunity from civil liability.

74.(1) . . . no civil liability attaches to an employee or other person holding an office or position under this Act for an act or omission in the exercise or purported exercise of official powers or functions.

(2) An action that would, but for subsection (1), lie against an employee or other person lies instead against the Crown.

(3) This section does not prejudice rights of action of the Crown itself in respect of an act or omission not in good faith.

In other words, the Crown can pursue an officer under the Public Sector Management Act if that omission was not conducted in good faith.

Similar provisions also apply in the Public Corporations Act so that the directors of a public corporation are entitled to this form of indemnity. If the indemnity applies to those public officials, we can see no reason that a similar indemnity should not apply to corporate agency members. The language of our amendment tracks that of the Public Sector Management Act and the Public Corporations Act.

The Hon. P. HOLLOWAY: The government opposes this amendment in form but not in substance. Immunity from liability for corporate agency members was not included in the bill because it is covered by the acts establishing the various statutory bodies and was not strictly considered to fall within the honesty and accountability brief. Having said that, the government is happy for an overarching immunity clause for corporate members to be included in the bill, particularly as such a provision already exists for directors of public corporations in the Public Corporations Act. However, it is considered more appropriate that such a provision be included as part of the general immunity provision, which is section 74, that covers employees and others in the Public Sector Management Act rather than as a separate provision in the body of the act that deals only with immunity of corporate agency members. The government, therefore, opposes this amendment but will move amendments to section 74 of the Public Sector Management Act in due course to accommodate the substance of the amendment.

The Hon. R.D. LAWSON: I am grateful to hear that, but we would like to ensure that that measure will pass concurrent with the amendments introduced by this bill. Can we have an assurance that that will be done and that we do not have to wait until some time in the future?

The Hon. P. HOLLOWAY: They have been filed. I hope that the honourable member has them. The amendments to clause 28 were filed on 19 March.

The Hon. R.D. LAWSON: I have now seen the amendment. This amendment does not seem to provide the same immunity, and certainly not in the same terms. Is the minister referring to the amendment to clause 28, page 33, after line 8?

The Hon. P. HOLLOWAY: No. It is clause 28, page 33, line 3, 'After "this act" insert "a corporate agency member"', and then lines 6 and 8, where various words are inserted. My advice is that it is part of all those provisions, to give the effect required.

The Hon. R.D. LAWSON: In light of that explanation and the minister's undertaking to move the amendments foreshadowed, I will not proceed with my amendment.

Amendment withdrawn.

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

Page 23, lines 30 to 33—Leave out subsection (4).

This is a significant amendment and perhaps more significant than some of the earlier ones that have been moved. Division 4 relates to the Public Sector Management Act, and specifically to corporate agency members. It provides, under proposed section 6L, that advisory body members have certain duties in relation to conflict of interest. However, proposed section 6L(4) provides:

> The relevant minister may, by notice published in the *Gazette*, exempt an advisory board member (conditionally or unconditionally) from the application of a provision of this section, and may, by further notice published in the *Gazette*, vary or revoke such an exemption.

This appears to be a significant power of exemption from the duty of advisory body members with respect to conflicts of interest, and it is a method of exempting particular members from important obligations. These are obligations that carry a heavy fine for non-compliance. Simply publishing a notice in the *Gazette* that a particular member is not obliged to comply with these requirements is inadequate. This is a power over which there is no parliamentary scrutiny at all. This is not an instrument that has to be laid before houses of parliament and can be disallowed. It is inappropriate to have this way of exempting people from obligations.

The Hon. P. HOLLOWAY: Proposed section 6L(4) is included as a precautionary measure to enable unforeseen and unintended consequences to be addressed. It will, for example, enable a board member who is specifically appointed from a particular group to represent the interests of that group without having to continually disclose a conflict in that regard. I certainly can comment that, in my portfolio, there is a number of boards and many people are involved. Frankly, the boards would not be much good if you did not have people on them who were heavily involved in the industry. That is the whole purpose of having them.

Whilst the bill contains a provision enabling the Governor to exempt by regulation, it is considered appropriate to retain the clause in question, because some advisory bodies are not established by statute and, hence, not recognised at law. For this reason, it would be irregular to introduce regulations concerning them. Also, advisory bodies established administratively may, on occasion, need to be established quickly and for a finite period. Exemption by regulation does not necessarily fit comfortably with this scenario.

The Hon. IAN GILFILLAN: I make it plain that we support the amendment. We believe that, even if exemption by regulation is a touch more cumbersome, it is a much more satisfactory way to proceed. The amendment, in my view, improves the effectiveness of the legislation.

Amendment carried.

The ACTING CHAIRMAN (Hon. R.K. Sneath): The next indicated amendment is to clause 21, page 30, lines 4, 6 and 8.

The Hon. R.D. LAWSON: This is a consequential amendment which follows from amendments already not accepted by the committee, so I will not proceed with it, nor any of the other amendments standing in my name.

Clause as amended passed.

Clauses 22 to 27 passed.

Clause 28.

The Hon. P. HOLLOWAY: I move:

Page 33—
Line 3—After 'this act' insert:
, a corporate agency member
Line 6—After 'in the case of' insert:
a corporate agency member or
Line 8—After 'or the' insert:
body corporate or
After line 8—Insert:
(f) by inserting after subsection (3) the following subsection:
(4) This section does not apply to a corporate agency member if provisions of the Public Corporations Act 1993 apply to the body corporate.

These were the amendments that we discussed earlier in lieu of the amendment proposed by the Deputy Leader of the Opposition. Together, these four amendments to clause 28 pick up on the proposal from the opposition that the bill should include a clause granting immunity from liability for corporate agency members. The amendments introduce such a meaning to section 74 of the Public Sector Management Act and thereby ensure that immunity for all under the Public Sector Management Act is governed by the same provision in that act. I commend the amendments.

The Hon. R.D. LAWSON: I indicate support from the Liberal Opposition for the amendments, which, as I mentioned earlier, are in pretty much the same terms as we proposed during the committee stage but not proceeded with.

Amendments carried; clause as amended passed.

Clause 29 passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 1939.)

The Hon. G.E. GAGO: It is with great pleasure that I support this bill because, in light of my former career as a health care professional, I have had first-hand experience that indicates how long overdue this legislation is.

Currently, South Australia is the only state or territory that does not have an independent complaints authority that has jurisdiction over the public, private and non-government health sectors. The introduction of the Health and Community Services Complaints Bill will perform such a function across the complex structure of health provision services in South Australia by establishing the office of a health and community services ombudsman. The creation of this office will allow the people of South Australia a means of reporting complaints against health or community service operators and will enable

the sector to identify, respond to and resolve systemic problems. This will bring our state into line with the rest of the country.

In 1996, the Liberal government established a small unit within the Office of the State Ombudsman to deal with health sector related complaints. The jurisdiction of this unit, however, extended only to the public health system. The Health and Community Services Complaints Bill will ensure that an independent ombudsman with specific legislative responsibilities will be available to handle complaints about both the public and private health and community services areas, consequently bridging the gap between the public and private sectors and establishing a standard of practice that both must maintain.

The aim of the bill is to improve both the quality and safety of health and community services in the state, which will be achieved by the provision of a fair and independent means for the assessment, conciliation, investigation and resolution of complaints relating to the health sector. The bill has nine main points that outline the matters of the jurisdiction, objectives, powers and functions of the office of the health and community services ombudsman. I will not detail all those today but perhaps will highlight a few areas.

This bill will enable the establishment of processes to allow for systemic issues and trends concerning the delivery of health or community services to be identified and further investigated in an independent and balanced manner. Under the proposed structure, the health and community services ombudsman will be charged with the development of a charter of health and community services rights. The office will also carry out the assessment of complaints; administer the conciliation processes; determine what matters may be investigated; and conduct investigations.

Further, the health and community services ombudsman will govern the relationship between registration authorities and the ombudsman and establish a health and community services advisory council, outlining both its membership and its function. An important aspect of the ombudsman's role will be the responsibility of identifying and reviewing the issues that are raised through complaints and carrying out further investigation where required, particularly when the issue presents as systemic in nature. Thus, the ombudsman will be in a position to make recommendations related to improvements within the health and community services sector, consequently consolidating the rights of South Australians to access these services. The ombudsman's role will be at the appointment of the Governor, and an incumbent may not hold office as the health and community services ombudsman for more than two consecutive years.

Given the specific jurisdiction of the health and community services ombudsman, it is important to have a clear definition of what constitutes a 'health service' and a 'community service'. The bill defines a 'health service' as:

> . . . a service designed to benefit or promote human health and to educate on health issues, or to provide assistance, care, diagnosis or treatment to a person in relation to his or her wellbeing.

Community services are acknowledged as serving to assist persons suffering hardship or disadvantage and to provide relief or care to such persons.

During debate in the other place, concerns were raised by the opposition regarding the implications for volunteer organisations and their workers and the perceived potential adverse effects on these groups. People become volunteers for many and varied reasons. In our state, organisations such as the Salvation Army, the Lions Club, Rotary and Meals on Wheels provide both health and community services to those who frequently rely on the service and support of volunteers. Volunteers add considerable value to the operation of these organisations and, as a consequence, to our society as a whole. I know that members in this place are eternally grateful for the extensive work that volunteers have done and continue to do.

However, that is not to say that mishaps cannot occur, despite the best intentions. This bill acknowledges that sometimes procedures and service provision (even voluntary ones) go wrong, and problems can occur. That does not mean that volunteers are exempt from scrutiny and responsibility to take due care. Concerns have been raised by critics of the bill about the alleged over-scrutiny of volunteer organisations and their staff. Let me be clear that this is not the purpose of the bill. It is certainly not its purpose to put every volunteer under scrutiny and in constant fear of libel: the intention of the bill is to achieve the very opposite.

The role of the ombudsman is to bypass legal action by quickly identifying the problem and to resolve it through mediation and conciliation. This alleviates the potential for volunteers and organisations to be threatened initially by legal action, which is often incredibly costly and very time consuming. Often complainants simply want recognition of a wrong done to them, or to a member of their family, and an assurance that others will not suffer in the same way. In many instances, this can be achieved through reassessment of procedures, for example, by the ombudsman, thus avoiding litigious situations.

Under the conditions of the bill, organisations that employ volunteers still have a duty of care, and it is the organisation itself that must bear the responsibility for those it chooses to represent it and deliver those services on its behalf. Indeed, the exclusion of volunteers from the provision of the bill would serve to limit the protection that this bill would afford those people.

Further to the concerns involving the implications for volunteers, critics have suggested that the term 'ombudsman' is inappropriate and that the position, if indeed its establishment were to be approved, should bear the title 'commissioner'. That is despite the fact that commissioners already exist within the Health Commission, and that the name ombudsman bears a more accurate connotation. 'Ombudsman' is based on a Swedish concept, and I understand it was first used in the Swedish parliament in its modern sense in 1809, with the establishment of the office of the ombudsman, which was to function as a defender of the people in their dealing with the government and its services. Since then, similar offices have been established in over 100 countries worldwide, most of which are affiliated with the International Ombudsman Institute.

An ombudsman is conceived to be independent, unbiased and fair, as is proposed for the health and community services ombudsman, who will serve to act in the best interests of the citizens of South Australia and to improve the system of health and community service for all who access it. Under this bill, the ombudsman will have direct access to materials relevant to the matter under investigation. This bill does not include all materials, merely those specific and relevant to the particular case. That will enable problems to be investigated with a full sense of balance and proportion. It will also mean that the ombudsman can make a decision with full confidence that they are in possession of all appropriate relevant details from both sides of the complaint.

In consideration of the establishment of the health and community services ombudsman, some have questioned why the creation of a whole new ombudsman for health and community services is required instead of simply extending the jurisdiction to the state Ombudsman. It is necessary to establish a specific health and community services ombudsman to deal with the relevant issues instead of referring those matters to the broader office of state Ombudsman. This method will ensure independence and will also mean that, if a complainant is dissatisfied with the outcome and the verdict of the health and community services ombudsman, they still have the option of appealing to the state Ombudsman.

Critics of the bill have argued for a clause to be included that would allow for appeals to be heard by the District Court in the event that the response of the health and community services ombudsman is not satisfactory. That would defeat one of the main strengths of the proposed ombudsman's office. One of the primary aims of the bill is to keep grievance procedures out of the courts. It strives to resolve disputes and complaints quickly and fairly without the necessary expense that is involved in more formal legal challenges. What we want this bill to achieve is to help sidestep a growing move towards litigious complaint resolution.

This bill is about resolution, conciliation and mediation. For most members of our community who experience negative or unsatisfactory treatment or service by a health and community service provider, what is desired by way of resolution is the opportunity to have concerns listened to and acted upon, and to have the confidence that the same problem will not occur to someone else. This bill will allow members of the public to take up a health and community services complaint with an ombudsman specific to their area of concern who will investigate independently and fairly and who will resolve or remedy the situation.

We need an ombudsman of this sort, not because we have an inadequate health system, but because people need to feel empowered and to be able to speak up when they perceive something to be amiss. The Labor government is not afraid of criticism of the services it provides to the community. In fact, it welcomes the opportunity to rectify problems and develop new strategies and procedures in order to improve services and conditions in our community. This bill is a testament to the determination and commitment of the Minister for Health, the Hon. Lea Stevens, and the Labor government.

People have a right to have confidence in services they use. They have a right to access information, to make inquiries or to lodge a complaint if things go wrong. This bill is about accountability and transparency. It is about being open to criticism and suggestions to provide better service. It provides a vehicle by which complaints and dissatisfaction can be acknowledged and corrected. It is important to have a transparent and accessible complaints mechanism that enables people to have their concerns dealt with openly so they can be resolved, and services, procedures and practices then improved as a consequence of that.

As a state long heralded for its innovation and progression, it is quite shameful that South Australia lags behind its fellow Australian states without an independent complaints mechanism for the health and community services sector. The bill, and the establishment of the health and community services ombudsman, will put us in step with the rest of the country and provide an opportunity for systemic analysis and service provision improvement for the betterment of all South Australians. I commend the bill to the council.

The Hon. SANDRA KANCK: The Democrats support the second reading of this bill. South Australia has been lagging behind other states and territories in relation to the handling of complaints against health care practitioners and providers. The 1992 Medicare agreement required that each state set up a system independent of that state's health authority to register and deal with complaints about the provision of hospital services. We are the only state that does not have a statutory complaints body, although the Ombudsman's office has fulfilled that role since June 1996. This bill has been a long time in the coming. From 1987 to 1993, a patients' rights task force was set up and met during that time, ultimately producing a draft discussion paper, which, unfortunately, was never released.

This bill provides a consistent approach to all complaints against health practitioners and providers, both public and private. There have been a number of attempts to put in place this kind of legislation in South Australia over the last eight years. In 1995, the then health minister, Dr Michael Armitage, introduced the health services bill. The Hon. Lea Stevens, as the shadow minister for health in the lower house, introduced an amendment to the bill which was not successful, and I introduced an amendment to the bill in the upper house which was temporarily successful but, in the end, the bill was laid aside after we were not able to come to a resolution in a deadlock conference.

Just to put it into perspective, we thought we were doing great things back in 1995, but it looks so paltry next to what we have before us now. In the lower house, the amendment moved by the Hon. Lea Stevens sought to insert a new division 1A, dealing with complaints, and proposed new clause 56A provided:

> The minister must provide or cooperate in the provision of a system for dealing with complaints in accordance with the Public Patients' Hospital Charter.
> [1]The Public Patients' Hospital Charter is the Charter jointly developed by the Commonwealth and the States under the *Medicare Principles*.

End of story; that was it! That amendment did not pass the lower house and, when we got the bill here, I also attempted to amend the bill, which, as I said, was temporarily successful. I inserted a new part 4A entitled 'Consumer complaints against public and private health service units', which I think was a little more substantive than what the opposition had been attempting to do. It provides that the minister must establish a system for dealing with complaints. Clause 55A provides:

> (1) The minister must establish a system for receiving, inquiring into and dealing with complaints from persons to whom services are provided by health service units, whether public or private.
> (2) In establishing the complaints system, the minister must give strong emphasis to enabling the resolution of complaints by conciliation.
> (3) The council must keep the complaints system under constant review and may make recommendations to the minister for such changes as the council believes will ensure that the system is fair, efficient and accessible.

It was a little more substantive than the opposition had moved in the House of Assembly but, again, fairly insubstantial compared to the legislation that we have now. Because the numbers were here it was passed but, quite surprisingly, when we got to a deadlock conference this was one of the clauses that the government of the day was rejecting, and I really do not understand why. Subsequent to the withdrawal of that

bill, I know that the Hon. Lea Stevens, as the shadow minister for health, made a couple of attempts to introduce a health complaints bill but, as often happens with private members' bills, they both lapsed. But her actions, I think, set the challenge for the health minister Dean Brown to respond with a bill of his own, which he did, but I have to say that there was an enormous amount wrong with that bill.

As much as was wrong with it in its draft state, when it was finally introduced into parliament in 2001 following the public consultation, it was even worse. For instance, in the draft bill there was a set of service standards that many said were not comprehensive enough but, by the time the bill was introduced into the parliament, it contained no service standards at all. I personally thought that bill was very flawed, beginning at the very basic level of lodging a complaint, because it would not have accepted a complaint being lodged by telephone. It was flawed, I believe, because it allowed for complaints only about the public sector and, even worse, contained a provision that allowed the minister to prevent the Health Commissioner from investigating a complaint if it was related to public health policy or was a systemic health issue.

It was quite an extraordinary measure, to propose that the minister, the person against whom the complaint might be lodged if it involved the public health system, instruct that the complaint against him or her not be investigated. For my part, I have to say that I wondered whether the health minister was getting accurate advice about what the purpose of a health complaints authority was, because it was clear that his expectations at that time were very different from any of the health consumers that were concerned with this issue. It was during the consultation phase on that draft bill and the subsequent lobbying on the bill itself that my own awareness of what a health complaints authority should entail was greatly increased.

Groups such as Health Rights and Community Action, SACOSS and the Council on the Ageing all expressed many concerns about that bill, and the consequence of that was that a stalemate was reached back in 2001 and the bill simply sat on the House of Assembly *Notice Paper* for six months or so and lapsed when parliament was prorogued. So, I am pleased that we now have a workable piece of legislation that has strong support from community groups. Unlike the previous bill, it deals with complaints about both the public and private spheres. There has been extensive community consultation over this bill, and I commend the minister for her work in this area.

This bill will provide South Australians with an accessible and user-friendly complaint lodgement process and equitable dispute resolution mechanisms. Not only will this eliminate the need for consumers to resort to litigation but it will also allow for an improvement in the quality and provision of health care and community services offered to consumers. A seminar I attended in 2001 heard from the Northern Territory's Health Commissioner, Peter Boyce, who told the audience that, with such an inclusive approach, he had received complaints about Meals on Wheels, homecare and the Ambulance Service. The Democrats believe that it is appropriate for complaints to be extended beyond doctors, nurses and hospitals.

In receiving a complaint, the first task of a health complaints authority will be to understand just what the complainant wants. The complainant may simply want to make a point to the service provider or might, for instance, want an apology from them. They might want to ensure that the treatment they received that they thought was substandard or patronising, or whatever, does not happen to other people. As an example, I cite something that occurred to me about 15 years ago, and there was not any avenue at the time to be able to complain. I was asked by my doctor to report to a private hospital. I cannot remember whether it was to have pathology or some sort of radiology, but when I fronted up to that hospital and gave my details they wanted to know my husband's name.

I was a bit taken aback and asked, 'Why do you need my husband's name?' They said, 'In case you don't pay your bill.' I said, 'I have an independent income: my husband does not pay my bills.' The receptionist and I reached a stalemate, and I said, 'What happens if you're a single person? What name of what male do you ask for in order for that person to get a service?' We reached a stalemate and they said that unless I gave my husband's name I would not be able to have the service so, in the end, I gave my husband's name. But I felt quite affronted by it. Had there been some sort of complaints procedure about private health services, I would certainly have lodged a complaint, because I felt it was very patronising and certainly not in keeping with the recognition of equality in our society that we had, I thought, reached by that stage in the mid 1980s.

There was not an avenue to make such a complaint. If I had, it would have been so that other women did not receive the same treatment. I would not have been trying to sue for millions of dollars: very few people who lodge complaints are looking for millions of dollars. The experience of the complaints authorities in other jurisdictions is that the great bulk of the complaints are able to be resolved through mediation. When litigation is causing increasing indemnity costs for health professionals, I think this is very welcome. The current situation here in South Australia still leaves people with very little recourse but to go down the litigation path or, simply, to remain very unsatisfied.

Health care consumers have, through bitter experience, reservations about the various registration bodies—the Medical Registration Board and the Nurses Registration Board—having too much power. The 2001 bill certainly gave that power to those registration bodies and, again, decreased the possibility of a conciliated outcome. I am pleased that in this new bill a respectable distance is put between the authority and those registration boards. The Australian Democrats welcome this bill, because it will at last bring South Australia up to speed with the rest of the nation in relation to the handling of health care and community service complaints.

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

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

ADJOURNMENT

At 5.20 p.m. the council adjourned until Tuesday 1 April at 2.15 p.m.