LEGISLATIVE COUNCIL

Thursday 31 May 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:03): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (11:04): I have to report that the managers for the two houses conferred together and it was agreed that we should recommend to our respective houses:

As to Amendment No 1—That the House of Assembly no longer insist on its disagreement to the amendment.

As to Amendment No 2—That the Legislative Council no longer insist on its amendment but makes the following amendment in lieu thereof:

Clause 22, page 10, line 32 [clause 22, inserted section 35A(3)(a)]—After 'represents the prisoner' insert:

, or who is communicating with the prisoner for the purpose of determining whether or not to represent the prisoner

As to Amendment No 5—That the Legislative Council no longer insist on its amendment but makes the following amendment in lieu thereof:

Clause 41, page 15, after line 13—After subclause (2) insert:

(3) Section 67—after subsection (7) insert:

(7a) If the Governor does not approve the recommendation of the Board that a prisoner be released on parole, the Minister must, within 30 days after being requested to do so by the Board, advise the Board of matters (if any) that the Minister believes might assist the prisoner in making any further application for parole.

(7b) The Board must not disclose advice given by the Minister under subsection (7a).

(7c) The Minister and the Board cannot be required to disclose advice given by the Minister under subsection (7a) by any law of the State or for the purposes of any proceedings before a court, tribunal or any other body.

As to Amendment No 6—That the Legislative Council no longer insist on its amendment but makes the following amendments in lieu thereof:

Clause 49, page 19, lines 1 to 23 [clause 49, inserted section 76A]—Delete section 76A and substitute:

76A—Apprehension etc of parolees on application of CE

(1) If the CE or a police officer suspects on reasonable grounds that a person who has been released on parole may have breached a condition of parole, the CE or police officer may apply to—

(a) the presiding member or deputy presiding member of the Board; or

(b) if, after making reasonable efforts to contact the presiding member and deputy presiding member, neither is available—a magistrate,

for the issue of a warrant for the arrest of the person.

(2) A warrant issued under this section authorises the detention of the person in custody pending appearance before the Board.

(3) A magistrate must, on application under this section, issue a warrant for the arrest of a person or for the arrest and return to prison of a person (as the case

may require) unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

(4) If a warrant is issued by a magistrate under this section—

(a) the CE or police officer (as the case requires) must, within 2 working days of the warrant being issued, provide the Board with a written report on the matter; and

(b) the warrant will expire at the end of period of 2 working days after the day on which the report is provided to the Board; and

(c) the presiding member or deputy presiding member of the Board must consider the report within 2 working days after receipt and—

(i) issue a fresh warrant for the continued detention of the person pending appearance before the Board; or

(ii) cancel the warrant, order that the person be released from custody and, if appearance before the Board is required, issue a summons for the person to appear before the Board.

(5) If a warrant expires under subsection (4)(b) or a fresh warrant is not issued under subsection (4)(c)(i), the person must be released from detention.

(6) The Board may, if it thinks there is good reason to do so, by order, cancel a warrant issued under this section that has not been executed.

Clause 49, page 19, lines 25 to 31 [clause 49, inserted section 76B(1)]—Delete subsection (1) and substitute:

(1) A police officer may, on the authorisation of a senior police officer, without warrant, arrest a person who has been released on parole if the police officer suspects on reasonable grounds that the person has, while on parole, breached a condition of parole and the police officer is satisfied that—

(a) the breach is not trivial; and

(b) unless the person is immediately arrested, the person is likely to continue to breach conditions of parole, commit further breaches or commit an offence.

Clause 49, page 19, line 36 [clause 49, inserted section 76B(2)(b)]—Delete 'the CE' and substitute 'a magistrate'

Clause 49, page 19, lines 39 and 40 [clause 49, inserted section 76B(2)(c)]—Delete 'the CE' and substitute 'the magistrate'

Clause 49, page 20, after line 5 [clause 49, inserted section 76B]—After subsection (2) insert:

(3) In this section—

senior police officer means a police officer of or above the rank of Inspector.

Consideration in committee of the recommendations of the conference.

The Hon. I.K. HUNTER: I move:

That the recommendations of the conference be agreed to.

The Hon. S.G. WADE: I will comment briefly on the minister's motion. I indicate straight up that I obvious support it because I was part of the conference and I think this is a good suggestion for an agreement. Deadlock conferences have been relatively rare in the first two terms of the Labor government. They have been more common in the last year or two. It would be fair to say that we are both developing a better awareness of how conferences work and also perhaps identifying some of the pitfalls. I think the would be good for the council to further consider how we can make these deadlock conferences more effective. As I think I indicated in relation to an earlier message, I suggest that we consider not holding conferences while the houses are sitting.

Coming back to the amendments, I thank the government for working with the opposition and crossbench MPs to reach agreement on these amendments. In relation to the first amendment, it is recommended that the House of Assembly does not insist on its disagreement with the Legislative Council's fine tuning of the provision in relation to prisoners who are removed from prison for the purposes of interrogation by police. I thank the conference managers for their recommendation, and I appreciate that the House of Assembly is yet to consider that recommendation.

Amendment No. 2 relates to whether or not communication with a lawyer is privileged. The concern of the Legislative Council and the Law Society is that we want to provide protection where a prisoner is in the process of engaging a lawyer but where the engagement has not actually been completed. We appreciate the government's concern that the wording of our original amendment could have opened up a wider gamut of lawyers. That was not the intention, and I think the deadlock conference did a workmanlike job in suggesting amendment No. 2.

Amendment No. 5, of course, has its origin not in the opposition amendments but in the work of the Hon. Ann Bressington, and I commend the Hon. Ann Bressington for highlighting this issue through the bill. It has given us a better understanding of how this government is using the powers in relation to Parole Board recommendations on life-sentence prisoners for parole. I stress that the Liberal Party supports the maintenance of the reserve power of Executive Council in relation to life-sentence prisoners, but I believe that the way this matter has developed through the houses and through the deadlock conference shows that the government is very reluctant for transparency in this area.

I remind the committee that our original amendment provided that the government did not need to provide reasons if public safety was in question. Most of the public debate by representatives of the government has focused on situations where they are concerned that public safety is under threat. Just on the plain reading of our original amendment, public safety would have been a reason not to provide reasons. Nonetheless, in the context of the government's position, I believe that the deadlock conference has come up with at least some progress, and amendment No. 5 reflects that, and I support it.

Amendment No. 6 relates to the apprehension of people who are in breach of parole. Obviously, the Liberal Party supports efforts to improve public safety by giving police the powers they need to apprehend people who are in breach of their parole and represent a threat. The most stunning realisation regarding this amendment was that, in the context of the deadlock conference, we became aware that the police regarded the government's original amendment as not workable. If this government thinks that unworkable law enhances public safety, it does not deserve the confidence of this committee or the public.

This government is consistently driven by rhetoric rather than outcomes. I believe that the work that the Legislative Council and the deadlock conference did on what is now amendment No. 6 shows the value of the legislative process and the need for this parliament to be healthily sceptical of government claims about the outcomes of legislation and the support of stakeholders such as the police. I think it is incumbent on us to do due diligence on legislation.

The police certainly reaffirmed their desire to enhance their powers, but they said that the government's original amendment would not have worked. We had confirmation at the deadlock conference this morning that the police, the Parole Board and the Department of Correctional Services have been consulted. My understanding is that they believe these provisions to be workable. I look forward to them being proclaimed and implemented.

The Hon. A. BRESSINGTON: Just very briefly, on these amendments as well, I concur with what the Hon. Stephen Wade has just said and also agree that it would probably be beneficial for members of this house, some of us newer ones, to get some clarity on what the rules of these deadlock conferences actually are and how they are supposed to be managed. We have new members in here (new as in 2006) who are not really aware that there are protocols to follow in these deadlock conferences. I think it was proven at the last two meetings of the deadlock conference that if everybody is clear on the ground rules they can actually run a lot more smoothly.

On the amendments themselves, as members would be aware regarding amendment No. 5, I did move to have this power completely revoked from executive government. We are the last jurisdiction in Australia that holds onto this power. It is there from the days when we actually used to hang prisoners. I think those days are long gone and never to return. As the Hon. Stephen Wade said, the debate on these amendments showed that this government is not prepared to hand over its power or its ability to control the Parole Board or even to second-guess the sentencing of the courts. I find that very concerning when we appear to have an executive that believes that it is the only body that is capable of getting these decisions right.

I have looked into the risk that lifers actually pose once they are released. I have put in an FOI, but from memory my information is that very few, if any, seriously reoffend when they are released from prison. They may commit minor offences in order to breach their parole and go back in, because they are not functioning well on the outside because they are so institutionalised—

which is an indictment of the rehabilitation in our prisons. They rarely go out and axe murder anybody or commit one of those heinous crimes again after they have served their sentence and their non-parole period.

When I get that FOI I will make it known to the chamber and I think it will show that the whole idea that executive needs to override the decisions of the Parole Board as a public safety measure is nothing more than PR and political rhetoric as to why the government maintains that power. As for the issuing of warrants, it greatly disturbs me that this government would even consider allowing a public servant to issue a warrant for somebody's arrest. As the police have said, the amendment that the government was putting forward would have been unworkable, but we would never have found that out from the government or during the conference unless those specific questions were asked.

So I again concur with the Hon. Stephen Wade of this place, and members of this place should be highly sceptical of what this government does to sell a bill. It is incumbent upon us all to make sure that we make our own inquiries and seek our own information from the stakeholders involved in legislation, because quite frankly I do not believe that this government can be trusted to tell us the truth. In saying that, I am pleased with the outcome of the conference, that agreement could be reached and yet again that the Legislative Council has done its job and done it well.

The Hon. I.K. HUNTER: I cannot help myself but to make some comments and put them on the record as well. I also would like to make my gratitude known for the work of the conference. The truth is that the government gave some ground and the opposition gave some ground also, and I think we have come up with a position that will be at least workable.

It is disappointing, therefore, to hear honourable members stand up here and go through some of their spurious arguments in relation to their original position which, in fact, they gave ground on but still maintain for their own electoral purposes, I can only assume, but I will leave that where it is.

The honourable minister in the other place can put some rebuttal comments on the record if she thinks it is important enough. However, I will say this: the government was firmly of the view that it would not give up the prerogatives of the executive, and it maintains that position. My understanding is that the opposition had a similar view as well.

Motion carried.

WOMEN'S INFORMATION SERVICE

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:16): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.E. GAGO: I would like to make a ministerial statement on the issue of the WIS history function invitation. Yesterday, I informed the chamber of the Women's Information Service relocation and outlined the WIS history project which I announced at a function on 18 May 2012. I drew to the attention of the chamber that the history project I announced at that function was the idea of the Hon. Ms Lensink, and I stated that I had invited the Hon. Ms Lensink to attend that function.

However, yesterday the Hon. Ms Lensink claimed that she was not invited to that event. I have checked the records and this is simply not true: she was invited. Our records show that a personally signed written invitation was posted from my office on 27 April 2012. What is more, an invitation follow-up phone call occurred on 15 May 2012, when an Office for Women staff member who made the call was informed by the Hon. Michelle Lensink's office that the Hon. Ms Lensink was unable to attend the function because she was going to be in Berri all day.

Yesterday afternoon, I indicated in the house that I would check the records to see what went wrong: I did. Yesterday afternoon, I provided the honourable member, Ms Lensink, with a copy of the correspondence and details regarding the phone call. She indicated to me at that time—that is, yesterday afternoon—that she was aware of the phone call but that her office had not received the letter. She therefore provided inaccurate information and misinformation to this chamber. What is more, she lacked the courage, the fortitude and the decency, when she obviously did find out from her office that she had received a phone call about an invitation, to return to the chamber and actually correct the record at her earliest convenience.

There is no reason for the Hon. Ms Lensink to come into this chamber and emphatically make claims that are untrue simply because she cannot organise her own office, simply because her office loses correspondence. After she knew about the phone call, to still not do anything about it is just cowardly and irresponsible. She clearly needs to get her office in order—a big clean-out, I would say. The event that I conducted was an opportunity for me to acknowledge the wonderful work of WIS volunteers. That event was not a Liberal or Labor Party convention.

Members interjecting:

The PRESIDENT: Order! The minister was accused yesterday of misleading the house by some of your colleagues. We know who misled the house now. The honourable minister.

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

The PRESIDENT: You must cop your punishment.

The Hon. G.E. GAGO: The event was not a Liberal Party convention nor was it a Labor Party convention. No other member of parliament was invited and, as I have stated, an invitation was extended to the Hon. Michelle Lensink because of her interest in the WIS history. So, she was invited. No other members of parliament—either Labor, Liberal or otherwise—were invited. It was a very small informal event.

Clearly, as we know in this place, time and time again, the opposition comes in to this chamber without checking its facts and make irresponsible and ill-informed comments. They are a disgrace. I believe I am owed an apology by the Hon. Michelle Lensink, who provided misinformation to this chamber, who lacked the courage and the fortitude, once she had realised her error, to come in and set the record straight. I would also call for an apology from the Hon. Rob Lucas, who, in an interjection, accused me of misleading parliament. I wonder if he will accuse his own member, the Hon. Michelle Lensink, of the same offence with such gusto.

The PRESIDENT: Business of the day, minister?

WOMEN'S INFORMATION SERVICE

The Hon. J.M.A. LENSINK (11:21): I seek leave to make a personal explanation.

The Hon. T.J. Stephens: Are you blind, are you? Can't you see she is on her feet?

The PRESIDENT: I can't see you on your feet, so you must be quiet.

Leave granted.

The Hon. J.M.A. LENSINK: In relation to a supplementary question that I asked, which was whether the shadow minister had been invited to the event, reason being because I thought that was appropriate and, through interjections, I revealed that I had not been invited. My understanding was that I had not because I have not received a written invitation, in spite of the fact that the minister believes that I have. My office did check the records. In fact, my trainee went through a very sizeable box of recycled paper that had over three months' worth of correspondence, including—

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —all the invitations and it certainly was not there. My trainee had received a phone call a couple of days before the event, after I had committed to being in Berri for the day, and I did also receive an email from the minister's—

The Hon. G.E. Gago: The 27th. On the 27th, she received the invitation and a follow-up phone call.

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: I received an email from the minister's office which, I think, was a media release from the event, at which I remember being slightly ticked off because I thought I would have been interested in it. So, clearly, I did not receive an invitation.

The Hon. G.E. Gago: Well, you did—two invitations.

The Hon. J.M.A. LENSINK: Well, I don't consider that a phone call to my office a couple of days before an event—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —constitutes a proper invitation. I also think—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —given that the Women's Information Service has had multipartisan support from all parties—

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —for 30 years—

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —it is inappropriate that the shadow minister was not invited.

The PRESIDENT: The Hon. Ms Lensink should not debate the issue.

The Hon. J.S.L. Dawkins: Well, the minister did.

The PRESIDENT: Order! The Hon. Mr Dawkins should put a sock in it. We are on business of the day. Minister, let's get on with it.

The Hon. T.A. Franks interjecting:

The Hon. G.E. Gago: So, the Greens also endorse misinformation being put in parliament. The Greens also endorse—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: Point of order: I don't know what the minister is on her feet talking about because there is no business—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: You haven't called any business on.

The PRESIDENT: Business of the day. The honourable minister.

LIVESTOCK (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:25): I move:

That the amendments be agreed to.

The House of Assembly has assented to the bill with some amendments and has rejected clause 30 as amended in this place, because fundamentally the government believes that the current arrangements where the government contracts to the RSPCA to undertake investigation and enforcement of the Animal Welfare Act, with the support of PIRSA for livestock matters under a memorandum of understanding, is a sound system that has stood the test of time over many years.

The government does not believe that the unwieldy legislative change that was proposed through the amendments of the Hon. Robert Brokenshire would improve this arrangement; in fact, we believe it would have an adverse effect. There is strong public support for the current system with the RSPCA as the primary body. Members would note that the RSPCA are publicly opposing the proposed amendment and refuting suggestions that they are unable to effectively police animal welfare issues in the livestock industries—and I also agree.

The vast majority of farmers look after their animals well and strongly support good animal welfare, but there are some who do not and, where there are allegations of cruelty, the RSPCA supported by PIRSA when needed investigates and deals with the matter as required. The RSPCA has reported that between May 2010 and 2012 (in a two-year period) they dealt with approximately 1,500 complaints relating to livestock. This is about 20 per cent of the total RSPCA workload. During this time there were 17 prosecutions relating to livestock, with only one being unsuccessful.

The RSPCA indicates that their primary approach is to educate and warn, and about three-quarters of these complaints resulted in verbal and written advice or letters of caution. The RSPCA indicates that they use prosecution only for the most serious cases of alleged cruelty and neglect. Any proposal to change the current livestock animal welfare system needs to be carefully considered, fully debated in public and ultimately supported by the community, not as it is currently being debated. The RSPCA were surprised, even shocked, that they were not consulted before the Hon. Mr Brokenshire made his proposal in parliament. As I said, this system has been operating well.

The RSPCA have always included livestock in their workload. PIRSA and its predecessor, the department of agriculture, and the police have always been called upon to assist especially in rural cases or where special expertise is required. Animal health field staff provide assistance to the RSPCA when requested under a memorandum of understanding, and this involves RSPCA, DENR and PIRSA. This assistance includes the provision of technical advice, autopsies, animal treatment, providing advice to livestock owners and assistance in prosecutions. I am advised that all Biosecurity SA animal health officers and veterinary officers have formal qualifications in agriculture and/or veterinary science. These courses include components on animal welfare, and sound animal welfare is conducive to sound animal health.

As a requirement for authorisation by the Minister for Sustainability, Environment and Conservation of the Animal Welfare Act, Biosecurity SA field staff receive instruction on the content and enforcement of that act, which complements the training they receive in enforcing the Livestock Act. Biosecurity SA field staff are required to consider the welfare of the livestock they deal with on a daily basis. They also participate in emergency duties involving the welfare of livestock affected by disease, accidents and natural disasters. This role also involves continuing training.

PIRSA animal health officers attend a majority of livestock markets to check compliance with the Livestock Act. Animal welfare issues that are witnessed are either handled by those officers in attendance, if minor, or referred to the RSPCA for investigation if it is a major issue, in which case PIRSA officers provide witness evidence. The RSPCA frequently requests PIRSA officers to investigate reports from country regions to establish authenticity of complaints. PIRSA officers are authorised under the Animal Welfare Act for this purpose, as well as assistance in natural disasters affecting livestock, truck rollovers and the like. I want to make reference to correspondence recently received from the RSPCA In that correspondence, the RSPCA states:

> Reflected in the Animal Welfare Act (1985) amendments of 2008 was the inclusion, amongst other things, of the introduction of Routine Inspection of the intensive livestock industry by RSPCA inspectors. Since that time, PIRSA and the RSPCA have worked collaboratively to ensure that my Inspectors achieve the required level of training to conduct routine inspections.

The RSPCA goes on to state:

> At all levels PIRSA and the RSPCA work closely on animal welfare and health issues on the farm and in sale yards.

The Deputy CEO of PIRSA, Don Plowman, meets regularly with the RSPCA to ensure that they collaborate at all levels, not just the inspector level, and it is in this way the livestock of SA are managed for production, biodiversity, biosecurity and also welfare. The RSPCA goes on to state:

> Where we tend to work alone is in the peri-urban/hobby farm environment where we act with regard to animals that are in lower numbers rather than large scale operations. If the RSPCA were to lose their powers of regulation over livestock, due to a change in the Livestock Act currently before parliament, this particular area of increasing risk would adversely impact on animals due to PIRSA's natural and dedicated focus on large scale farming. This is not a slight against PIRSA merely identifies how both agencies working as they do now can best serve the health and welfare issues of livestock...

There was a government amendment in the other house dealing with expiation, which I will explain briefly in this place. The house inserted a new government clause 30A, which has resulted from legal advice received after the introduction of the bill into parliament. This amendment will provide

legal clarity regarding enforcement activity under the Livestock Act being able to occur more than six months after the commission of an expiable offence.

The Expiation of Offences Act 1996 limits the period of time for which an expiation notice can be issued. This restricts the period in which proceedings or prosecution can be commenced, despite section 82 of the Livestock Act 1997 providing two years in which proceedings for prosecution can be commenced. Due to the nature of livestock industries, it is common for expiable offences not to be detected immediately; for example, sheep and cattle can often move directly from interstate properties to South Australian properties.

The livestock require correct ID and health status documentation. However, detection of an offence commonly occurs at a livestock market six or more months after the offence has actually occurred. Similarly, regulations require that the movement of sheep, cattle and goats must be recorded on a national livestock identification system database within two days in the case of cattle and seven days for sheep and goats. Failure to comply with these requirements is often not detected until subsequent movement of animals occurs, often six to 12 months later.

So accurate and timely recording of livestock movement is critical for livestock disease control, particularly when dealing with exotic diseases. This amendment is about which act has precedence. This amendment will not apply to all expiable offences under the act. A regulation will be required to prescribe those expiable offences to which the extension of the expiation and prosecution period will apply. Only those expiable offences that are regularly detected after a period of time has passed since the commission of the offence will be prescribed.

The Hon. J.S.L. DAWKINS: Before I speak to the amendments I want to raise a matter of process. I noticed that the motion from the minister was that the 'amendments' be agreed to. I seek some guidance from the chair, given that the opposition has supported amendment No. 2 in the lower house but obviously we will maintain our position on amendment No. 1 in saying that we insist that that remain. I seek your guidance in that area.

The CHAIR: I can put the amendments separately.

The Hon. J.S.L. DAWKINS: Thank you. Further to that I reiterate the fact that the opposition will maintain its position in relation to the deletion of clause 30, which is the one referred to in amendment No. 1, and we will be supporting amendment No. 2 in relation to the expiation notices.

The Hon. R.L. BROKENSHIRE: Given what the Hon. John Dawkins said, first, I place on the public record that we will also be supporting the amendment regarding expiation notices that the government brought into the house. When it comes to the amendment that I moved previously, I stand by that amendment. I want to take a few moments now to refute some of the arguments that the minister and the RSPCA have put.

First, I want to put on the public record, as I said earlier on in the council, that my focus is on animal welfare 140 per cent or 150 per cent—that is paramount—but my focus is also on government responsibility. My fight is not with the RSPCA at all, but the ball game is changing from how it was years ago. I am sure the Hon. Mark Parnell will probably have something to say on this debate because it is interesting to note that years ago he was strongly critical of the RSPCA. I have not been critical of the RSPCA to the extent that the Hon. Mark Parnell has been. He was critical because he did not believe that the RSPCA was focused enough on animal welfare with respect to agriculture.

Now, of course, there is a recognised change in the policy side of the RSPCA and the Greens and the Hon. Mark Parnell are happy because they are seeing an infiltration and partnership arrangements between Animals Australia and others that is putting more and more pressure and focus on agriculture. I can understand clearly why the Hon. Mark Parnell is now totally transparent in being in favour of the RSPCA.

There are a few points that I want to raise. First of all, the ball game has changed because we were debating issues to do with biosecurity, animal health and, clearly, animal welfare. As recently as this week, sadly, we have seen two reported cases of Hendra virus outbreak in Queensland again. Farmers and the industry are putting money into this one way or another, either directly or indirectly. We will see come into this house some sort of increase again to biosecurity fees, even though the minister has, at this stage, backpedalled on that, for which I have commended her.

Notwithstanding that, biosecurity is here and there is a national structure and a state structure. As the minister has already said in her remarks today, when serious issues around agricultural animal livestock arise, the RSPCA needs the support of PIRSA. PIRSA has the expertise when it comes to large animals. The RSPCA do fantastic work—I am not saying they don't—but their work primarily, in my opinion, should be focused on the tens of thousands of cats, dogs, small animals, wildlife and all the rest; that is where I believe their focus should be. Vets today are not qualified to specifically work in the area of large animals.

They do postgraduate studies for that, and even in veterinary surgeon practices across rural and regional South Australia and Australia they employ specialist vets even on sectors of the livestock industry because it is that specialised. The Chief Veterinarian of PIRSA and Chief Inspector of the inspectorate arm of PIRSA are highly qualified, highly experienced people who can easily and adequately—and have done for decades—train and look after the inspectors and those other people out there in the marketplace and other places right throughout the state on an ongoing basis.

I want to say, while it is fresh in my mind, that there has been some criticism that I did not go and consult with the RSPCA. The democratic process has allowed plenty of time for the RSPCA to consider the amendment. Daily in this house we receive bills and amendments with no consultation whatsoever, not even with members of parliament, let alone the broader community. We had an opportunity to move an amendment; it has been a rigorous debate, and it has been healthy to raise the issues around who should be responsible when it comes to animal welfare, but the government should not be able to be let off the hook all the time and walk away from its responsibility.

In Queensland, as I understand it, the RSPCA role covers exactly what I have been proposing, that is, companion animals, riding schools, pet shops and other types of animal use where the keeping of livestock is not the primary business. In Victoria in primary industries the commercial livestock issues are handled primarily by the DPI and the rest by Vic Police, RSPCA and councils, but the primary focus in Victoria is again from the DPI. In the Northern Territory all prosecutions are done by the Northern Territory Department of Public Prosecutions. There may be opportunities to discuss whether the prosecution section of this should come under PIRSA and the DPP. These are things we could be looking at.

In Western Australia, back in 2006, they actually set up a new general inspectors area to improve animal welfare compliance in the Western Australian government (and that was a Labor government back in 2006). To their credit they set up under the local government and regional development portfolio an inspectorate enforcing the Animal Welfare Act, with particular focus on livestock through that government agency. To summarise here, there are plenty of examples around Australia where the primary focus for animal welfare, inspectorate and prosecution is with the government and not with the RSPCA. It is a mixture—I acknowledge that—but there are other governments like the amendment I have put up in this place.

The minister says that the RSPCA worked with PIRSA and, yes, they do and it is important that they continue to. But, let us look at the inspectorate costs and recoveries: $660,000 has been provided by the state government to PIRSA over the last three years—a flat figure—and in real terms the RSPCA has gone backyards financially when it comes to government contribution, the reason being that this government has not been prepared to fund the RSPCA adequately to do their work.

If you want to look at the graph, whilst you have seen in real terms a net reduction in money from the state government to the RSPCA, you see a significant increase over the last three years in costs to inspectorate and prosecution. In fact, in 2008-09 it was around $1.8 million approximately, but by 2020-11 the RSPCA spent $2.5 million on inspectorate and prosecution work and only received $660,000 from the state government.

This charity has to fund a net deficit of $1.5 million. Kind-hearted people across South Australia donate to the RSPCA, and there are other donation opportunities which help the RSPCA to pay for what the government should be providing. Where is that deficit going to be in a few more years, and how is the RSPCA going to be able to sustain that? Is the community of South Australia going to be happy for the money that they provide for shelters and the like to go into prosecution and inspectorate work for livestock? I do not think that they are going to be happy.

A whistleblower associated with the RSPCA told me recently that a hot water service broke down at the shelter at Lonsdale. That hot water service provided two things: a hot-water facility for

the staff in their lunchroom area and a hot-water facility to be able to wash the animals' dishes. For eight weeks there was no hot water there. I have also been told that cats are sometimes fairly delicate regarding the types of food they like to eat, so a one-bag cat food does not fit all cats. I am told that things are so tight that officers working down there are having to buy specially prepared cat food for those cats that are sensitive to one type of food. They have to pay for that out of their wages. I do not blame the RSPCA for that.

Whilst the RSPCA has done well with a reserve, primarily through bequests, last year it had hundreds of thousands of dollars of deficit. I am not personally convinced that it is going to be able to turn that around. We live in a totally different world when it comes to the generosity of the community to bequest these days, and we live in a very tight economic environment, as we are going to see today. So, I had very sound reasons for moving this amendment.

I want to finish with just a couple of other things. First, I want to talk about prosecution and government. I am not aware of any prosecution that occurs outside a government department or agency, other than with the RSPCA. All other prosecution work has to come back through a government department or agency. I believe the government is irresponsible in not looking at managing this (as I have just highlighted), given that it has indicated it will not support the amendment.

In the pro forma that the RSPCA has put forward, where members of the RSPCA have been emailing members of parliament, one of the arguments is that PIRSA could not be responsible for managing the inspectorate—which they already do a lot of anyway, I might add—and the prosecution work for the livestock industry because there would be a huge conflict, and PIRSA would be more focused on economic development and agriculture growth and opportunity than the welfare of the animals. I totally refute that. I have worked with PIRSA all my life. People go into PIRSA because they are as passionate and committed about animal welfare and the love of animals and the growth of agriculture as are those people who work in the RSPCA.

The RSPCA admitted to me in a meeting that it was now starting to go down a line of more extreme support for some animal issues. The RSPCA does, when it suits it, joint press releases with extreme organisations, such as Animals Australia. The RSPCA is not extreme like Animals Australia, but it has told me that it is starting to go down that track more. If members do not believe me they should look on the website, where they will see a joint press release, with the Animals Australia logo on one side and the RSPCA logo on the other side.

The RSPCA has said that it is going to be more active in policy development, and that is an important area for the RSPCA; that is probably part of its primary role and focus. However, the RSPCA has said to me that it can put up what it describes as a firewall between all of that work it is doing and the relationships that it is building with even extreme groups at times (that is, Animals Australia) with respect to so-called animal welfare. They can put a firewall there so that when it comes to their inspectorate work and their prosecution work, no, that is totally separate. Yet they are telling us that PIRSA cannot do the same. I do not agree with that, because if the RSPCA can do it, then certainly PIRSA can do it.

I will just finish by referring to a few examples of where agencies do have this responsibility, because there are quite a lot where this happens. Firstly, PIRSA itself currently licenses and prosecutes mineral explorers. They license, they manage, they grow and they have the prosecution rights. The Office of Liquor and Gambling licenses gaming and licensed venues, also enforces breaches of their codes and also sends inspectorates around. The Department of Transport, Planning and Infrastructure licenses the transport industry, yet also investigates and certainly prosecutes truck and train drivers and their companies for breaches of the law.

A review of the prosecution landscape readily shows that the outsourcing of prosecution responsibility to a non-government agency and charity is the exception, not the rule. To say PIRSA would have a conflict of interest is to suggest that all government agencies have conflicts of interest with the bodies they license and regulate. I believe that this is a sound amendment and I am certainly committed to the amendment.

The Hon. M. PARNELL: I am not going to engage in debate with the Hon. Robert Brokenshire about the appropriate types of cat food that should be served at RSPCA animal shelters, because this issue before us is far more important than that. The Greens will be supporting the motion. We will be supporting both amendments, the amendment in relation to expiations and also the amendment that seeks to strike out the insertion of a clause by the Legislative Council into the bill which effectively changes the mission statement of the RSPCA. If

this amendment was allowed to stand, the RSPCA's letterhead would simply say 'All creatures small'. It is a longstanding mission statement from the RSPCA: it is 'All creatures great and small'.

The Greens opposed the amendment when it was first put forward because we believe that the current division of responsibility between the RSPCA and other agencies is preferable to effectively handing over all responsibility for the welfare of farm animals to Primary Industries. The advantage we have had since that amendment went through a month or so ago is that the RSPCA has now been given the opportunity to correct the record in relation to a lot of the misinformation that was put out when this issue was first debated.

The Hon. Robert Brokenshire points out today, as he did last time, that some five or so years ago I was very critical in this place of the RSPCA's track record in relation to the policing of animal welfare laws in respect of farm animals, and piggeries in particular. I do not resile for one minute from the approach that we took back then. In fact, I was joined in my calls by a large number of the rank-and-file members of the RSPCA who did believe at that time that the organisation was not paying sufficient attention to farm animals.

What members would be interested to know is that these prominent and longstanding members of the association, through the democratic processes of the RSPCA, have now managed in some ways to redirect the organisation back to its original mission statement, that is that all creatures great and small deserve our protection. I think the RSPCA has moved a great deal in the last five years or so, and I think it deserves our support to keep up this important work.

The Hon. Robert Brokenshire inserts into the mouths of these thousands of members the fact that they must be unhappy with the status quo. They are not unhappy with the status quo. They are glad that their organisation, with its 100 years plus history, is in fact responsible for protecting all creatures great and small. The longer the Hon. Robert Brokenshire went on, the clearer his agenda became. It is not an agenda that is in support of animal welfare It is in fact the entire opposite. As his language went on—we started off with 'the infiltration of the RSPCA by extremes'—

The Hon. R.L. Brokenshire interjecting:

The Hon. M. PARNELL: He used the word 'infiltration' and he used the word 'extreme'.

The Hon. R.L. Brokenshire interjecting:

The Hon. M. PARNELL: In both those sentences he referred to Animals Australia—

The Hon. R.L. Brokenshire: That's nonsense!

The Hon. M. PARNELL: —the 'radical', 'extreme' organisation Animals Australia, the people who brought to you the *Four Corners* program that disclosed to the Australian people what our animals were suffering in Indonesian abattoirs. Who put that stuff on *Four Corners*? Was it the Primary Industries department? No. Was it any of the state Primary Industries department? No. Was it the commonwealth officials? No. It was Animals Australia. Who was it? It was Lyn White, that former police officer from our state who made the shortlist for South Australian of the Year. The Hon. Robert Brokenshire should be ashamed of himself for maligning good South Australian citizens who are working hard for the protection of animal welfare.

The Hon. R.L. Brokenshire: What a load of rubbish that is!

The Hon. M. PARNELL: I think the Hon. Robert Brokenshire's agenda here is becoming very, very clear.

Members interjecting:

The Hon. M. PARNELL: The Hon. Robert Brokenshire is now trying to—I look forward to seeing the *Hansard* and whether those words, 'extreme', 'infiltration' and references to Animals Australia, are going to be removed from the *Hansard*. I bet they won't be because the honourable member said them.

He debunked this idea of 'regulator capture' by saying that government agencies all over the place are often in an apparently conflictual situation and they manage it pretty well. I beg to differ. I have spent over 20 years working in this sector and I am not saying that 'regulator capture' is some sinister, deliberate plot; it is in fact a function of the fact that when an agency is responsible for both promoting and regulating an activity it is very difficult for those officers to get the balance right.

This is why the Hon. Robert Brokenshire talks about our mining authorities. I can remember one of the first public hearings I went to 20 years ago in South Australia was in relation to the mining department where there was clear evidence of breach of the mining laws. The chamber of mines (or whatever its predecessor was), rather than agreeing that their members had broken the law, said the law must be wrong and promptly got the Department of Primary Industries (the mining department back then) to get the law changed. There is a problem with agencies responsible for both advocating and supporting industry and having to police it as well.

I am glad that we have had this opportunity to come back and revisit this amendment. It was ill-considered and was not properly consulted on last time. We have now had the chance for more information to be put on the record and I think we should allow the RSPCA to, on behalf of us, continue their good work and I have every confidence that under the current leadership and with some of the changes that have been made over the last five years or so they will do that job well and do us proud. I will be supporting these amendments.

The Hon. A. BRESSINGTON: I rise to indicate that I will be supporting the Hon. Rob Brokenshire's amendment and the government amendment. As a point of interest, I have been to a number of farms over the last six months and I cannot see the logic that is being expressed over and over again that somehow farmers benefit from neglecting their animals or not taking the best possible care of the animals that are there—yes, primarily to make them money—but if those animals are in poor condition and are not being cared for well, the farmer at the end of the day loses out.

I have not seen a farmer yet who does not hold those animals in the highest regard. I know the whole big thing about the piggeries that was all over *Today Tonight,* and the chickens and all the rest of it, but they are the minority within the farming community and the agricultural community. To have these accusations made (in this place especially) that somehow farmers are not only environmental terrorists but also are uncaring of their animals—that is the disgrace. These are our primary food producers. They feed us and they have absolutely nothing to gain by being cruel or neglecting animals that they pay good money for and that they breed in order to be able to achieve that. The Hon. Mark Parnell should be absolutely ashamed of himself for making those sorts of slighted accusations against the farming community.

An honourable member interjecting:

The Hon. A. BRESSINGTON: What his agenda is? The Hon. Robert Brokenshire is a farmer, and it is clear what his agenda is. Secondly, I have heard from top QCs in this state who are complaining about exactly what the Hon. Robert Brokenshire spoke about—the infiltration of extremist organisations not only through the RSPCA but via the Law Society as well. They are not proper lawyers; they are undergraduates, or whatever the term is. I have also heard that there are people leaving the Law Society in droves because of this.

So, to use the word 'infiltration' of organisations is not so far-fetched. We can make out it is yet another conspiracy theory if we like, but the truth is that the Green extreme is here and people are not appreciating it. The general community out there are not accepting it anymore either. In relation to the Hon. Robert Brokenshire's amendment, farmers take a great deal of care with their animals. In the general population, there are a few people who neglect their animals, and it is the same with the farming community. There are a few who it gets on top of, and we saw the mayor down south with the sheep farm who was not able to keep up with the workload or the responsibilities.

Let us keep it in perspective. It is the minority. The RSPCA are not coping, and the other day on FIVEaa we heard someone who had started up his own animal shelter because the RSPCA is not out there in the country looking after injured animals, abandoned animals, kangaroos, wombats—all those animals that they were initially there to protect, to rescue and to nurse back to health. That part of their job is not getting done, and that is coming from people in rural South Australia as well.

Why would we want people donating to the RSPCA for animal rescue, animal husbandry or whatever? Why would they donate that money knowing that injured, neglected and abandoned animals are not getting the attention from the RSPCA they require? Why do we have so many other people out there now setting up animal shelters and rescues that are not being funded or assisted by government, if the RSPCA is coping well?

I know at least two people who have started up their own animal shelter because the RSPCA could not respond. It is no slight against the RSPCA. The fact is the workload is huge. But

that was their focus; that should be their focus. Leave the farms to the farmers and let them deal with their animals; if there is any sign of neglect or cruelty, I am sure that the inspectors pick that up at the saleyards and take the appropriate action.

The Hon. M. Parnell: Unless they die before they get there.

The Hon. A. BRESSINGTON: And cats and dogs do not die because the RSPCA cannot get to them, Mark. Kangaroos and koalas are not dying because the RSPCA is not able to rescue them. That is happening every day, that is a reality, and that is being reported to me. It is not just about farmers.

Animals die—that is a fact of life, things happen, but now to focus on farmers as not only environmental vandals and terrorists and say that now they are cruel to their animals, all in this clean green agenda we have running that 80 per cent of Australians abhor, I ask members to take a long hard look at that attitude we are showing in this place towards our primary food producers and farmers and to realign just a little.

The Hon. G.E. GAGO: Very briefly, I urge members that reason prevail in this debate. The current arrangements involve a partnership between the RSPCA and PIRSA. They work together in a collaborative way to ensure that the welfare and health of our livestock is managed well. The issue that we are debating today is the best model for those services to be applied. The current arrangements work really well. There are very few complaints about the current partnership between PIRSA and RSPCA—very few complaints from animal welfare people and very few complaints from the livestock industry. Generally speaking—I mean, there are examples from time to time—there are very few complaints.

The sectors are reasonably satisfied with what the current arrangements are. The RSPCA is well regarded and receives a high degree of public support. They are confident that they can continue to do what they do well, and PIRSA and the RSPCA clearly work together, as I have said. They have done so for many years, and this model allows them to continue in that working partnership.

The issues around welfare continue to increase in the minds of the general public. The general public are more sensitive to animal welfare issues, increasingly more sensitive, and they are better informed about animal welfare issues. Public expectation around animal welfare standards is always under scrutiny and pressure. That trend is not going to change in the foreseeable future.

I think it is critical, as minister for primary industries, and I think this is a particularly good model, having the RSPCA there that has a particular at-arms-length and degree of independence to it in collaboration with PIRSA gives a great deal of assurance and credibility to our livestock industry, and that is to the benefit of farmers and primary industry operators.

I think this is a good model. It has proven to be a good model; it continues to be a good model. Issues around funding levels is a different issue again. Are the current funds enough money to do what they should or could be doing? That is a separate issue. The amendments before us do not go to funding; it is a separate issue. We can argue about that, but this is actually not changing the funds available in any way, shape or form. We need to be clear: they, to me, are what the core issues are before us.

The Hon. R.L. BROKENSHIRE: I have a question based on the response of the minister. Is the minister and the minister's government intending to put more money into supporting inspectorate and prosecution work with the RSPCA, given that they are at least up to $1.5 million per annum deficit funding and getting that money from charities, or is the minister and the minister's government happy for donations and charities to find that $1.5 million so that the RSPCA can continue to do their inspectorate and prosecution work?

The Hon. G.E. GAGO: The government has been comfortable with the current arrangements. Any changes to funding arrangements, as the honourable member well knows, need to go through appropriate budgetary processes.

The Hon. M. PARNELL: Just a very quick comment, especially in light of the comments of the Hon. Ann Bressington and also the Hon. Rob Brokenshire (I have responded to him), but this debate is all of sudden being twisted into whether or not this is an attack on farmers and whether or not the Greens or anyone else are somehow attacking farmers. This is something that I completely refute, certainly on behalf of the Greens. It is not true that this measure is in any way an attack on farmers. Even in the subtext of all of this there is no suggestion that farmers are out there

deliberately mistreating and being cruel to animals. That is completely irrelevant to the matter before us.

The motion before us is in relation to who should have primary responsibility for the enforcement of animal welfare laws that are part of the statutes of South Australia. In relation to the argument that, if we were to allow the status quo to remain, somehow that would be an attack on farmers, the only way that that would logically flow is if the proposition being put forward is that farmers are unfairly and unreasonably being targeted for their treatment of animals and that they need some relief by having a different agency (namely, the government) step in and take over, presumably so that they would not enforce animal welfare laws. That is the leap of logic that is required if the Hon. Ann Bressington's supposition is to have any validity at all.

Let's get back to what we are talking about here, and that is the appropriate regulatory authorities. This is not an attack on farmers. In fact, I would think that most farmers who care for their animals and treat their animals well would support laws that weed out those small number of people who do the wrong thing. The situation we have at the moment is that the RSPCA has that responsibility; where big cases are involved, it can call in assistance. We also have the situation where I think all South Australian police officers are also authorised officers under the animal welfare laws. There is a range of other players in this. But let's not pretend that by allowing the RSPCA to continue its work we are somehow attacking farmers. It is not a logical consequence of the amendment before us.

The Hon. J.A. DARLEY: Having listened to the debate, I indicate that I will be supporting both amendments.

The committee divided on the question that Amendment No. 1 be agreed to:

AYES (10)

Darley, J.A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Hunter, I.K.	Kandelaars, G.A.
Parnell, M.	Vincent, K.L.	Wortley, R.P.
Zollo, C.		

NOES (9)

Bressington, A.	Brokenshire, R.L. (teller)	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Stephens, T.J.

Majority of 1 for the ayes.

Amendment thus agreed to; motion carried.

MENTAL HEALTH (INPATIENT) AMENDMENT BILL

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: The minister responsible, I understand, has agreed that we will try to soldier on. There has been a number of amendments to this bill, some of which were this week which makes them difficult to proceed with, particularly in our situation. The Liberal Party has a process that means these need to be considered on a Monday of a sitting week, so we will not be ready to deal with those. However, I have some questions which relate to some of the amendments and I would appreciate the opportunity to give the minister a chance to come back with some responses, as well.

In particular, in relation to the ECT provisions, to which the Hon. Ann Bressington has some amendments, my first question is about the circumstances in which ECT would be used for minors and whether that is, indeed, only in life-threatening situations. We would appreciate some comments from the minister in that regard.

The Hon. R.P. WORTLEY: We will be discussing the Hon. Ann Bressington's amendments in detail.

The Hon. J.M.A. LENSINK: So you just want me to put these on the record?

The Hon. R.P. WORTLEY: Yes, just put them on the record and we will address them.

The Hon. J.M.A. LENSINK: In relation to the context of what those life threatening situations would be, the opposition has considerable sympathy for the amendments put forward by the Hon. Ann Bressington. We think that the provision for minors, particularly against the will of their parents, should only be used as an absolute last resort.

In relation to ECT provisions generally for minors, whether two opinions are required or how the approval for treatment given, my third question is: how many times ECT has been used on minors under the age of 16 years. I understand the government keeps some sort of data on that, so if we could be provided with that, that would be appreciated.

In relation to the Hon. Tammy Franks' amendments, I suspect that when she moves those the government will make considerable comments. The Hon. Rob Brokenshire has some amendments relating to the community visitors scheme, which is something proudly the Liberal Party had inserted into the Mental Health Act in 2009. I understand that his amendment seeks to shift the community visitors scheme from the Mental Health Act to the Guardianship Act, I think.

To clarify and provide some information on that, we would appreciate having an update on the community visitors scheme. I understand that Mr Maurice Corcoran, who has been a very fine advocate in the disability field; and, from memory, when I worked for the minister for disability services, he was an advocate for community visitor schemes generally. I am pleased to see that he has been appointed as the coordinator.

I would appreciate an update on how the scheme is going, how many volunteers have been appointed, whether there are any reports available from the establishment, albeit some time after the act was proclaimed and passed. How many visits have taken place, does it cover all our institutions at this stage and what funding is available for that scheme? That will assist us in reaching a position. I think they are the only questions I have at this stage.

The Hon. R.P. WORTLEY: I thank the honourable member for giving us the opportunity of answering these questions. Before you solidify your support or lock in behind the amendment, we will give you some information, because a number bodies are opposed to that amendment. We will talk to you about that in order to get some understanding on it.

Clause passed.

Clauses 2 and 3 passed.

Progress reported; committee to sit again.

TAFE SA BILL

Adjourned debate on second reading.

(Continued from 17 May 2012.)

The Hon. K.L. VINCENT (12:26): First, I would like to thank the Minister for Employment, Higher Education and Skills (the Hon. Tom Kenyon MP) and the Australian Education Union for taking the time to meet with me and discuss this bill. I wish to place on the record my deep reservations with regard to not so much this bill but the broader range of reforms being contemplated for TAFE SA and Vocational Education and Training (VET).

The Skills for All set of reforms that the government wishes to pursue is in many respects similar to the reforms undertaken in recent years in Victoria, reforms which have proven to be a disaster in that state. This reform, I realise, is driven by the federal government, and the state government finds itself in something of a bind, rushing to make reforms that it realises are likely to be problematic in order to access federal money that the VET sector desperately needs.

In Victoria, the opening up of the VET sector to private providers had very serious and significant negative consequences. TAFEs found themselves overstretched and underfunded, required to offer higher cost courses, expensive student support services and regional campuses. These expenses were not shared by TAFE's private-sector competitors and, as such, significant financial burdens were placed upon TAFEs, and many providers found themselves under financial strain, in some cases facing insolvency.

In recent weeks I have observed with great sadness that the last remaining diploma course in Australian Sign Language (Auslan) in Victoria was cancelled at TAFE's Kangan Institute in a

dispute over funding. The course is an important qualification required by those hoping to become Auslan translators for the deaf and hearing-impaired. Given that there is a serious shortage of Auslan interpreters in Victoria, as there is here in South Australia, the loss of the course has been a huge blow to Victoria's deaf community.

While I have been reassured that the government has learned from the apparent mistakes made in Victoria's VET reforms, I still hold grave concerns about the future of TAFE SA and VET in this state. I am concerned about its ability to continue to offer the high standard of education that we currently enjoy and to deliver important courses, such as the diploma level Auslan qualification. I am also concerned about the quality of training and the level of support services that will be available to students of private providers.

My concerns about the reforms are, of course, numerous, and I could speak about them at some length; however, I recognise that they relate more to the Skills for All reforms than to this bill in particular. I would be very keen to see the government proceed with these reforms in a slower, more careful fashion.

Having seen similar reforms result in a complete disaster in Victoria, I feel that an approach that is less hasty and more cautious would be prudent, to say the least. While I realise that the issue of federal funding places additional pressure on the government, one would hope that this pressure would not result in reforms with such serious and wide-ranging consequences being undertaken with undue haste and without sufficient care.

The Hon. R.I. LUCAS (12:30): I rise on behalf of the Liberal Party to support the second reading of the TAFE SA Bill. In doing so, I acknowledge that we will treat the debate as a cognate debate. Parliament is being asked to consider today not only this bill (which is Order of the Day No. 9) but also the Statutes Amendment and Repeal (TAFE SA Consequential Provisions) Bill (which is Order of the Day No. 10). My comments are addressed to the first of the two bills, the TAFE SA Bill.

I indicate that from our viewpoint we will treat the debate as a cognate debate and will not make a significant second reading contribution to the subsequent bill when we debate it. I do note, however, that the amendments the Liberal Party is moving as part of this cognate debate are not actually to this bill but are necessarily applied to the second or subsequent bill, so there will be, clearly, the need for a committee stage of the second bill.

With those introductory comments, I indicate, as I said, that the Liberal Party is supporting the second reading. I acknowledge that the shadow minister in another place, the member for Unley, has outlined in comprehensive detail the Liberal Party's position, a range of questions and views on the clauses, as well as the purpose and background of the legislation, and I do not intend to repeat all those for the record in the Legislative Council.

The first thing I want to do, however, is indicate that the member for Unley did get a commitment from minister Kenyon in another place to take on notice and answer a whole series of questions. In the last 48 hours, my office has been chasing the member for Unley to ask him to provide us with the answers that minister Kenyon provided to him, or undertook to provide to him, when this bill was being debated much earlier this month. The debate commenced on 3 May and then continued through until 16 May.

I was surprised when the member for Unley's office indicated that, contrary to the commitment given by minister Kenyon, no answers had been provided to the questions which had been placed on notice and which the minister had agreed to take on notice and provide an answer to the member for Unley. What I want to do at the outset of my contribution is to repeat the questions the minister took on notice and ask the minister to provide copies of those answers.

I am sure that the hardworking members of the department would have prepared the answers, and I am at a loss to understand why they have not been provided. Clearly, given the minister's commitment to give them, we are not in a position to want to proceed until we actually receive the answers that were promised some weeks ago now. The first series of questions was in response to questions from the member for Unley who asked:

> What is the level of debt that TAFE SA will be carrying? Perhaps you could also explain for the last five years what the cumulative deficits have been for TAFE and how they will be dealt with either before TAFE is transferred to the corporation or later, and how future deficits may be dealt with?

The minister said:

We do not have a level of debt figure for you at the moment but I will get that for you. The financial deficit in the last financial year was approximately $6 million which is around 2 per cent of its budget.

There was a series of questions that the member for Unley raised to which we have not yet received answers from the minister. I do note that in that section of the debate the minister outlined:

My intention is for TAFE to move at the very least to a break-even position of very small, slight surpluses which would give us a little bit of a buffer.

My question is—and this was not asked by the member for Unley: Can the minister outline what will be the dividend policy that Treasury will require of TAFE SA should, at some stage in the future, it make profits on its operations as the minister has outlined he believes will happen in the reasonably short term; or will the agency not be required to either repay capital or pay a dividend, or any sort of additional financial return based on its profitability, back to Treasury? Will it be able to keep 100 per cent of its profits irrespective of the level of the profitability of the agency?

I am not sure that in my reading of this in the last 24 hours I have picked up all the questions that the minister took on notice, but I am sure that the departmental officers will have noted all the undertakings that the minister gave and will have the answers available. The member for Unley asked the minister whether he could bring back to the parliament—'I don't expect him to have the answer here and now'—a list of the 80 or so surplus employees who are with the department at the moment, their job titles and their salaries. The minister said, 'Yes, we are able to provide that and I will get that to you.' Again the minister has not done that.

The next answer was in response to a series of questions that the member for Unley asked about HECS deferral. I will not read all his questions, they are available on the *Hansard*. The minister's response was:

My understanding on that question is that the arrangements for this are administered by the federal government and that they apply equally to TAFE and private providers. Again I will check that and make sure that that information is correct.

Again I am advised that the minister has not provided that assurance or clarification. Then there was a question from the member for Goyder in relation to insurance obligations for the new TAFE SA structure:

Will they be covered as part of some self-insurance that the government currently has or will they need to go out to the marketplace to ensure that they have professional indemnity and public liability in their own operations so that that becomes part of their cost of operations?

The minister said:

Perhaps we can take that on notice and get a detailed response to you on that one just to make sure that we have covered off every area. It may be that those liabilities are split between the department and TAFE but I will get you a full answer.

I must indicate that I have not spoken to the member for Goyder but I assume that if the member for Unley and the shadow minister have not received answers to their questions that it is probably unlikely that the member for Goyder has received answers to the questions he put and the minister undertook to provide answers to. The next issue was raised by the member for Unley:

Just for those who might be following this debate on *Hansard*, what are the obligations now on TAFE to ensure that their overseas students are complying with these requirements?

The minister said:

I am not able to provide that detail now but I will get back to you with that information. Some issues are around change of address and stuff like that but it is best that I get back to you with a fuller answer.

Again I am advised that the minister has not provided the fuller answer in relation to those important issues.

I think they are the major issues which were raised by the member for Unley and the member for Goyder, to which the minister promised replies which have not been received. So, as I said, if I could ask for the minister handling the bill in this place to ensure that those replies are received, so that they can be assessed. We can discuss those with the shadow minister and then decide whether or not we are going to proceed with any amendments, as a result of any of the information or answers that the minister has promised to provide.

I want to raise now some other issues that have not been fully explored in the comprehensive House of Assembly debate. One of the issues I wanted to seek answers from the

government on is the budget treatment of the new agency, vis-a-vis the current budget treatment for DFEEST.

In broad terms, as I would understand the position, DFEEST currently is what I would call a normal or usual government department or agency and is included in what is called the general government sector for budget purposes. Therefore, its surplus or its deficit is an impact on what is called the net operating balance, which is produced by Treasury in the Budget Papers which we will see later today. We understand that we are likely to be seeing net operating deficits of up to $800 million a year for the next couple of years, but that calculation is done on a budget sector defined as the general government sector.

My understanding of what is occurring, that I asked for clarification and confirmation on, is that I suspect TAFE SA has been taken out of the general government sector and is probably going to be a public non-financial corporation, or a PNFC, in budget terms. If that is the case, it takes the financial accounts of TAFE SA out of the general government sector and puts it into the PNFC sector, which will mean there will be a budget impact in terms of budget aggregates, such as the net operating balance, and a range of other budget aggregate figures as well.

What I am seeking is a detailed response from the minister, which will necessarily require—but I am sure it would have already happened. We would not get this far without Treasury having looked at what the impact of this particular government decision will be on the budget accounts from next year.

It goes back to some of the questions that were raised by the member for Unley in relation to who is going to take on the debt figures and/or deficit figures of DFEEST at the moment. I am assuming, having read the debate, that it is more likely that DFEEST may well be keeping those particular debts and deficits, but it is not clear.

In some parts of the debate, the minister says, when he talks about the number of TVSPs or job reductions, that they are and will be divided between DFEEST and TAFE SA. I must just clarify that I am assuming that the new part of the agency which is not TAFE SA will still be called DFEEST. I am not entirely sure that that is the case but, anyway, for the purposes of my contribution, I will refer to it as the remnants of DFEEST.

The minister made it clear in his contribution that the TVSPs or the job reductions will be divided between the new TAFE SA and the remnants of DFEEST. So, it is possible, I guess, that debt figures and others like that might also be reallocated between the two agencies. I am particularly interested in this to see what the impact of such a move will be on a budget aggregate such as the net operating balance. That necessarily, as I said, will require Treasury input which would have already been conducted, given we are so far down the track in this debate.

In looking at the government's proposed structure, in essence in almost floating off TAFE SA as a competitive provider of technical and further education services, I note the relatively recent experience of TransAdelaide where it was the provider of public transport services. Many years ago the former government (continued by the current government) introduced competition into that section of the market. TransAdelaide was then set up supposedly able to compete with the other providers.

There are all these similar questions that are being asked now about the relative position of the public provider TAFE SA and the private training providers. They were all being asked at that time about TransAdelaide versus the private providers. We note that in that space TransAdelaide has either disappeared or virtually disappeared from the marketplace.

That certainly was not what was envisaged at the time. It certainly was not what was publicly announced at the time. I note that the minister is saying publicly that that is not going to happen with TAFE SA either; it will continue to be a strong and competitive presence in this area. As I said, I make a cautionary note that similar undertakings were made in relation to the TransAdelaide agency as well which went through very similar competitive market arrangements.

The next issue I want to raise is that the minister highlights that TAFE SA—and I am not sure on exactly what measure—has about 80 per cent of the market. That is the percentage figure he has referred to, so it is still the dominant provider at the moment. However, if the Hon. Ms Vincent and others are right, they have observed that TAFE SA could gradually and slowly decline, as has occurred in some other jurisdictions. My question to the minister is then: what is the position of TAFE SA in relation to compulsory redundancies?

As you know, in the general government sector—and it may even be broader than that and I seek clarification—there are currently arrangements where there is virtually no forced redundancy other than in very limited circumstances within the public sector; that is part of enterprise bargaining arrangements that have existed for many years under Liberal and Labor governments. While the legislation in the public sector envisages forced redundancies in a wide variety of circumstances, enterprise agreements have meant that those legislative options have not been taken up.

I note that the government has announced that after the election all bets are off and that forced redundancy will be an option for the future should it be re-elected. My question to the minister is: given there will now be a competitive market and given that TAFE SA will be competing—and he is clearly not in a position to give any guarantee that TAFE SA will continue to maintain 80 per cent of the market share—if that was to decline, how does TAFE SA manage its staffing and employment expenses if it does not have the option of forced redundancies?

Let us say that TAFE SA, in competing for work, does not maintain an 80 per cent market share and it drops back to a still dominant 50 per cent and loses 30 per cent market share over the coming years. Clearly, TAFE SA and its board would then be saying, 'We can't keep the same number of staff that was required for an 80 per cent market share. We must get rid of an equivalent to the cost base that measures a 50 per cent market share.'

If the board, the CEO and TAFE SA, in this competitive marketplace the Labor government has now signed up to, find themselves in that position, and there are no options of forced redundancy, what then happens? The only thing that can happen then is that TAFE SA would have to continue to maintain surplus employees at significant expense to its budget, and that can mean only two things. It either runs massive deficits and, if it does do that, my question to the minister is: who finally controls the level of deficit that TAFE SA can run?

Let us say TAFE SA says, 'Well, we're going to run a $10 million deficit this year, because we're hoping that in two years' time we'll be able to turn it back into profit.' My question is: who actually finally approves the level of deficit that TAFE SA signs off on? Does the minister Kenyon equivalent (whatever that is to be called in the future) have to approve and authorise the TAFE SA budget for next year? Is it the Treasurer? Does he or she have to sign off on that? Is it both, or does neither minister have any role in approving and authorising the budget? I am seeking some specific responses to those questions as to whether a board or CEO decision to run deficits of some magnitude for a year require approval by someone other than themselves.

The bottom line, then, is that they either run the deficits and someone then has to pick them up or, if they are not entitled to run the deficits, they then, I assume, have the authority to increase massively the fees and charges imposed on the remaining courses of the 50 per cent market share they have because, if they are going to run a $10 million deficit and they are told they are not allowed to run that deficit, they would have to massively increase, in the 50 per cent market share they still have, the fees and charges. The reality is that, if you have a massive increase, you may well lose even more market share, and that will be the commercial judgement they will need to make.

My question again is: does TAFE SA independently have complete authority over the level of fees and charges it imposes to help it balance its budget? If it does not, does that have to be approved by the minister Kenyon equivalent and/or the Treasurer in the future? Again, I seek a detailed response from the minister in relation to that.

In relation to TAFE SA, as it moves through, let us say, in the first instance, voluntary redundancies, will the up-front costs of voluntary redundancies be subsidised by way of loan or other arrangement from Treasury to TAFE SA to help it fund the up-front costs of voluntary redundancies? It will be the same question, of course, but magnified if they are forced redundancies. But in the first instance, as we are moving through the voluntary redundancies, will Treasury either loan or provide an appropriation to TAFE SA to fund the up-front costs of the voluntary redundancies?

On 3 May, in the member for Unley's contribution, he went through a long discussion about VET FEE-HELP, HECS-style schemes, etc. Again, I will not read all his contribution; the departmental officers will be well aware of it. He went on to conclude:

> I am not aware of whether it was concluded as to whether the state or federal governments would carry the financial burden of any dishonoured debts with regard to the scheme. Again, perhaps the minister might be able to

clarify that either in his response, his closing summary to the second reading speech or, alternatively, through the committee stage.

On my reading, I could not find a response from the minister at any stage of the debate and again I seek a response from the minister to the detailed questions of the member for Unley. During debate in another place the minister and the member for Unley entered into a long discussion about the enterprise bargaining arrangements, and the minister said:

> We are not putting employment conditions into the bill that are not already in the relevant bills that exist at the moment.

He went on to say:

> Largely, the terms and conditions in the current acts have been superseded but it was not my intention to come in here and just delete all of those without significant consultation.

I am wondering whether the minister is in a position to provide some greater detail as to, if that is the case, why he has, as the minister, included what he says are superseded provisions within the legislation. He says he was not prepared to do that without consultation, but my understanding is that there has been a long period of consultation in relation to this with the AEU and other stakeholders.

I wonder whether the minister is in a position to provide some greater explanation as to why he is bringing in legislation with what he says are superseded provisions but, nevertheless, we are being asked to support legislation with superseded provisions within them. There was a series of discussions about reasonable access for third-party providers. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 12:59 to 14:17]

CRIMINAL LAW (SENTENCING) (MANDATORY IMPRISONMENT OF CHILD SEX OFFENDERS) AMENDMENT BILL

The Hon. A. BRESSINGTON: Presented a petition signed by 1,725 residents of South Australia requesting the council to support the Criminal Law (Sentencing) (Mandatory Imprisonment of Child Sex Offenders) Amendment Bill 2010.

JAYDEN'S LAW

The Hon. R.L. BROKENSHIRE: Presented a petition signed by seven residents of South Australia requesting the council to—

1. Support an initiative called Jayden's Law to give mothers and fathers of these much wanted and loved babies the right to obtain a birth certificate for a child who is delivered as a live baby would be, but the delivery has occurred between 12 to 20 weeks' gestation;

2. Ensure that no financial benefit shall arise from the use of that right, nor should the right arise in terminations; and

3. Give parents who love and treasure their babies from conception this right as a means to recognise the child's birth, respect parents' beliefs and bring closure and healing to the family.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (REGISTRATION OF STILL-BIRTHS) AMENDMENT BILL

The Hon. T.A. FRANKS: Presented a petition signed by 1,406 residents of South Australia requesting the council not to pass the Births, Deaths and Marriages Registration (Registration of Still-births) Amendment Bill.

QUESTION TIME

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Tourism about yet another embarrassing bungle in tourism.

Leave granted.

The Hon. R.L. Brokenshire: A riveting question.

The Hon. D.W. RIDGWAY: You should pay attention, please, Hon. Rob Brokenshire. Last year, in a major bungle, with the minister's advanced knowledge, the South Australian visitor information centre moved from its prominent location in King William Street to a hidden basement well off the beaten tourist track. People can't find the centre; that is almost everybody, including the minister, but they might use a free app on their iPhone, which they can download from the minister's ever helpful South Australian Tourism Commission. The app offers a 60-minute scenic tour, hosted by a suave, sophisticated voice called Annabel.

'Let me show you our fair city' croons the voice soothingly, 'as only a local can.' So, Annabel takes us for a tour of the city, as only a local can. First, in the app she directs us to the Adelaide Oval, where the app says we can see the Sir Donald Bradman Stand and the Victor Richardson and Clarrie Grimmett Gates, and of course we know the Victor Richardson and Clarrie Grimmett Gates have been demolished for over two months. In fact, the minister's horse is closing the gate long after the tourists have bolted.

So, after getting lost at the Adelaide Oval, let us say the tourist tries to find the visitor information centre with the app. Where does it take us? To King William Street, to the office that closed last year. It says that there is a taxi rank right outside the door—well, not in Grenfell Street there isn't. We have an app for information that cannot apply itself to finding even the simplest thing, the visitor information centre. My questions to the minister are:

1. Did the minister hear anything or listen to anything when she was at the South Australian Tourism Industry Council's e-Tourism Convention yesterday?

2. Does she have the remotest idea how important apps and e-commerce are or how they work?

3. Has she ever used the SATC app and, if so, will she please tell Annabel that the gates have gone and so has the information centre?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:21): Again we see the ongoing carping, whining, whingeing and negativity. Indeed, the honourable member has pointed to an app where things change quickly. It is very difficult to keep information up to date, but attempts are put in place to do that and update the app. What we see here, as I said, is an opposition whingeing, whining, carping, moaning, bagging and putting down the state and, of course, putting down our tourism operators, never giving any acknowledgement to the incredibly good work that they do.

It is interesting because, at the location of our visitor information centre, which is currently under review, tourism businesses have run—in that very same location—for a decade or more in one form or another in a commercial way. So, it is obviously a location that people can find because, as I said, successful tourism businesses have operated from that location for a decade or more in one form or other. So it is just ludicrous to suggest that people cannot find it. In fact, a tourism business continues to operate from there. As I said—

The Hon. D.W. Ridgway: Your backbench is embarrassed that you are the minister in charge of this.

The PRESIDENT: Order!

The Hon. G.E. GAGO: —what the honourable member should be doing is drawing attention to the achievements of our tourism industry and singing accolades for our great achievements. As I have said in this place before, South Australia attracted almost $5 million—just under $5 million—in domestic overnight visitors, which was an increase of 8 per cent for the year ending December 2010. I am advised that this is the highest year-to-year growth in visitor numbers for 11 years, the second highest growth in all states and territories, and twice that of the national average. So, clearly we are doing it right with statistics like that—twice the growth of the national average.

Our market share rose from 6.8 per cent to 7.1 per cent, driven by very strong growth from both intrastate and interstate visitation. SA recorded growth in all purposes for visits: business visits were up 14.8 per cent; friends and relatives, up 8.7 per cent; holidays up, 3.3 per cent. All of this

growth is higher than the national average. So we cannot be getting it too wrong if we can achieve growth like that. We can't be going too wrong.

In the 12 months ending December 2011, SA's share of the domestic visitor nights in Australia was 7.1 per cent, up from 6.5 per cent in the previous year, and there were 10.9 million day trips in South Australia in 2011, an increase of 7.4. National day trips increased 3.4 compared to our 7.4 so, again, strong growth for South Australia; strong growth. We can't be getting it too wrong if we can exceed national growth on all those levels.

But do we see the opposition give any acknowledgement for those achievements? Do we see the opposition at all acknowledge the hard work of our tourism operators, often mum-and-dad operations that spend their lives beavering away in these businesses? Do we see the opposition giving any acknowledgement to the hard work and dedication and achievement of these operators?

No; rather they will trawl through acts and when there is a small inconsistency that is what we see them carp and harp on about. Again, we see the opposition putting down this state, talking us down, trying to rattle business confidence and trying to undermine public confidence. I think it is an irresponsible opposition.

LOCAL GOVERNMENT

The Hon. S.G. WADE (14:26): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question in relation to local government.

Leave granted.

The Hon. S.G. WADE: On 23 March 2012, the Office for State/Local Government Relations and the Local Government Association of South Australia released a discussion paper called 'Local government in South Australia: improving governance'. The foreword, jointly signed by the minister and Mayor Kim McHugh, president of the association, states:

> The State Government and the Local Government Association are committed to working together on governance issues and further reforms to the local government legislative framework.

Later in the foreword the minister states that:

> Importantly, it is framed within the context of the Government's proposed public integrity and anti-corruption framework. These reforms will have significant implications for the local government sector and for the local government legislative framework.

In conclusion the minister states:

> We look forward to receiving your comments on the issues and questions in this paper or other relevant suggestions to strengthen the governance and legislative framework for local government in South Australia.

In April 2012 the government agreed to an extension of the time frame for response to 31 May 2012, due to councils' concerns that more time was needed to respond to the discussion paper. The government tabled the ICAC Bill in the House of Assembly on 2 May and it was received in this chamber yesterday, 30 May. I repeat: the time frame for responses to the discussion paper is today. My question is: why did the minister agree to the extension in time for feedback on the discussion paper if he was serious about wanting local government input into the public integrity and anti-corruption framework?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:28): This bill contains issues in regard to local government. One in particular is the mandatory code of conduct. There are other issues regarding sanctions. With the code of conduct, the councils will have quite a bit to say on what that code of conduct has.

There are a number of issues in this government paper, such as training and the like, so there are other issues which are not in this bill and which pertain to the issue of governance. This is the reason we extended it, to make sure plenty of consultation has been given. I have been going around the councils myself, talking about governance issues and the importance of them giving feedback in regard to the discussion paper. I look forward to the outcome of the consultation period.

The PRESIDENT: The Hon. Mr Wade has a supplementary; you have already been given the answer.

LOCAL GOVERNMENT

The Hon. S.G. WADE (14:29): Given the minister's point that some issues in the discussion paper are not relevant to the bill, can the minister assure the house that all submissions in relation to issues that are in the bill have been collated, in other words that there was an earlier time frame for responses to bill-related issues and that that material has been collated and made available to the Attorney-General?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:30): I can assure you once all the submissions are collated I certainly will forward the information outcomes to the Attorney-General.

The PRESIDENT: The Hon. Mr Wade has a further supplementary.

LOCAL GOVERNMENT

The Hon. S.G. WADE (14:30): What would the point be of forwarding the material if the bill has already been introduced, passed the House of Assembly and may well have passed this place?

The PRESIDENT: I think he said once all the information had been—

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:30): The Attorney-General is continuing to discuss these issues with the LGA, and I know that the Attorney-General will meet with myself and the President of the LGA next week to discuss issues, so this is a work in progress.

EXPORT INDUSTRY

The Hon. T.J. STEPHENS (14:30): I seek leave to make a brief explanation before asking the Leader of the Government a question about the state of exports from this state.

Leave granted.

The Hon. T.J. STEPHENS: On the morning of 5 April, the Minister for Manufacturing, Innovation and Trade spoke about the state of our economy and the level of state exports. Minister Koutsantonis said that South Australia's economy was robust and that exports were extremely strong. After having a look at the real figures, I notice that exports in the last year of the Liberal government in 2001-02 were worth $9.1 billion. When adjusted for inflation, this figure is around $12 billion. The level of exports for the year 2010-11 was $11.2 billion; therefore in real terms the state is exporting $800 million less than it was 10 years ago. My questions are:

1. How can the minister say our economy is performing strongly when the statistics show that our export activity has gone backwards over the 10-year period of this government?

2. Given that leading economists have stated that the South Australian economy is in recession, doesn't this show that the government's economic policies have failed?

3. Where is the Premier's so-called mining boom, given that there are fewer people employed in mining now than there were in the 1980s?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:32): It is appalling, absolutely appalling, to see that level of negativity. To be suggesting that the South Australian economy is in a recession is just outright irresponsible. It is appalling conduct from the Hon. Terry Stephens but typical of the opposition, because all we ever hear from them is bagging the state, putting the state down, negativity, rattling business confidence and rattling consumer confidence. Over and over and over and over, that's what we see.

South Australia and Australia have been faced with some very tough times. There have been significant issues globally that have had a significant global impact on our economy, which includes the impact on our dollar, and the effect that has on our exports also has a profound impact. Indeed there are many—

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Indeed, there are many—

The Hon. T.J. Stephens: Absolute garbage!

The PRESIDENT: Order! The Hon. Mr Stephens seems to think he knows the answer. Perhaps the minister is wasting her time.

The Hon. G.E. GAGO: I do take this opportunity to set him straight though, Mr President. There are many, many very strong economic indicators for South Australia in spite of the tough times. The reason we have so many strong economic indicators is because of the sound financial government—the Rann government and now the Jay Weatherill government—that led us through a very difficult economic time. Now we see ourselves reaping the rewards of being in a very strong economic situation compared with other states and internationally as well.

We are very well placed, particularly given the base that we come from. There are variable conditions across various sectors of, obviously, the national and state economies at the moment. Obviously, some sectors are doing really well, such as mining and agriculture, and others are obviously much softer, particularly retail and also property.

South Australia's gross state product growth was 2.4 per cent in 2010-11. This was the third highest of the states after WA and is higher than the national average of 2.1 per cent. So, our GSP was higher than the national average of 2.1 per cent, so that is doing pretty well. In per capita terms, South Australia recorded the highest GSP growth rate in the country of 1.5 per cent versus the national average of 0.6—again, above the national average.

A strong farm year, following good growing conditions, boosted grain output in 2010-11—I see that grain prices are looking pretty good at the moment as well—and contributed significantly to overall GSP growth, as did the return to normal production at Olympic Dam, following the incidents there. In terms of export incomes in South Australia, there were near record highs, with the growth in South Australia outperforming the national average. This is ABS data. In the 12 months to January 2012, the value of South Australia's overseas goods exports rose by 25 per cent.

Members interjecting:

The Hon. G.E. GAGO: Twenty-five per cent. I know my colleagues behind me are having trouble comprehending that—25 per cent on the previous 12 months' original terms. We had the highest growth rate amongst the states, and that was to be $11.9 billion—the highest growth rate amongst the states.

The Hon. Terry Stephens comes in here and talks about exports and, again, gets it completely wrong. He cherry-picks through to find the worst bit of data he can get, works to find the worst bit of data that he can interpret to bag and put this state down when, in fact, our overseas goods exports rose by 25 per cent—the highest growth rate amongst the states. We see the opposition come in here time and time again. They make things up, get things wrong, badly research their information and, again, come in here and basically say anything they like—just pull it out of the air.

Other important economic indicators: private new capital expenditure is at high levels in South Australia, growing by 3.6 per cent over the year to the December quarter, despite the 1 per cent decline in the December quarter. The BHP Billiton indenture legislation indicated that it is likely to spend around $525 million. The Olympic Dam expansion is likely to provide a huge boost to our economy by creating significant direct and indirect employment opportunities, as well as creating business opportunities for suppliers, contractors and manufacturers.

The state government's investment in capital infrastructure and transport projects has boosted the construction sector—for example, investment in the new RAH, the Adelaide Oval, the electrification of part of our network and the South Road Superway project. There is $109 billion worth of major developments underway or in the pipeline—$109 billion worth of major progress.

In trend terms, South Australian employment growth through the year to February 2012 was 0.5 per cent or 4,100 additional jobs. Since 2002, employment in South Australia has grown by just under 130,000 in trend terms. We have more hospital beds, we have more nurses, we have more doctors, more commitment to infrastructure. There are many very positive indicators, including economic indicators—of course, not to mention the number of mines with the exploration projects that we have authorised, and we continue to do that. These are challenging times, but in economic terms South Australia is doing extremely well and we are punching well above our weight.

EYRE PENINSULA

The Hon. J.M. GAZZOLA (14:40): I seek leave to make a brief explanation before asking the Minister for Regional Development a very important question about development on Eyre Peninsula.

Leave granted.

The Hon. G.E. Gago: It would have to be fishing, wouldn't it?

The Hon. J.M. GAZZOLA: Order! Oh, sorry, sir! Sir, as you know, the Eyre Peninsula—

An honourable member interjecting:

The PRESIDENT: You practise it.

The Hon. J.M. GAZZOLA: We are working on it. Sir, as you know, the Eyre Peninsula has long been known as one of our premier places for fishing and has established itself as a prime aquaculture site to take advantage of the pristine waters of that area of our state.

The Hon. J.S.L. Dawkins: Did you write this one, John? Very well done.

The Hon. J.M. GAZZOLA: That is assuming I can write. Minister, will you advise the chamber about a recent development on the Eyre Peninsula to support the fishing industry?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:41): I thank the honourable member for his important question and his ongoing, in-depth interest and understanding of this very important policy area. Indeed, I understand that South Australian seafood is in high demand, with the value of overseas exports averaging more than $250 million per annum. There is another good news story—the value of our overseas exports. Members in this place will agree with me that the produce coming from our fisheries around Eyre Peninsula is some of the best in the world and certainly demonstrates our credentials as a source of clean green food.

Eyre Peninsula is an exciting and rapidly developing region and is home to a community determined to attain their region's extraordinary potential. The Eyre Peninsula seafood user guide, which I launched last year, is a testament to that and today I can tell the chamber that I have recently approved a grant to help provide infrastructure for this major industry on Eyre Peninsula. I have approved a grant of just over $106,000 to the District Council of Cleve to assist the upgrading of the Arno Bay boat harbour.

Honourable members: Hear, hear!

The Hon. G.E. GAGO: Very popular! The initial construction of the harbour occurred in—

Members interjecting:

The Hon. G.E. GAGO: You're all putting your bids in. The initial construction occurred in 1999, with the breakwater added in 2001, and it is well renowned for catering for recreational fishers. The facility was later developed in 2005 to assist the aquaculture industry by adding a two-vessel wharf, widening the harbour and the construction of pontoons with room for car access and parking. Since that time, the aquaculture industry has grown in importance to the economy of Eyre Peninsula, and this has meant that the council-owned facility has been significantly used. The usage of it is much higher. I also understand that it was damaged by severe storm activity in 2010.

The council has recognised the need to reinforce this really important mooring point and associated infrastructure for the use of recreational fishers and the aquaculture industry. The overall project to the value of $227,000 will see the installation of new piles to secure the walkway and fenders for the harbour pontoons. The council will contribute most of the remaining cost of the project. The partnership between council and the industry reflects the reliance of the fishing industry on this facility. I understand that the shore and sea-based aquaculture businesses will share the new facility with charter boats and recreational fishers once completed. I understand they plan to complete that in 2013. The upgrade of the boat harbour will greatly benefit the local aquaculture and rec fishing in Eyre Peninsula.

The fine reputation Eyre Peninsula seafood already enjoys should experience, I hope, a quantum leap forward with these new additions. With its pristine seas far from large population centres, its sustainable harvesting and its world-class clean, green practices, Eyre Peninsula seafood certainly has a very successful story to tell.

TRANSPORT SUBSIDY SCHEME

The Hon. T.A. FRANKS (14:45): I seek leave to make a brief explanation before asking the Minister for Disabilities a question about the South Australian Transport Subsidy Scheme.

Leave granted.

The Hon. T.A. FRANKS: SACOSS recently released a cost of living report, which has found that rising taxi prices are having a disproportionate impact on those people in South Australia with disabilities. Obviously, they have fewer transport options and hence spend more on taxis—when those taxis do eventually come. Yet the South Australian Transport Subsidy Scheme has not gone up since December 2006.

The specific figures on taxi fare increases in that time are not in my possession, but I note with concern that the urban transport fares CPI category, into which taxi fares would fall, has gone up 19.77 per cent in that same period. Yet on ABC radio, on Wednesday 23 May, minister Fox said that she and Ian Hunter (the minister) thought the scheme was working well. My questions are:

1. Can the minister provide the council with figures for how much taxi fares have increased since the last SATSS cap increase, that is, since 2006?

2. Is the minister aware of any instances of people with disabilities struggling financially and not being able to afford a basic trip?

3. Does the minister think it is of concern that there has been no increase to SATSS since 2006?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:47): I thank the honourable member for her most important questions. The South Australian Transport Subsidy Scheme was established in 1987, I am advised, and provides transport assistance for people with a mobility disability who are limited in using public transport independently.

While this is an incredibly important service, the scheme is not intended to meet all of people's transport needs. It provides members of the scheme a maximum of one book of 80 personalised vouchers every six months for subsidised taxi travel. I understand that the vouchers are not limited by time, but the scheme does require members to reorder their new book every six months.

I am advised that there are two categories of membership: one for those who are ambulant and one for those in wheelchairs. Ambulant members receive a 50 per cent subsidy and wheelchair members receive a 75 per cent subsidy. I understand that a maximum amount of subsidy for each voucher is $40. There are currently 62,216 members of the SATS scheme. However, only about 28,724 have used their voucher in the past nine months. I am advised that there is a slight growth in membership each year, but this is partially offset by existing members who pass away.

There are now 988 general taxi licences and a further 100 wheelchair-accessible taxi licences. The total amount paid by this government in subsidies for 2010-12 was $12.36 million. The Treasurer has said before, and I am sure will be saying again, that he is always looking at ways where he can increase concessions to those who need it, but we need to do it when the budget will allow.

TRANSPORT SUBSIDY SCHEME

The Hon. K.L. VINCENT (14:49): I have a supplementary question. Is the minister aware that, according to constituents who have contacted my office in the past, there are some people, including vision impaired people, who are eligible for 50 per cent subsidised SATSS vouchers because they are seen as being able to catch public transport in that they are ambulatory? However, the lack of accessibility in public transport for vision impaired people, including a lack of clear oral announcements of stations, etc., makes it nearly impossible for them to catch public transport, so they are not really getting as much SATSS support as they require.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:49): I thank the honourable member for her most important question. Obviously, I would not be aware of constituents who have contacted the honourable member unless she has passed on that advice to me, which I do not think, to the best of my knowledge, she has done. Nonetheless, minister Chloe Fox, Minister for Transport Services in the other place, is the responsible minister for this service in

relation to the supplementary question. If the honourable member would like, I will take that question to her and bring back a response.

SAFEWORK SA LIBRARY AND BOOKSHOP

The Hon. G.A. KANDELAARS (14:50): My question is to the Minister for Industrial Relations: will the minister provide details about the relocation of SafeWork SA's library and bookshop?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:50): I would like to thank the member for his question and also acknowledge his long-held interest in the trade union movement and occupational health and safety. For almost 17 years the SafeWork SA library and bookshop has been an important institution providing valuable resources and information to the community on health and safety, workers compensation and rehabilitation, and industrial relations.

I can advise the council that from 28 May 2012 the SafeWork SA library and bookshop has relocated from Waymouth Street to the ground floor of the State Administration Centre at 200 Victoria Square, Adelaide. The new location in the heart of the central business district and close to tram and bus stops means that SafeWork SA's library and bookshop will be even more accessible to a wide range of clients, including health and safety representatives, high schools, TAFE and university students as well as industrial relations, workers compensation, occupational health and safety practitioners and other professionals.

The library provides a free service to the business community and the general public. The library offers numerous free publications on work health and safety, industrial relations, workers rehabilitation and compensation, and return-to-work topics. These publications include guidelines, brochures and posters. Dedicated SafeWork SA librarians are happy to help the public get the most out of the range of books, codes of practice, DVDs and conference proceedings that are available for loan, or journals, legislation, annual reports and databases that are available for use in the library.

The importance of the SafeWork SA library and bookshop to the community is demonstrated by recent figures which reveal that there are currently more than 6,500 registered borrowers. Over the past three years the library has processed almost 15,000 loans and more than 2,100 new borrowers, while the bookshop has distributed over 600,000 printed publications on work health and safety, industrial relations and workers rehabilitation and compensation. The library collection encompasses some 7,500 books, journals and electronic resources.

For those who live in South Australian regional areas, the SafeWork SA library and bookshop operates a special outreach service whereby country borrowers can request items to be sent out to them to ensure they can access this impressive range of resources. As well as traditional resources, the library also catalogues electronic resources including documents, video clips and podcasts. In this financial year alone, almost 4,000 electronic resources have been accessed to date.

The library and bookshop provides a one-stop shop for authoritative information on work health and safety. It is open from 8.30am to 5pm Monday to Friday. I encourage everyone in this chamber to head down to the new Victoria Square location to have a look at the many resources available.

MALE TEACHERS

The Hon. D.G.E. HOOD (14:53): I seek leave to make a brief explanation before asking a question of the minister representing the Minister for Education and Child Development concerning the number of male teachers in primary schools.

Leave granted.

The Hon. D.G.E. HOOD: There has been some media conjecture recently about the relatively low number of male primary school teachers. Indeed, one recent article in *The Advertiser* reported:

> The number of male teachers in schools is at its lowest level in 15 years, but the Education Department has no strategies in place to address it.

The paper went on to quote an adolescent psychologist who said that the prevalence of single-parent families meant many children had only female role models in the home. The psychologist

raised the question: how will children learn to react, respond and deal with males if they do not have any role models either at home or in the education system?

The paper also reported that the SA Primary Principals Association president stated that there was a lot of value in students having male teachers in the classroom. My question is, simply: what policies does the education department have in place in order to address this issue, and by when could we expect that the numbers would substantially improve?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:54): I thank the honourable member for his important question to the Minister for Education and Child Development about the number of male teachers in primary schools. I undertake to take that question to the minister in the other place and to seek a response on his behalf.

GRAIN INDUSTRY FUND

The Hon. J.S.L. DAWKINS (14:55): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the new grain industry fund.

Leave granted.

The Hon. J.S.L. DAWKINS: Meetings will be held next week at Crystal Brook, Karoonda, Keith, Maitland, Tumby Bay and Wudinna to allow farmers to have their say on how the new grain industry fund scheme will be spent and to develop a five-year management plan for the scheme. The state government has hired Mr Neil Howells of Hudson Howells to act as an independent consultant and to conduct these meetings. My questions are:

1. Will the minister indicate whether levy funds are being used to fund these meetings and also to fund Mr Neil Howells' consultant fees?

2. Will the minister provide the complete terms of reference Mr Neil Howells is being provided with to conduct this consultation around the five-year management plan?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:56): I thank the honourable member for his most important question. There has been considerable work and effort put into the development of the new grains PIF Scheme, which I established to replace SAFF's Grains Section Fund that had been established by the Wheat Marketing Act. As members would be well aware, the new scheme I put in place is a voluntary scheme and will be established under the Primary Industry Funding Scheme Act. Grain grower organisations will be able to apply for funds from the scheme to provide services to grain growers in accordance with the five-year management plan.

As I have said in this place before, the management plan for the new scheme will be drafted by a consultant following extensive consultation with grain growers and the industry. As the Hon. John Dawkins indicates, the independent consultant is Neil Howells, and he has been appointed by PIRSA for the purposes of drafting the management plan, and a series of grains meetings will be conducted over the first week of June. However, growers are able not only to attend meetings but also make submissions via the online website.

The grain industry organisations, including SAFF, the Grain Industry Association of South Australia and the Advisory Board of Agriculture, will all be invited to participate in that consultation. The five-year management plan will be reviewed and updated annually via a consultative process. I have been advised that the five-year management plan will cover things like the type of activities that may be funded; how an organisation may access the fund; how applications for projects will be assessed (which may be by a committee and, if so, how the committee will be formed); management of contingencies, including grain grower funds; reporting requirements for projects funded under the scheme; and the level and format of consultation that grain growers consider appropriate for the required annual revisions of the management plan.

I understand that the plan is expected to be completed by the end of June and presented at a public meeting held for that purpose in accordance with the provisions of the primary industry fund. The residual funds in the Wheat Marketing Act Grains Section Fund will be applied in accordance with the intent of the act for the benefit of grain growers who have contributed to the scheme. My understanding is that the funding of the consultant is being absorbed from within PIRSA, but I will double check that. I believe that is to be so. I understand that the expenses

around the consultant's fee and the cost of the consultation are being absorbed by PIRSA but, if upon checking I find that not to be so, I will make sure that that is returned to this chamber and incorporated into *Hansard*.

BRAIN INJURY NETWORK OF SOUTH AUSTRALIA

The Hon. CARMEL ZOLLO (15:00): Can the Minister for Disabilities inform the chamber of the importance of this year, 2012, for the Brain Injury Network of South Australia?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:00): I thank the honourable member for the question. Yes, I can and, yes, I will. Indeed, 2012 is an important year for the Brain Injury Network of South Australia, or BINSA as it is colloquially known to those who love it. BINSA has been involved in South Australia, lobbying the government on behalf of people living with an acquired brain injury for the last 20 years. This year, 2012, it is celebrating its platinum year.

Many people know that brain injuries are a complex and, ultimately, unique problem, unique to every individual. The brain is still a mysterious organ for scientists and doctors, and even neurospecialists worldwide would say that there is still a huge amount that we do not know. One injury to one person may be completely different in another yet, despite the difficulty this poses for service delivery and policy-making, BINSA has been at the forefront of increasing the awareness of acquired brain injuries amongst the wider South Australian community.

It is because of BINSA that we know brain injuries are a common disability. We also know that an estimated 500,000 people in Australia are living with a brain injury, the majority of which, of course, were acquired before the age of 25. BINSA's role is to primarily protect the rights of people with an acquired brain injury, but it is also to work collaboratively with people living with an ABI to build on their strengths and their self-confidence to ensure that they have equal and appropriate access to their community.

I think all of us in this chamber can agree that BINSA has been an excellent advocate for its community in this regard. BINSA was deeply involved in the Strong Voices report and was working closely with the federal government on the National Disability Insurance Scheme. Because of this 20 years of excellent advocacy, on behalf of the South Australian government I want to wish BINSA all the best for its platinum year.

BURNSIDE COUNCIL

The Hon. J.A. DARLEY (15:02): On 26 July 2011, with regard to the Burnside council report, the Minister for State/Local Government Relations stated:

> I considered that I was not prepared to spend millions of dollars of taxpayers' money on a report that could take years to complete (if it ever was completed), so I made the decision to terminate the investigation.

Will the minister consider asking Mr Ken MacPherson to complete the report if private funding, rather than taxpayer money, could be secured to pay for the report?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:03): I made the decision to terminate the Burnside investigation for a number of reasons. What Mr Darley has just put up is hypothetical. What I would say to him is that that investigation has been terminated, and my position right at this moment is: no, I would not reopen it, but I am quite open. If John Darley could come up with someone who is prepared to spend millions of dollars to complete that investigation—

The Hon. S.G. Wade: How do you know it's going to cost millions?

The Hon. R.P. WORTLEY: —because whoever would invest millions on it would do due diligence and they would find out very quickly that it was not worth spending the money on.

SOUTH AUSTRALIAN BRAND

The Hon. J.S. LEE (15:04): I seek leave to make a brief explanation before asking the Minister for Tourism a question about rebranding South Australia.

Leave granted.

The Hon. J.S. LEE: There has been quite a lot of coverage about a proposed name change for South Australia in newspapers, online news and talkback radio in recent times. When the Premier travelled to London earlier this month, he revealed that he would like South Australia to

be rebranded for an international market because he believes South Australia suffers from an image crisis. He says he was mistaken for the Premier of New South Wales at a recent function in London.

Premier Jay Weatherill commented on Cruise radio on 10 May that we want to make sure there is a strong awareness and that we need a cut-through message about South Australia which is truthful but also sums up an image of South Australia which attracts people to come here. The Premier continued to say that it is a very unclear image that we are sending to the world.

On 891 ABC radio on Friday 25 May, on the topic of a proposed name change for South Australia, a number of people joined in the debate and one of them was the international film director Scott Hicks. He said, 'I think it is a bad joke. I can't think of one advantage that would come to us from doing that.' My questions are:

1. Does the minister agree with the Premier that South Australia needs a new name to lift its international brand?

2. If so, as the Minister for Tourism, who is promoting this state to attract more tourists, what brand name does she have in mind?

3. How much would the government spend on the rebranding exercise for the state?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:06): I could not agree more with the Hon. Jing Lee. In fact, the Premier has never supported a name change for South Australia. The honourable member again needs to get her facts right. Again, we see the opposition coming into this place time and time again with misinformation, badly researched information. The Premier has never supported a name change for South Australia. It is outrageous.

The Hon. J.S. Lee: My question was about branding.

The Hon. G.E. GAGO: Yes, and you went on to talk about changing the name of South Australia, which is misleading. It is misleading and it is dishonest. The Premier has never supported a name change to South Australia. The fact that he did talk about a branding for South Australia, particularly a branding that might better resonate overseas, is not renaming South Australia.

The fact that the general media used that as a bouncing board to discuss those sorts of things is something completely outside the control of the Premier. That is about popular media and popular interest. The Premier has never supported that. The Hon. Jing Lee, as with all the other members of the opposition, needs to get her facts right. They need to come into this place, get off their tails and not be so lazy. They are too lazy to do any decent research, way too lazy to do any decent research.

In fact, recently the Premier did announce the need for South Australia to consider its branding. This announcement was based on information that found 'South Australia' fails to distinguish the state from the southern half of the continent and the abbreviation SA is easily confused with South Africa. The current brand fails to adequately reflect the state's uniqueness and distinction from other Australian locations. Perceptions of Adelaide and South Australia need to be brought together within one overarching brand identity to maximise impact and project a consistent image of the whole of the state.

The new brand will more effectively support promotional activity by reflecting a more relevant, contemporary South Australia, based on the unique attributes that distinguish the state from any other place in Australia or globally. It would provide overarching coherence and consistency—or this is what we aim to do—to branding the state in particular, but not exclusively, in the areas of trade and investment, education, agriculture, tourism and migration. The state's brand is important. We obviously need a consistent branding across those areas that were particularly identified: investment, education, agriculture, tourism and migration.

The state government, as part of its deliberate strategy to drive economic growth through investment and trade, is considering a review being undertaken by Roger Hartley of South Australia's overseas representation. Mr Hartley's recommendations were released on 30 April 2012 and include shifting the focus from trade to investment.

The review is timely, given recent changes to Austrade and the creation of Invest in South Australia as well as our work to develop China and India strategies. It is also part of a deliberate

strategy to consolidate and streamline our approach to supporting our small to medium enterprises through building capability and facilitating increased exports. The government is obviously going to consult on the review over the coming weeks and months before a final decision is made on our overseas representation.

As I have said, time and time again in this place we see the opposition come in here bagging what the government does, putting the state down with negative whingeing, whining, carping and moaning and, what is more, a good part of the time their facts are incorrect and they come into this place with misinformation. As I said, their objective is to rattle the confidence of business and to undermine the confidence of consumers, and it's an irresponsible thing to do.

SOUTH AUSTRALIAN BRAND

The Hon. R.I. LUCAS (15:11): I have a supplementary question arising out of the minister's answer.

An honourable member interjecting:

The Hon. R.I. LUCAS: He's got a personal best in deficits and debt, if you want to know—a personal best. Does the Premier's criticism of the branding exercise mean that he is also criticising the branding exercise overseen by the tourism section of the South Australian government, the Brilliant Blend concept?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:12): The Premier wasn't criticising. What the Premier was trying to do was to point out—

The Hon. R.I. Lucas: He's saying your Brilliant Blend is hopeless.

The PRESIDENT: Order!

The Hon. R.I. Lucas: He's saying basically you're hopeless.

The PRESIDENT: Order! Does the Hon. Mr Lucas want to hear the answer of the minister?

The Hon. G.E. GAGO: Of course he doesn't. The Premier pointed out that it was time to review our brand, and this is a good thing to do from time to time. As we know, all promotional messages fatigue; that is a normal and natural thing. What the Premier did was see an opportunity and believe it is timely to review our branding and to reposition ourselves, and that is a good thing to do from time to time.

As I said, our promotional messages fatigue and he believes it is time to review that, so it is a really positive thing—a very positive thing to do—that we keep moving and that we have vision and direction for South Australia, which is more than the opposition can do, as we know. They sit there bagging the state—whining, whingeing, carping, moaning—and as we know they regularly come in here with inaccurate information and misinform parliament and the public.

SOUTH AUSTRALIAN BRAND

The Hon. R.I. LUCAS (15:13): As a supplementary question arising out of the answer, given the Premier's significant criticism of the minister's branding exercise can the minister assure the house that there will be no further expenditure on the Brilliant Blend branding exercise until the results of the Premier-initiated review on branding has concluded?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:14): Again there is misinformation in the assertion of the Hon. Rob Lucas, as usual, because we know the Hon. Rob Lucas is notorious for coming into this place with incorrect assertions, misinformation and—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: So, we know that he is notorious for coming into this place with incorrect information. Yesterday, in an interjection, he accused me of misleading parliament by failing—

Members interjecting:

The PRESIDENT: Order! I think the minister proved a point this morning on that.

The Hon. G.E. GAGO: I was accused of not inviting the Hon. Michelle Lensink to a WIS event, and the interjection from the Hon. Rob Lucas was that I had misled parliament. Well, I hope that he is going to get to his feet sometime today and put on the record that the Hon. Michelle Lensink has misled parliament, if that was his assertion.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Not only was the Hon. Michelle Lensink invited once, she was invited twice—twice. So, his assertion that I had misled parliament was completely incorrect. He owes me an apology but, of course, doesn't have the courage or the backbone or the fortitude to get to his feet and be man enough to offer me an apology. No, no; what we see him doing is whingeing, whining, carping, moaning and continuing to bring misinformation into this place.

SOUTH AUSTRALIAN BRAND

The Hon. D.G.E. HOOD (15:16): Thank you, Mr President. Would the minister like to comment on the criticism that having four different slogans on the numberplates for South Australia—the defence state, the road state, the wine state and whatever the other one is—creates a lack of clarity about our image interstate?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:16): I thank the honourable member for his question. I think that it's—

The PRESIDENT: Certainly a wining state.

The Hon. G.E. GAGO: Sorry, Mr President?

The PRESIDENT: I said 'a wining state'.

The Hon. G.E. GAGO: It is always a much clearer and focused message if the message can be singular; however, I do understand that, in some cases, there is a collection of themes that can be put under a particular brand. I am not aware of what research went in behind the work that was done on plates, so I am not too sure what underpins it, but it has been my view that, often, a single-focus message is received more clearly. But as I said, there are different points of view about that.

The PRESIDENT: Well, the Victorians have it 'the place to be' and they are all over here with their numberplates. The Hon. Ms Franks.

SOUTH AUSTRALIAN BRAND

The Hon. T.A. FRANKS (15:17): My supplementary is: does the Minister for the Status of Women think accusing a member of being 'man enough' in this place is appropriate language?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:18): I do thank the honourable member for her question, but the last time I looked the Hon. Rob Lucas was, in fact, a bloke, so I could hardly say is he 'woman enough' to have the courage to apologise.

The PRESIDENT: You could try. The Hon. Mr Gazzola.

BIOSECURITY

The Hon. J.M. GAZZOLA (15:18): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about biosecurity.

Leave granted.

The Hon. J.M. GAZZOLA: Simulation, as you know, is no longer just a training tool but a key element in driving business—are we out of time?

The PRESIDENT: That's it. Time having expired for question time, I call on business of the day.

BUDGET PAPERS

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Budget Overview 2012-13—Budget Paper No. 1
Budget Speech 2012-13—Budget Paper No.2
Budget Statement—2012-13 Budget Paper No. 3
Agency Statements—Volume 1 2012-13—Budget Paper No. 4
Agency Statements—Volume 2 2012-13—Budget Paper No. 4
Agency Statements—Volume 3 2012-13—Budget Paper No. 4
Agency Statements—Volume 4 2012-13—Budget Paper No. 4
Capital Investment Statement 2012-13—Budget Paper No. 5
Budget Measures Statement 2012-13—Budget Paper No. 6

ROAD TRAFFIC (AVERAGE SPEED) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 May 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:21): I rise on behalf of the opposition to speak to the Road Traffic (Average Speed) Amendment Bill. I indicate the opposition will be supporting this amendment to the Road Traffic Act 1961, which is to introduce point-to-point speed detection. We do not have an issue with extending the number of speed cameras as long as they are operating effectively and efficiently. Throughout this Labor government, there has been criticism about the quality of the operation of the current speed detection devices and whether they are up to national standards. There has also been a great deal of criticism—with good reason—at this government's addiction to speeding fine revenue.

Over my time as shadow police minister, especially, I witnessed some shameful budget measures by this money-hungry government. For example, we saw their response to the Sustainable Budget Commission recommendations which suggested some crafty ways of raising the amount of money people have to pay to expiate their speeding fines. The response to that, although the government will purport that there was no correlation between the recommendation of budget measures, was to raise an extra $44.8 million over three years in speeding fines. I suspect that we will see a whole range of other sneaky measures to raise more money from hardworking South Australians in the budget that has just been tabled in this place.

The government said that it was about road safety but, in fact, it was a financial disincentive for the Labor government to make road safety a priority. Effectively, the more they fined people the more they made. They did not want to make the roads safer: they just wanted to rip more money off people. Our treasurer at the time, the Hon. Kevin Foley, even said it was a voluntary form of taxation.

My response to his statement was that, if that is so, why then are the road users not privy to the tactics used by government to collect that voluntary tax? We would not allow the Australian Tax Office to be sneaky. They are upfront with all of the rules under which they collect tax from us, for example, the tolerances for speeding that the police use.

We all understand that the police commissioner has been on the radio saying that if we tell you what the tolerance is, that will, by effect, become the default speed limit, but there always was an expectation that there was some tolerance—around 5 km/h or maybe almost as much as 6 or 7 per cent when you are up around 110 or 100 km/h—but nobody ever knows, except that we do know, and the police commissioner confirmed it, that it has been significantly reduced.

Another example of this voluntary tax, and how sneaky and underhanded this government is, is when the police into country South Australia. I think it was Operation Rural Focus where outside police officers—the traffic police were not local police officers but from Adelaide—would go into a community unannounced and look at a whole range of offences, including speeding, without any prior warning at all.

It is interesting, and you will note and recall that Christmas and Easter time are two particularly dangerous times on our roads, and the police and the government are very happy to advertise particular activities during those periods about people getting to destinations safely and, suddenly, there are extra police on the road, so they are, if you like, forewarning motorists that

there will be extra detection during those peak periods. Yet we have not often seen that. As for all other taxes, they are generally collected in a transparent way, so why shouldn't this tax, if that is what the former treasurer called it, be any different?

I note the government's speeding penalty regime. Apparently the minister relied on the advice that the monetary amount of fines collected is not expected to increase. We look forward to teasing out those details, although I am provided here with some figures that the police minister, the Hon. Jennifer Rankine, has provided to shadow minister Duncan McFetridge, the member for Morphett. It looks like we will be getting in revenue about $10 million extra over the 2013-14 year and the 2014-15 year, with about $8 million in operating expenses. There is still a net gain from this new change for the government. I would also be interested to know whether the speeding tolerances will be changed under this regime.

However, moving on, this bill will also enable point-to-point speed detection cameras to be used in South Australia. Point-to-point speed detection involves the use of two cameras at two separate locations which photograph vehicles at each of the two locations and then calculate the average speed that the vehicles were travelling between those two locations. The expected distance between the cameras will be approximately 14 to 50 kilometres. An adviser will likely come to the desk shortly when we get to the committee stage. I would like to know the reason for making it 14 and 50 kilometres. Why is it not 10 or 30? Why couldn't it be 100? I am interested to know how those two figures have been arrived at.

The first average speed detection system will operate on the Port Wakefield Road between Port Wakefield and Two Wells. The network of sites will then be extended to include the Victor Harbor Road, the South Eastern Freeway, the Dukes Highway, the Sturt Highway and the Northern Expressway. Importantly, point-to-point speed is measured over an extended distance, rather than one spot, so it is far more effective from a road safety sense, gauging the behaviour of the motorist over an extended distance, ultimately telling us which drivers pose a greater risk on the road.

It is very positive that South Australia is moving towards a more high-tech system, one which is actually aimed at targeting the real threats on our roads, rather than motorists who make a momentary error or lapse in judgement. Average speed is a form of point-to-point detection, involving measuring the time taken by a vehicle to travel between two camera sites. The formula to calculate the average speed of the vehicle between the two points is to divide the distance between the two cameras by the time taken for the vehicle to travel between the sites. It is that speed that is compared to the speed limit to ascertain who has committed an offence.

Under this bill, the average speed of a vehicle will be calculated, with an account of the shortest distance along the fastest practicable route between two points and the time taken to travel between those two locations. It will be presumed that the shortest route has been taken by the vehicle between these two points. Under the Road Traffic Act, that average speed will be permitted as evidence of actual speed. As mentioned by my colleague Duncan McFetridge, we have spoken to the MTA, RAA, Centre for Automotive Research, Law Society and the Australian Road Transport Authority.

I commend Duncan McFetridge and the former shadow Mr Goldsworthy, the member for Kavel, on undertaking such thorough consultation. Our shadow minister for police has also had an ongoing relationship with a world authority on the accuracy of speed detection devices, and we thank Mr Les Felix for the expert information he has provided to the opposition on this topic. As I mentioned earlier, we concur that this is a fairer way of picking up speeding motorists. We would like some assurance that the speed tolerances will not change to an extensive degree under this technology and the new speeding fine demerit point regime.

A road transport operator contacted my office. One of his drivers had been detected by the police with a laser gun breaking the speed limit. He was subsequently pulled over. He offered to the police officer to look at his on-board computer. In these modern semitrailers it is a bit like a black box; it records the speed that they are doing and the location. The police officer said he did not want to look at that and was not interested in it because the truck driver claimed that he had not been breaking the speed limit.

The owner of the transport business went on to tell me that, if there is an accident and a death, the information that is contained in the onboard computer in the transport is evidence that is used by the Coroner. So, that information is strong enough and robust enough for the Coroner to use, yet the police were not prepared to look at it so that this particular truck driver could show that he had not been speeding.

I would be interested to know, when the minister sums up, whether there is likely to be any change, as technology will improve. I am sure that it will not be long before cars and, in fact, all vehicles, have onboard what I will call a black box, but that is probably an oversimplification. We now have GPS navigation devices in our cars, and our phones are nearly all GPSs; there is a whole lot of information.

It probably would not be that difficult for all motor vehicles to be fitted with some type of device, although it could be a two-edged sword in that the police could come along and ask to download the information to see where you had been speeding and book you for something you had done a fortnight ago. On the flip side, it might be an opportunity for you to say, 'Here's the information; here's my black box. I haven't been speeding.'

I would be interested to know whether the minister is able to shed any light on what advances in technology are taking place, especially in the particular case of the road transport operator. It is a very hefty fine for big trucks that have been speeding. His driver was adamant that he had not been speeding and that there was another vehicle in close proximity that he believed had been detected with the laser gun. Of course, he was very disappointed that the information on his onboard computer showed that he had not been speeding but, clearly, the police were not prepared to look at it.

I also note that the bill includes provisions to deal with where drivers may not have been the registration holder of the vehicle. I appreciate those amendments, especially as I attempt to steer a bill which I have reinstated to the *Notice Paper* this week, which deals with a similar situation in relation to people driving vehicles of which they are not the registered owner. I am happy to see that the situation has been taken into account where a motorist may be picked up twice within a point-to-point scenario, once on average speed and once by a fixed device. Thankfully, they cannot be punished twice for the same crime. As stated, the opposition supports the bill as a measure which appears to be one of the few Labor proposals actually targeting road safety. With those few words, I indicate that we support the bill.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:32): I thank the honourable member for his contribution. It started out very well and then, after he indicated his support for the bill, it went downhill from there, although I must say that he did pick up at the end when he was using someone else's speech notes (I suspect Dr Duncan McFetridge's notes) and was talking factually, and he was correct on almost every point there.

In terms of the bill, it amends the Road Traffic Act 1961 to introduce average speed detection. Average speed detection is used extensively interstate and overseas. It measures speed over a length of road instead of at a single point. Average speed cameras are said to reduce congestion, reduce fuel consumption and reduce accidents due to traffic moving at a uniform speed, and encourage safer driving over longer distances due to a higher level of compliance. Average cameras are planned for stretches of roads where speeding has been identified as a road safety problem.

The bill extends the evidentiary provisions of the Road Traffic Act so that evidence of average speed is counted as actual speed for the purposes of the act. This means that the existing penalty structure for speeding offences in the Road Traffic Act and the Road Traffic (Miscellaneous) Regulations 1999 will apply to point-to-point speeding offences, including excessive speed, in section 45A of the act, with immediate loss of licence, six or 24-month disqualification, and a minimum court-imposed fine.

The bill also amends the owner onus provisions in section 79B of the act so that they apply to this offence. Currently, when the owner of a vehicle is detected speeding by a safety camera, they are sent an expiation notice. If the owner was not the driver of the vehicle, they can name the driver in a statutory declaration to the Commissioner of Police. The expiation notice issued in respect of the owner is withdrawn and a new one is issued to the driver.

This framework will continue, but the bill provides that any reference to the 'time' of the offence is, for speeding between two points, the whole period of time during which the vehicle travelled between these points. The current provisions of section 79B are designed for offences that happen at a single moment in time and cannot apply where there is more than one driver. Point-to-point speed detection differs from point-in-time offences because the offence is committed during the time the person drove between the two points and there is a possibility there could have been more than one driver of the vehicle between those points.

The amendments to section 79B require the owner of a vehicle who knows there was more than one driver to nominate all of them. In this situation the expiation notice issued to the owner could be withdrawn and new notices issued to all the nominated drivers. The bill provides protection for drivers who can satisfy the court that, although they were one of the drivers between the two points, they did not at any time speed whilst driving the vehicle between the two points.

To use this protection they must first have identified the other driver or drivers to the Commissioner of Police by means of a statutory declaration. Speeding remains the major cause of deaths and serious injuries on our roads. Road trauma costs the South Australian community over $1 billion every year. This bill introduces a new approach to the detection of speeding that has been shown to be effective at reducing speeding over large distances.

The bill continues existing defences for owners of vehicles and provides protection for drivers in the new situation where it is possible for two drivers to have shared the driving. In such a situation a driver can provide evidence that he or she did not exceed the speed limit. At the same time it deters the exploitation of this provision by the unscrupulous by requiring that evidence be provided to the court. With those few brief remarks, I commend the bill to the house.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:37): I move:

That this bill be now read a third time.

Bill read a third time and passed.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:38): I move:

That this bill be now read a second time.

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

Leave granted.

The *Independent Commissioner Against Corruption Bill 2012* seeks to establish in South Australia an independent body focussed entirely on preserving and safeguarding confidence and the integrity of the functions performed by public officers, agencies and authorities in the State of South Australia.

The *Independent Commissioner Against Corruption Bill 2012* proposes to achieve this by establishing the Independent Commissioner Against Corruption and the Office for Public Integrity. To facilitate this and to take the opportunity to strengthen and improve existing legislative mechanisms regarding the functions of public administration, the following Statutes are to be amended: the *Australian Crime Commission (South Australia) Act 2004*, the *Child Sex Offenders Registration Act 2006*, the *Correctional Services Act 1982*, the *Criminal Investigation (Covert Operations) Act 2009*, the *Criminal Law Consolidation Act 1935*, the *Criminal Law (Forensic Procedures) Act 2007*; the *Defamation Act 2005*, the *Freedom of Information Act 1991*, the *Legal Practitioners Act 1981*, the *Listening and Surveillance Devices Act 1972*, the *Local Government Act 1999*, the *Ombudsman Act 1972*, the *Parliamentary Committees Act 1991*, the *Police Act 1998*, the *Police (Complaints and Disciplinary Proceedings) Act 1985*, the *Protective Security Act 2007*, the *Public Finance and Audit Act 1987*, the *Public Sector Act 2009*, the *Shop Theft (Alternative Enforcement) Act 2000*, the *State Records Act 1997*, the *Summary Offences Act 1953*, the *Terrorism (Preventative Detention) Act 2005*, the *Whistleblowers Protection Act 1993* and the *Witness Protection Act 1996*.

I note for the sake of completeness that a separate companion Bill, namely the *Telecommunications (Interception) Bill 2012*, will also shortly be introduced.

The primary objects of this Bill are to establish the Independent Commissioner Against Corruption ('ICAC') and the Office for Public Integrity ('OPI'). The public officers, the public authorities responsible for the officers, and the Ministers responsible for the public authorities to which the functions of the ICAC and the OPI will apply, are set out in Schedule 1 of the Bill. Further, a private individual may also be subject to an ICAC investigation into corruption, where their alleged corrupt conduct is in connection with a public officer, inquiry agency or public authority exercising a function of public administration.

The functions of the Independent Commissioner Against Corruption ('the ICAC') are designed to further:

- the identification and investigation of corruption in public administration; and

- the prevention or minimisation of corruption, misconduct and maladministration in public administration, including through referral of potential issues, education and evaluation of practices, policies and procedures.

The functions of the Office for Public Integrity ('the OPI') are to manage complaints about public administration with a view to:

- the identification of corruption, misconduct and maladministration in public administration; and
- ensuring that complaints about public administration are dealt with by the most appropriate person or body.

Whilst the ICAC may perform functions under this measure in relation to any issue of corruption, misconduct or maladministration in public administration, it is intended that the primary object of the ICAC be to investigate serious or systemic corruption. Serious or systemic misconduct or maladministration however, is to be referred to the relevant body, with the ICAC giving directions or guidance to the body or exercising the powers of the body, where appropriate.

Despite the primary object of the ICAC being to investigate corruption in public administration, having the authority to act on conduct amounting to maladministration and misconduct is necessary. This is because conduct amounting to maladministration or misconduct may be indicative of an increased risk of corruption or may be evidence of an incipient culture of corruption.

I wish to make clear that the ICAC will perform an investigative role and will not have any capacity to lay charges or prosecute a matter, this responsibility will remain with existing law enforcement and prosecuting agencies. Further the OPI will not be able to resolve complaints or reports about public administration. The OPI will instead act as a clearing house so to speak, referring complaints and reports to existing agencies and authorities for action (where appropriate).

Generally speaking, corruption in public administration has often been described as a crime of the powerful, with no specific victim identifiable other than the community or public at large. At its worst, it can undermine the rule of law and destroy public confidence in governments and public institutions and agencies. Corruption in public administration also diverts or eats away at the limited financial resources of a government utilising public funds to meet the needs of essential services such as hospitals and schools.

Unlike some States, South Australia has fortunately thus far not been in a circumstance where cases of corruption, be it systemic or otherwise, have required an anti-corruption body to be established so as to attempt to restore faith and confidence in public institutions. Given this, some may question why an integrity body such as the ICAC is required in South Australia. My answer to that is that with modern society becoming increasingly complex and the financial resources of public funds being stretched to meet the ever increasing needs for essential government services, the temptation to engage in corrupt conduct for personal gain by abuse of public office will exist. A modern and sophisticated society should pre-empt this risk and proactively act to safeguard and preserve community confidence in the integrity of public administration. Establishing an ICAC constitutes that pre-emptive strike and safeguard.

Other States already have or are in the process of establishing, State based anti-corruption or integrity commissions. In NSW, the Independent Commission Against Corruption was established in 1989 in response to a reputation being acquired around Australia, and indeed overseas, at that time that some people in high office in that State were susceptible to impropriety and corruption. History later revealed this to be true.

The Crime and Misconduct Commission was established in Queensland in 2001.The Crime and Misconduct Commission is also an Independent Commission, exercising the powers of a Standing Commission of Inquiry with a broad mission to oversee and investigate allegations of public sector misconduct and major organised crime.

The Corruption and Crime Commission was established in Western Australia in 2004, replacing the Anti-Corruption Commission. The Corruption and Crime Commission was established due to a central recommendation of the Interim Report of the Kennedy Royal Commission. The need for this change was reported as being due to identifiable flaws in the structure and powers of the Anti-Corruption Commission, bringing about such lack of public confidence in the process for the investigation of corrupt and criminal conduct that the establishment of a new permanent body was necessary.

Most recently, the Parliament of Victoria has enacted the *Victorian Inspectorate Act 2011* and the *Independent Broad-based Anti-Corruption Commission Act 2011*, commonly referred to as 'the IBAC', to establish two new oversight bodies. The IBAC will have a broad jurisdiction responsible for investigating, exposing and suppressing corruption involving or affecting all public officials in Victoria.

In terms of the Commonwealth, currently there is no specialised body dedicated to exposing and investigating corruption. Instead, the Commonwealth relies on a multi-agency approach, vesting responsibility for corruption prevention and detection with a number of Commonwealth agencies. A major development in this area has been the launch of a discussion paper by the Commonwealth Attorney-General, Nicola Roxon MP, on 19 March 2012, seeking submissions and public feedback for use in developing Australia's first national Anti-Corruption Plan, in order to strengthen Australia's existing governance arrangements by developing a Commonwealth policy on anti-corruption.

The *Australian Crime Commission Act 2002* is the most relevant national legislation. This was enacted in accordance with an agreement reached between the then Prime Minister John Howard and the Premiers of the States and the Chief Ministers of the Territories. The establishment of the Australian Crime Commission combined

the functions of the National Crime Authority, the Australian Bureau Crime Intelligence and the Office of Strategic Crime Assessments, as a statutory authority to combat serious and organised crime.

The Australian Crime Commission replaced the National Crime Commission with functions in relation to both criminal intelligence and the investigation of federally relevant criminal activity. In the opinion of many, including my own, this cooperative legislative scheme between the States and Commonwealth has been successful in meeting its objectives and obtaining the evidence and information to assist law enforcement agencies across Australia. Key components of the Australian Crime Commission model that have proven to be successful in practice have been adopted for use in this Bill.

I will now summarise the evolution of this Bill and the extent of consultation undertaken by this Government. The model proposed best meets the current and future needs and expectations of the citizens of South Australia.

In August 2009, the then Premier, the Honourable Michael Rann MP, called for the introduction of a national anti-corruption commissioner. After the 2010 election, once appointed as Attorney-General, I publicly supported the former Premier in advocating for a national anti-corruption commission. Accordingly, in May 2010, I raised the establishment of a national anti-corruption agency at a meeting of the former Standing Council of Attorneys-General, where I submitted that South Australia would be interested in working with the Commonwealth, State and Territory Governments to explore the feasibility of establishing a national anti-corruption authority with sufficient powers and resources to investigate allegations of corruption at the Commonwealth, State and Local Government level. Ministers present at this meeting noted the proposal. However, no further action was taken.

Detecting an overall reluctance to implement a national corruption watchdog at that point in time, I sought to progress the matter at a State level by announcing on 6 May 2010 a review of the operation and effectiveness of South Australia's existing public integrity system. The review called for submissions from a number of key agencies to be provided by 14 June 2010. That review examined the existing framework of integrity rules and enforcement bodies in order to identify gaps, weaknesses and opportunities to strengthen the existing system. It culminated in the preparation of a discussion paper entitled, '*An Integrated Model: A review of the Public Integrity Institutions in South Australia and an integrated model for the future*' (the 'Discussion Paper').

The Discussion Paper set out 31 recommendations for the enhancement of South Australia's public integrity system. Those recommendations were grouped under the following sub-headings:

- The Legislature;
- The Executive and public sector;
- Local Government;
- South Australia Police;
- The Auditor-General;
- The Ombudsman;
- Other Statutory Authorities;
- A Public Integrity Office; and
- A Commissioner for Public Integrity.

The Discussion Paper was publicly circulated and submissions sought by 25 March, 2011 and a total of 26 submissions were received. The majority of the received submissions were broadly supportive of the proposed changes and those that recommended legislative reform were, for the most part, consistent with the recommendations made in the Discussion Paper. However, as a result of the consultation process, some of these recommendations were either abandoned or modified to better achieve the intended purpose.

On 24 October 2011 Cabinet approval was given to draft a Bill and during the drafting process we continued to consult with the public agencies and authorities that will be affected by the scope of this Bill. Consultation also occurred with a number of senior individuals within the legal profession. I wish to thank all of the individuals, agencies and authorities who provided their invaluable feedback through my Department on the draft Bill.

I now turn to the main features of the proposal.

Before I proceed any further, however, I wish to clarify that references in my speech to the Police Ombudsman, are to be considered as references to the Police Complaints Authority. This is because in the consequential amendments, set out in Schedule 3 of the Bill, it is proposed to change the name of the Police Complaints Authority to the Police Ombudsman.

The Independent Commissioner Against Corruption

Part 2 of the Bill sets out the proposed structure of the ICAC, commencing with his or her functions and how they are to be exercised. It is to be noted that in performing these functions, examinations relating to corruption in public administration must be conducted in private. This Bill does however allow the ICAC to make public statements, which I will address shortly.

The functions of the ICAC are summarised as follows:

- once corruption is identified and investigated, to refer it for prosecution or to refer it to SAPOL or the Police Ombudsman for investigation and prosecution;
- to assist inquiry agencies and public authorities to identify and deal with misconduct and maladministration in public administration;
- to give directions or guidance to inquiry agencies and public authorities, and to exercise the powers of inquiry agencies in dealing with misconduct and maladministration in public administration, as the ICAC considers appropriate;
- to evaluate the practices, policies and procedures of inquiry agencies and public authorities, with a view to advancing comprehensive and effective systems for preventing or minimising corruption, misconduct and maladministration in public administration;
- to conduct or facilitate the conduct of educational programs designed to prevent or minimise corruption, misconduct and maladministration in public administration;
- to perform other functions conferred on the ICAC by the measure or any other Act.

Further, at the request of the Attorney-General, the ICAC may undertake a review of a legislative scheme related to public administration and make recommendations arising from that review.

It should be noted that the ICAC is not subject to the direction of any person in relation to any matter, including, the manner in which functions are carried out or powers exercised under this measure or any other Act. The ICAC is also not subject to the direction of any person in relation to the priority given to a particular matter. In order to ensure efficiency, however, the Bill does require the ICAC to deal as expeditiously as is practicable with allegations of corruption.

Part 2 of the Bill also sets out the eligibility and conditions of appointment for the ICAC, Deputy ICAC and his or her employees. Of particular note is the fact that the ICAC may engage employees on terms and conditions determined by the ICAC and that these employees are not Public Service employees, but are taken to be public sector employees for certain purposes. This distinction is necessary in order for the ICAC to attract the best and most experienced candidates, ordinarily difficult to attract due to their specialised areas of expertise being in short supply, particularly when competing with the private sector.

The Office for Public Integrity

Part 3 of the Bill sets out the proposed functions and structure of the OPI. Whilst separate from the ICAC, in terms of staff and functions, it is responsible to the ICAC for the performance of these functions, which are as follows:

- to receive and assess complaints about public administration from members of the public;
- to receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;
- to make recommendations as to whether and by whom complaints and reports should be investigated; and
- to perform other function assigned by the ICAC.

As already stated, the OPI will not have any capacity to resolve complaints or reports about public administration. Rather it will complement existing mechanisms by referring a complaint or report received to the appropriate inquiry agency or public authority. This means that members of the public can and should still approach the agency or an authority such as the Ombudsman with their complaints directly. However, when a complainant is not sure which public agency or authority to approach or does not wish to do so directly for whatever reason, the OPI is the place to go for assistance. Unlike the ICAC, staff of the OPI will be comprised of Public Service employees, aside from those employees of the ICAC that are assigned to assist the OPI, where required.

Procedures and Powers

Part 4 of the Bill sets out the procedures and powers for both the OPI and the ICAC.

Firstly, in terms of managing complaints received from the public, there is a requirement that a system for receiving those complaints be established for the OPI.

Secondly, the ICAC, once appointed, must prepare directions and guidelines governing reporting to the OPI of matters that an inquiry agency, public authority or public officer reasonably suspects involves corruption, misconduct or maladministration in public administration. The directions and guidelines are to address which type of matters must be reported to the OPI and provide guidance as to how this is to be undertaken.

In any event, on receiving a complaint or report, the OPI must undertake an assessment according to the criteria in Division 2 of Part 4 and action the complaint or report accordingly, depending on whether the matter relates to a potential issue of corruption as opposed to misconduct and maladministration.

The action that can be taken by the OPI, once a matter is assessed as raising a potential issue of corruption in public administration that could be the subject of a prosecution, is that the matter must be either investigated by the ICAC or referred to SAPOL or the Police Ombudsman (if the issue concerns a police officer or special constable) or other law enforcement agency. If, however, the matter is assessed as raising a potential issue of misconduct or maladministration in public administration, the matter may be referred to an inquiry agency or public authority, with directions and guidance, in respect of the matter. Where a matter is referred to an inquiry agency, the

ICAC may also exercise the powers of the agency. Finally, where a matter is assessed as trivial, vexatious or frivolous, or has been previously dealt with and there is no reason to re-examine, or for good reason no further action should be taken, the OPI need not deal with the matter.

Investigations into corruption conducted by the ICAC will be conducted in private. This is because persons under investigation by the ICAC have not been charged with any criminal offence. As is currently the case with criminal investigations undertaken by SA Police, a suspect is publicly identified once an investigation is completed and a charge or charges have been laid (subject of course to any suppression order that may be in place). To make an investigation undertaken by the ICAC into corruption public, would prematurely and unnecessarily prejudice the reputation of a person or person, who may or may not end up being charged with any offence.

Under the process set out in this Bill, once a matter investigated by the ICAC has been referred to SA Police for determination as to whether, based on the evidence collected by the ICAC, a charge or charges are to be laid, the normal processes and procedures of a criminal prosecution will apply. In other words, subject to any suppression order, the charge or charges and identity of the accused will then become public and the matter will proceed as per any other criminal offence, through the criminal justice system to finalisation.

In order to protect the integrity of investigations being conducted by the ICAC, subject to an order of the court or judicial officer to the contrary, proceedings for an application for a warrant or injunction under the measure, proceedings for contempt of the ICAC and other proceedings under the measure must be heard in private.

The Bill does, however, permit the ICAC to make a public statement in certain circumstances. The ICAC may make a public statement in connection with a particular matter if, in the ICAC's opinion, it is appropriate to do so in the public interest, having regard to the following:

- the benefits to an investigation or consideration of a matter under the measure that might be derived from making the statement;
- the risk of prejudicing the reputation of a person by making the statement;
- whether the statement is necessary in order to allay public concern or to prevent or minimise the risk of prejudice to the reputation of a person;
- the risk of adversely affecting a potential prosecution.

Investigations

Subdivision 2 sets out the process, powers and procedures in relation to corruption investigations by the ICAC. Generally speaking, an investigation into corruption in public administration may be triggered in three ways, namely:

- a complaint or report received by the OPI which has been assessed and forwarded to the ICAC; or
- the ICAC exercising an own-motion initiative; or
- the Attorney-General reporting a matter directly to ICAC for his or her consideration.

The ICAC will be assisted in investigations by 'investigators' and 'examiners'. It is envisaged the investigators will be out in the field, collecting evidence and speaking with witnesses. A police officer seconded to the ICAC will automatically be an investigator under this Bill and it is intended that the officer should carry across all of his or her SAPOL powers for use in ICAC investigations if required. All other persons employed by ICAC for this purpose must be appointed to the role by the ICAC and issued with an identity card. By contrast, an examiner (who is responsible for conducting examinations) will be a role that can be undertaken by the ICAC, Deputy ICAC, an investigator appointed to this role by the ICAC and any other external person appointed to this role by the ICAC.

Once an investigation is commenced by the ICAC, the Bill provides for various powers (some of a coercive nature) depending on whether the investigation is elevated to a formal examination or not. The exercise of powers also differs depending on whether the place to be searched in an investigation for alleged corruption is a public office or vehicle or a private place or vehicle. To search and seize items from a private place or vehicle a warrant issued by a judge of a Supreme Court is required, whereas in relation to public place or vehicle, a warrant may be issued by the ICAC.

Standard operating procedures to be developed by the ICAC will provide guidance about how the powers are to be used in an investigation. These guidelines and procedures will be made available to the public, once they are developed.

The ICAC must personally head, or oversee the Deputy ICAC or an appointed examiner nominated by the ICAC to head, an investigation. Legal practitioners may be appointed to assist as counsel to the ICAC during an investigation.

Investigators will have the power to require a person to state all or any of the person's personal details and to produce evidence of those details if the investigator reasonably suspects that the person has committed or is about to commit either corruption in public administration or an offence against the measure or may be able to assist an investigation.

Part 4 Division 2 also set out the procedures for investigators to enter and search places or vehicles. For public agencies, public authorities, public officers or public vehicles, the ICAC may either by application of an investigator, or on his or her own initiative, issue a warrant authorising power to enter or search. However, if an

investigator wishes to enter and search a private place or vehicle, an application for a warrant must be made to and granted by a judge of the Supreme Court.

A warrant may only be issued in either case if the ICAC or the judge is satisfied that the warrant is reasonably required in the circumstances for the purposes of an investigation into a potential issue of corruption in public administration.

Once issued, a warrant authorises an investigator to:

- enter and search and if necessary use reasonable force to break into or open a place or vehicle; part of, or anything in or on, a place or vehicle; and
- give directions with respect to the stopping or movement of a vehicle; and
- while inspecting the place or vehicle—
  - to take photographs, films or audio, video or other recordings; and
  - to examine, copy or take extracts from a document connected with the investigation or any other investigation into corruption in public administration; and
  - to examine or test any thing connected with the investigation or any other investigation into corruption in public administration, or cause or require it to be examined or tested; and
  - if the investigator reasonably suspects that a person who is or has been on or in the place or vehicle has on or about his or her body evidence of a prescribed offence, to search the person; and
  - to seize and retain anything that the investigator reasonably suspects has been used in, or may constitute evidence of, a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator; and
  - to seize and retain anything that the investigator reasonably suspects has been used in, or may constitute evidence of, an offence other than a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator, if the investigator reasonably believes that it is necessary to do so in order to prevent its concealment, loss, mutilation or destruction or its use in committing such an offence.

For the sake of completeness, it should also be noted that investigators will also have the power to seize and retain items found during an investigation, and to utilise listening and surveillance devices under consequential amendments to the *Listening and Surveillance Devices Act 1972*. The power to utilise telephone intercepts will also be made available to investigators under the *Telecommunications (Interception) Bill 2012*.

As already stated, there is a mechanism in the Bill for an examination into alleged corruption to be undertaken. The formal examination procedure is set out in Schedule 2 of the Bill. The provisions in Schedule 2 mirror Part 3 (Examinations) of the current *Australian Crime Commission (South Australia) Act 2004* (the 'ACC Act') with two discrete changes.

Schedule 2 of the Bill provides for the examiner to order a witness who is considered to be in contempt to apply to the Supreme Court for the person to be dealt with in relation to the contempt. Conduct which amounts to contempt for the purposes of the measure is defined at clause 12 of Schedule 2. Where an examiner proposes to have a person dealt with for contempt by the Supreme Court, he or she may, during the hearing concerned, direct a police officer to detain the person for the purpose of bringing the person before the Supreme Court.

Once before the Supreme Court, the Court may do one of two things. The Supreme Court may direct that the person be released from detention on condition that he or she will appear before the Court in relation to the application or order that the person continue to be detained until the application is determined. This approach reflects the amendments to the ACC Act recently passed in the *Statutes Amendment (Serious and Organised Crime)* exercise.

A second change to the current ACC Act is in relation to exemptions from making a disclosure. For the purposes of an examination, a further exemption has been added to enable a person to make a disclosure to another person or body for the purposes of determining whether the person is entitled to obtain an indemnity for legal costs.

The ICAC has also been given the power to require a South Australian law enforcement agency, inquiry agency or public authority to refrain from taking action in respect to a matter under investigation by the ICAC or to conduct a joint investigation with the ICAC. This is a necessary requirement should an investigation reveal corrupt conduct in addition to other criminal offences or vice versa. In such cases, it may be necessary for one investigation to take precedence over the other, or for joint investigations to be conducted simultaneously.

In addition, the ICAC may apply to Supreme Court for an injunction restraining a person from engaging in conduct that is the subject of, or affects the subject matter of, an investigation or proposed investigation to be undertaken by the ICAC.

In any event, on completing an investigation or at any time during the investigation, the ICAC may refer a matter to a relevant law enforcement agency for further investigation and potential prosecution and/or refer it to a public authority for further investigation and potential disciplinary action against a public officer for whom the authority is responsible.

There are also extensive accountability provisions under Part 5 of the Bill including reporting to Parliament annually and an independent review of the exercise of the ICAC's powers. Telephone intercepts and use of surveillance devices are, of course, required to be audited by an independent review agency, as is already the case for SA Police. Further, the ICAC must keep the Attorney-General informed of the general conduct of the functions of the ICAC and the OPI on a general basis and provide information at the request of the Attorney-General. The Attorney-General is, however, prohibited from seeking information identifying or about a particular matter subject to assessment, investigation or referral under the measure.

Finally, it is proposed to establish by amendment to the *Parliamentary Committees Act 1991*, a Crime and Corruption Policy Review Committee. This Committee will be tasked with the function of examining each annual and other report laid before both Houses of Parliament that are prepared by the ICAC, the Commissioner of Police or the Police Ombudsman. I will return to the functions of this Committee in more detail when I discuss the consequential amendments under Schedule 3 of this Bill.

Referral of misconduct or maladministration

Subdivision 3 governs the referral by ICAC of a matter to an inquiry agency or public authority and establishes the criteria for doing so.

Prior to referring a matter to an inquiry agency, which the Bill defines as the Ombudsman, Police Ombudsman or Commissioner for Public Sector Employment, the ICAC is required to consult with the agency and take its views into consideration. Once consultation has occurred, the ICAC can give directions and guidance, including a requirement to submit a report or ongoing reports or recommendations as to the action to be taken and the period within which this is to occur. The ICAC may also exercise the powers of an inquiry agency in respect of a matter referred to the inquiry agency.

Where the ICAC is dissatisfied with the action taken after a matter has been referred, the Bill then sets out an escalating process for raising issues with the agency in question, then its Minister and then Parliament, if the ICAC is not satisfied that the agency has duly and properly taken action in relation to a referred matter.

A separate process is set out in the Bill for referrals to public authorities (as defined in Schedule 1) and imposes the same obligation upon the ICAC to consult with the authority and take into account the views of the authority on the matter prior to referral. For public authorities, however, there is no capacity for the ICAC to exercise the powers of the authority. A further point of distinction is that the Bill does not permit the ICAC to give directions to the Governor, a judicial officer or the Attorney-General in relation to a matter concerning the Governor or a judicial officer. This is necessary to maintain and protect the integrity of the separation of powers.

Request for Auditor-General to examine accounts

Subdivision 4 authorises the ICAC, where appropriate to do so, in respect of any matter subject to an assessment, investigation or referral under the Bill, to request the Auditor-General to conduct an examination of accounts.

Evaluation of practices, recommendations and reports

Division 3 sets out the function of the ICAC to evaluate the practices, policies and procedures of an inquiry agency or public authority. The ICAC must prepare a report of an evaluation and make a copy of the report available to the President of the Legislative Council and the Speaker of the House of Assembly. Division 4 confirms what action can be taken once an evaluation has been conducted, which includes the making of recommendations to the inquiry agency or public authority and the preparation of a report.

Division 4 also empowers the ICAC to make a report to the Attorney-General and to the Speaker of the House of Assembly and the President of the Legislative Council setting out recommendations for the amendment or repeal of a law or on other matters considered to be in the public interest to disclose that do not relate to a particular matter that is subject to assessment, investigation or referral.

Other matters

Part 6 of the Bill addresses a range of miscellaneous matters that are necessary to facilitate the operational aspects of the ICAC and the agencies and authorities with which it will interact. Clause 48 confirms that a person may disclose information to the ICAC or an investigator despite the provision of any other Act or common law relating to confidentiality, except where that law is designed to keep the identity of an informant secret. Part 6 of the Bill also includes a standard provision relating to victimisation of anyone who makes or intends to make a complaint or report under the measure.

A process is also set out for service of documents and notices. Subject to the discretion of the ICAC, it is envisaged that notices issued in relation to a formal examination will be limited to personal service. Finally, there is to be a review of the operation of the Act within 5 years after its commencement.

Consequential Amendments to other Statutes

A range of consequential amendments of a minor nature are necessary to establish the ICAC and the OPI to give effect to their objectives and functions. I therefore intend only to summarise the amendments to existing Acts that are of significance or form part of the key components of the Government's public integrity reforms.

Proposal to amend the *Local Government Act 1999*

Section 63 is to be amended to require uniform codes of conduct to be prescribed in regulations that will apply to all elected members and employees of local councils. The codes of conduct for elected members and

employees will be developed in consultation with the Local Government Association and are likely to be in force within 12 months of the ICAC Act commencing operation.

A new section 78A will be inserted into the *Local Government Act 1999* to enable elected members (in certain circumstances) to obtain legal advice at the expense of the council in question. Section 78A provides that regulations may establish a scheme under which a member of council may directly obtain legal advice at the expense of the council to assist the member in performing or discharging official functions and duties. This amendment recognises that elected members may from time to time require legal advice independent to that obtained by council staff, to properly discharge their functions. This new provision contemplates mechanisms to guide elected members as to the practical limits in accessing legal advice, in order to make clear that the right is not unfettered and is subject to considerations including cost and relevance.

It is also proposed that section 263 be amended by deleting reference to section 74 as forming the basis for making a complaint against an elected member in the District Court. It is proposed that any conduct that is outlined in Chapter 5 Part 4 of the *Local Government Act 1999* (as amended) will instead trigger a complaint being made to the Ombudsman.

Section 263A is a new provision that enables complaints to be made, or matters referred to the Ombudsman for investigation and report about an elected member, where the matter constitutes a ground of complaint under the *Local Government Act 1999*. Under section 263A this can occur in one of three ways, by referral by the Minister for Local Government or any member of the public, or as a result of the Ombudsman exercising his or her own initiative. The Ombudsman's power to investigate and report under section 263A is that contained in the *Ombudsman Act 1972*.

Section 263B sets out the recommendations that the Ombudsman can make as a result of completing an investigation under the authority of the *Ombudsman Act 1972*. The recommendations as set out at 263B(1) are complementary to those set out in the *Ombudsman Act 1972*. Under section 263B, it will be the responsibility of the respective council to ensure compliance with the recommendations of the Ombudsman. Where there is non-compliance by the elected member with the recommendations of the Ombudsman made under section 263B(1), the member will be taken to have failed to comply with Chapter 5 Part 4 and the council is to ensure that a complaint is lodged with the District Court pursuant to section 264 of the *Local Government Act 1999.*

Section 264, which currently addresses complaints against elected members in the District Court, is to be amended to remove ambiguities by requiring public officials to refer their complaint to the Ombudsman for investigation before taking action in the District Court. A person other than a public official, however, must have the written approval of a legally qualified person appointed by the Minister after consultation with the Local Government Association before taking action in the District Court.

Section 267 of the Act, which addresses the outcomes of proceedings in the District Court, will be expanded to include reprimanding a person, including by means of a public statement, issuing an apology in a particular form and requiring the person to reimburse the council a specified amount of money.

The proposed amendments to sections 272 and 274 involve removing the role of the Minister and substituting the Ombudsman to conduct investigations into councils or their subsidiaries. It is proposed to delete section 272 in its entirety and replace it with a new provision that sets out when the Ombudsman is to conduct an investigation into council and that a referral to the Ombudsman may be made on the basis of a report received from an auditor or on any other basis.

Section 274 is proposed to be further amended by requiring the Minister, before referring a matter to the Ombudsman, to give the subsidiary a reasonable opportunity to explain its actions and make submissions, unless providing such an opportunity would undermine the investigation.

Proposal to amend the *Ombudsman Act 1972*

Section 3(d) is amended to further facilitate the Ombudsman's ability to investigate local government, namely, to bring the Local Government Association Mutual Liability Scheme (LGAMLS) within the Ombudsman's jurisdiction to ensure the Ombudsman's ability to investigate an individual's complaint is not restricted.

The amendment, whilst not expressly referring to the LGAMLS, achieves this objective in a general sense in order to capture any future scheme, analogous to the LGAMLS within its scope. The clause also specifically excludes application of the Act to the ICAC and the OPI.

Section 13 is amended by ensuring that the ability to lay a complaint for disciplinary action against a person does not prevent a person being able to lodge a complaint with the Ombudsman about the conduct forming the basis of the disciplinary complaint.

Section 19A relating to the circumstances in which the Ombudsman may direct an agency to refrain from performing an administrative act is restructured. It is recognised that a notice must not be issued if compliance with the notice by the agency would result in the agency breaching a contract or other legal obligation or cause any third parties undue hardship. Further, section 19A(7), which prohibits functions under section 19A from being delegated, is to be repealed. At present, this is the only power under the *Ombudsman Act 1972* which cannot be delegated. Deletion of section 19A(7) will enable the Ombudsman to delegate the power to issue a notice under the section.

Section 20 of the Act is amended to clarify that any body or organisation to which the *Ombudsman Act 1972* applies cannot rely on privilege to decline to hand documents or things over as requested by the Ombudsman in exercising functions and powers under the Act.

The provisions about confidentiality, disclosure of information and publication of reports are brought together and, as a consequence, sections 22 and 26 are repealed.

Proposal to amend the *Parliamentary Committees Act 1991*

The proposed amendments to this Act seek to establish two new committees, the Parliamentary Conduct Committee and the Crime and Corruption Policy Review Committee.

The insertion of Part 5E into the Act establishes the Parliamentary Conduct Committee. This Committee will consist of 5 members; 3 members of the House of Assembly and 2 members of the other place. The Presiding Member is to be a member from the House of Assembly. The members of the Committee are not entitled to remuneration for their work as members of the Committee.

The functions of the Parliamentary Conduct Committee are:

- to promote compliance with standards of conduct required of members of Parliament by their respective Houses and investigate, on its own initiative or on receipt of a complaint, alleged contraventions of those standards; and
- if it is satisfied that there has been a contravention of the standards by a Member, to report to the Member's House the nature of the contravention; and
- to keep the standard of parliamentary conduct generally under review and make such recommendations as it sees fit for modifications of the standards of conduct required of members of Parliament to both Houses; and
- to perform other functions assigned to the Committee under this or any other Act or by resolution of both Houses.

The Government will be moving for the adoption of a Parliamentary Code of Conduct in each House in due course. It is proposed that the code be based on the 2004 Report of the Joint Committee on a Code of Conduct for Members of Parliament. It is the Government's intention that the code be adopted by a resolution of each House of Parliament. The legislative scheme of the Bill explicitly establishes the Parliamentary Conduct Committee to oversee and monitor the standards of conduct required of members of Parliament by their respective Houses, as proposed to be set out in the Code of Conduct.

As stated, it is also proposed to establish a Crime and Corruption Policy Review Committee, under Part 5F of the Act. The Committee will consist of 7 members of whom 4 must be from the House of Assembly and 3 must be from the other place. The Presiding Member of the Committee is to be a member of the House of Assembly and committee members are not entitled to remuneration for their work as members of the Committee.

One of the functions of the Crime and Corruption Policy Review Committee is to examine:

- each annual and other report laid before both Houses prepared by ICAC, the Commissioner of Police or the Police Ombudsman; and
- each report laid before both Houses under the *Police Act 1998*, the *Serious Organised Crime (Control) Act 2008* or the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

Further functions of the Crime and Corruption Policy Review Committee are to report to both Houses on any matter of policy affecting public administration arising out of a report as the Committee considers appropriate; and to perform any other functions as assigned.

It is important to note that proposed section 15R clearly sets out that nothing authorises the Crime and Corruption Policy Review Committee to investigate a matter relating to particular conduct or to reconsider a decision of the ICAC or any other person or body in relation to a particular matter or to report on the performance of the functions of the ICAC, SA Police or the Police Ombudsman.

Further, Part 5F to be inserted into the Parliamentary Committees Act 1991 expressly prohibits the ICAC from disclosing any information to the Crime & Corruption Policy Review Committee that relates to a particular matter that is or has been the subject of a complaint, report, assessment, investigation or referral by the ICAC. This is necessary to ensure that any matter at whatever stage which is in the possession of the ICAC remains private and that ICAC is not prejudiced by the Crime and Corruption Policy Review Committee in performing its functions. This prohibition is however to be read in conjunction with the ability of ICAC to make public statements so that ICAC may make the same kind of statements to the Committee

Proposal to amend the *Police Act 1998*

Section 38 is amended by requiring the Commissioner of Police to provide the Police Ombudsman with details of each report into breaches of the Police Code of Conduct as soon as practicable after it is made. Section 67(3) is amended to make it clear that special constables will be able to be seconded to the ICAC when required. It is intended that SAPOL officers, including special constables, will retain their SAPOL powers when seconded to the ICAC. As currently worded, section 67(3) would not permit the Commissioner of Police to authorise special constables to retain their police powers when seconded to the ICAC.

Proposal to amend the *Police (Complaints and Disciplinary Proceedings) Act 1985*

It is proposed to change the name of the Police Complaints Authority to the Police Ombudsman.

Section 12 is amended to ensure that the protection extends to action taken by the Police Ombudsman under another Act. Section 21 of the Act is amended to remove the requirement that reasons be given when the Ombudsman determines not to investigate or further investigate a matter. This is intended to minimise the administrative workload where it is unnecessary to provide reasons.

A new comprehensive offence of obstruction is inserted which will apply to investigations by the Police Ombudsman and Internal Investigation Brach investigations. The maximum penalty will be a fine of $10,000 or imprisonment for 2 years.

Proposal to amend the *Public Finance and Audit Act 1987*

Section 4 is amended by applying a new definition of a local government indemnity scheme to ensure its inclusion for the purposes of section 32 of the Act.

Section 32 is amended to enable the Auditor-General to audit or examine, in whole or in part, the accounts of publicly funded bodies and projects, either by the Auditor-General's own motion or at the request of the Treasurer or ICAC. Under an amendment to section 36 of this Act, the Auditor-General will be required to include information about examinations undertaken under the authority of section 32 in the Annual Report.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Primary objects of Act

The primary objects are—

- to establish the Independent Commissioner Against Corruption with functions designed to further—
  - the identification and investigation of corruption in public administration; and
  - the prevention or minimisation of corruption, misconduct and maladministration in public administration, including through referral of potential issues, education and evaluation of practices, policies and procedures; and
- to establish the Office for Public Integrity to manage complaints about public administration with a view to—
  - the identification of corruption, misconduct and maladministration in public administration; and
  - ensuring that complaints about public administration are dealt with by the most appropriate person or body; and
- to achieve an appropriate balance between the public interest in exposing corruption, misconduct and maladministration in public administration and the public interest in avoiding undue prejudice to a person's reputation. It is recognised that the balance may be weighted differently in relation to corruption in public administration as compared to misconduct or maladministration in public administration.

It is intended that the primary object of the Commissioner be—

- to investigate serious or systemic corruption in public administration; and
- to refer serious or systemic misconduct or maladministration in public administration to the relevant body, giving directions or guidance to the body or exercising the powers of the body as the Commissioner considers appropriate.

4—Interpretation

For the purposes of this measure, complaints about public administration include complaints alleging corruption, misconduct or maladministration in public administration and any complaints about public authorities or public officers.

Public officer, the public authority to which a public officer belongs and the Minister responsible for the public authority are concepts that are explored in Schedule 1. The measure covers a very broad range of public sector officers, local government officers, persons to whom functions or powers are delegated by such officers, persons assisting such officers and persons who perform work for a public authority as a contractor or as an employee of a contractor or otherwise directly or indirectly on behalf of a contractor. The last 3 categories reflect a similar extension for responsibility for honesty and accountability that currently applies in the public sector under the *Public Sector (Honesty and Accountability) Act 1995*. The scheme also covers Members of Parliament, judicial officers and the Governor.

5—Corruption, misconduct and maladministration

This clause sets the scope of the matters to be investigated or referred under the measure. Complaints on other matters may still be referred to an appropriate body or person but the Commissioner would not be involved in dealing with or overseeing the complaint.

For clarity, for the concept of corruption the main offences on the State's Statute Book that relate to the conduct of a public officer are referred to (including bribery by a third party) and then a catch all is included for other offences committed as a public officer or former public officer. Incidental offences are included as is the case under section 3(3) of the *Australian Crime Commission (South Australia) Act 2004*.

The concept of misconduct in public administration aligns with the concept of misconduct in the *Public Sector Act 2009*. Codes of conduct applying to public officers set the scene. There are or will be specific codes for Members of Parliament, public sector employees, local council members and local council employees.

Maladministration brings in the idea that practices, policies and procedures of public authorities may be the source of problems as well as the conduct of public officers.

Misconduct and maladministration are dealt with together in the measure through mechanisms for referral. Corruption, that is, criminal conduct in public administration, is dealt with as a matter requiring significant investigation and extraordinary powers are made available to ensure that it can be identified, investigated and prosecuted.

The clause ensures that past conduct is relevant, as is conduct that occurs outside the State.

Part 2—Independent Commissioner Against Corruption

6—Functions

This Part starts off with a high level view of the functions of the new Commissioner. The highest priority is identifying corruption in public administration and investigating and referring the corruption for prosecution or referring it to SA Police or the Police Ombudsman for investigation and prosecution. The second priority is assisting inquiry agencies (the Ombudsman, the Police Ombudsman and the Commissioner for Public Sector Employment) and public authorities to identify and deal with misconduct and maladministration. This includes giving directions or guidance to inquiry agencies and public authorities and to exercising the powers of inquiry agencies as the Commissioner considers appropriate. The third priority is a role in evaluating the practices, policies and procedures of inquiry agencies and public authorities. Here the emphasis is on a comprehensive and effective system for preventing or minimising corruption, misconduct and maladministration. The fourth priority is an educative role. Each of these roles is explored more fully later in the measure.

The clause makes it clear that the Commissioner is independent.

However, the Attorney-General may request the Commissioner to review a legislative scheme related to public administration and to make recommendations to the Attorney-General for the amendment or repeal of the scheme.

The Commissioner is required to perform his or her functions in a manner that is as open and accountable as is practicable while recognising that examinations relating to corruption in public administration are to be conducted in private and that other Acts govern processes connected with how misconduct and maladministration in public administration is dealt with and in a manner that deals as expeditiously as is practicable with allegations of corruption in public administration.

7—Commissioner

The Governor is to appoint a former judge or legal practitioner of at least 7 years standing as the Commissioner for a term not exceeding 7 years. The maximum term of appointment (including in the position of deputy) is 10 years. Removal of the Commissioner is on the address of both Houses of Parliament although there is a process for suspension pending removal. The office automatically becomes vacant in certain circumstances including insolvency or conviction for certain offences. These provisions are similar to those applying to the Ombudsman. The *Public Sector (Honesty and Accountability) Act 1995* is applied to the Commissioner as a senior official.

8—Deputy Commissioner

A Deputy Commissioner may be appointed on a similar basis to the Commissioner. However, the Governor is given power to remove the deputy for contravention of a condition of appointment, misconduct or failure or incapacity to carry out official duties satisfactorily. The *Public Sector (Honesty and Accountability) Act 1995* is also applied to the Deputy Commissioner as a senior official.

9—Pension rights

The *Judges' Pensions Act 1971* may be applied by the Governor to or in relation to the Commissioner or Deputy Commissioner as if the Commissioner or Deputy Commissioner were a Judge and service as the Commissioner or Deputy Commissioner were judicial service. It is contemplated that the instrument would specify the relevant level of judicial office for the purposes of the pension. The written instrument by which the *Judges' Pensions Act 1971* is applied by the Governor may impose conditions on the application of the Act. Application of the Act may also be subject to specified modifications.

10—Employees

The Commissioner is empowered to engage staff on terms and conditions determined by the Commissioner. The employees will be bound by the *Public Sector (Honesty and Accountability) Act 1995* although they are not Public Service employees.

11—Use of services or staff of other government entities

The Commissioner may make use of Public Service employees, police officers, special constables or staff of the Office of the Director of Public Prosecutions under arrangements with the appropriate authorities.

12—Examiners and investigators

This clause allows the Commissioner to appoint examiners and investigators. Police officers and special constables seconded to assist the Commissioner are automatically investigators for the purposes of the measure.

An investigator who is not a police officer or special constable is to be issued with an identity card that must be produced by the investigator at the request of a person in relation to whom the investigator intends to exercise powers under the Act.

13—Cooperation with law enforcement agencies

The need for cooperation with law enforcement agencies is recognised. The definition of law enforcement agency in the interpretation section encompasses federal, State and Territory police forces, police ombudsmen, integrity commissions and supervisory bodies. International or other bodies may be added by regulation.

14—Delegation

A standard delegation provision applies to the Commissioner. The Commissioner may not delegate a function or power under section 29, which gives the Commissioner a power to issue a warrant in certain circumstances. If there are other functions or powers that should not be delegated, regulations may be made to that effect.

Part 3—Office for Public Integrity

15—Functions and objectives

This clause establishes the Office for Public Integrity. The functions of the Office are to receive and assess complaints about public administration, receive and assess reports about corruption, misconduct or maladministration in public administration from inquiry agencies, public authorities (including the Commissioner of Police, the Police Ombudsman and the Auditor-General) and public officers and make recommendations as to whether and by whom complaints and reports should be investigated.

The Commissioner may assign other functions to the Office.

16—Organisational structure

The Office is responsible to the Commissioner and the Commissioner is not bound by the recommendations of the Office.

The staff are to be Public Service employees assigned to the Office to assist the Commissioner. The Commissioner may also assign the Commissioner's employees to the Office if that is found to be desirable.

Part 4—Procedures and powers

Division 1—Complaints and reports

17—Complaints system

A system for receipt of complaints by the Office is to be established. The system will need to handle anonymous complaints as well as complaints from informants who will require high levels of protection.

18—Reporting system

An obligation is placed on the Commissioner to establish directions and guidelines for the reporting of suspected corruption, misconduct and maladministration in public administration to the Office by inquiry agencies, public authorities and public officers.

19—Obstruction of complaint or report

It is an offence to obstruct the making of a complaint or report.

20—False or misleading statements in complaint or report etc

It is an offence to knowingly include a false or misleading statement in a complaint or report or to make a complaint or report knowing that there are no grounds for the making of the complaint or report.

Division 2—Assessments, investigations and referrals

Subdivision 1—Assessment and action that may be taken

21—Assessments

The Office is to assess a complaint or report as to whether—

- it raises a potential issue of corruption in public administration that could be the subject of a prosecution; or

- it raises a potential issue of misconduct or maladministration in public administration; or
- it raises some other issue that should be referred to an inquiry agency, public authority or public officer; or
- it is trivial, vexatious or frivolous, it has previously been dealt with by an inquiry agency or public authority and there is no reason to re-examine it or there is other good reason why no action should be taken in respect of it.

Subsection (2) contemplates the Commissioner assessing, or requiring the Office to assess, according to the criteria set out in subsection (1), other matters on his or her own initiative or that are uncovered in the course of the performance of the functions of the Commissioner or Office.

22—Action that may be taken

This clause provides an overview of the functions of the Commissioner involving investigation or referral. The next sections deal with the powers and procedures that apply in relation to these functions.

In the case of corruption the matter is to be investigated by the Commissioner or referred to SA Police, the Police Ombudsman or other law enforcement agency.

In the case of misconduct or maladministration, the Commissioner may choose to refer it to an inquiry agency (the Ombudsman, the Police Ombudsman or the Commissioner for Public Sector Employment) or the public authority concerned. In either case the Commissioner may issue directions or guidance in respect of the matter, and in the case of a referral to an inquiry agency, the Commissioner may choose to exercise the powers of that agency.

If the matter does not involve a problem with public administration, it may be referred to an inquiry agency, public authority or public officer as considered appropriate or a complainant or reporting agency may be advised to refer the matter to such a body or person.

No action need be taken in respect of a matter that is assessed as trivial, vexatious or frivolous a matter that has previously been dealt with by an inquiry agency or public authority if there is no reason to re-examine it or a matter in respect of which no action should be taken for some other good reason.

The clause recognises that it may be necessary to deal with a matter as raising multiple issues of corruption and misconduct or maladministration and recognises that a matter may need to be reassessed and dealt with differently as it is progressed.

There is a requirement under the clause for reasonable steps to be taken to ensure that a complainant or reporting agency receives an acknowledgement of the complaint or report and is informed as to the action, if any, taken in respect of the matter.

23—Public statements

The Commissioner may make a public statement in connection with a particular matter if, in the Commissioner's opinion, it is appropriate to do so in the public interest, having regard to the following:

- the benefits to an investigation or consideration of a matter under this Act that might be derived from making the statement;
- the risk of prejudicing the reputation of a person by making the statement;
- whether the statement is necessary in order to allay public concern or to prevent or minimise the risk of prejudice to the reputation of a person;
- the risk of adversely affecting a potential prosecution.

Subdivision 2—Investigation of corruption

24—Standard operating procedures

In order to regulate the practices of investigators in investigating corruption, this clause requires the Commissioner to establish standard operating procedures. These are to be made publicly available.

Contravention of the operating procedures constitutes a ground for suspending, dismissing or taking other disciplinary action against an investigator. However, the validity of the exercise of a power cannot be questioned on the ground of contravention of the operating procedures.

25—Management of investigation

This clause requires the Commissioner to oversee each investigation conducted under the measure. The Commissioner may determine to head an investigation himself or herself or appoint the Deputy Commissioner or an examiner to head an investigation and report to the Commissioner. The clause also contemplates the Commissioner appointing legal practitioners to assist as counsel for an investigation.

26—Production of statement of information

The person heading an investigation into corruption in public administration may, by written notice, require a public authority or public officer to produce a written statement of information about a specified matter within a specified period and in a specified form. The person may also require that the statement be verified by statutory declaration.

27—Examination and production of documents and other things

This clause provides for the conduct of an examination for the purposes of an investigation into corruption in public administration as set out in Schedule 2. The clause also provides that a person may be required to produce a document or thing for the purposes of an investigation into corruption in public administration as set out in Schedule 2. The provisions in Schedule 2 mirror Part 3 (Examinations) of the *Australian Crime Commission (South Australia) Act 2004*.

28—Power to require person to disclose identity

This clause authorises an investigator to require a person to state all or any of the person's personal details and to produce evidence of those details if the investigator reasonably suspects that the person has committed, is committing, or is about to commit, a prescribed offence, or may be able to assist an investigation of a prescribed offence.

A *prescribed offence* is corruption in public administration or an offence against the Act.

29—Enter and search powers under warrant

This clause provides for the issuing of warrants authorising investigators to enter and search places or vehicles.

The Commissioner may, on application by an investigator or on his or her own initiative, issue a warrant authorising an investigator to enter and search a place occupied or used by an inquiry agency, public authority or public officer or a vehicle owned or used by an inquiry agency, public authority or public officer. It is considered appropriate to give this power to the Commissioner (rather than a judge) because the focus is on matters of public administration and attendance at offices or vehicles of public agencies.

For a warrant to enter and search a private place or vehicle, application must be made to a judge of the Supreme Court. The judge may issue a warrant on application by an investigator authorising an investigator to enter and search—

- a private place or private vehicle that is reasonably suspected of being, or having been, used for or in connection with a prescribed offence; or
- a private place or private vehicle in which it is reasonably suspected there may be records relating to a prescribed offence or anything that has been used in, or may constitute evidence of, a prescribed offence.

A warrant may only be issued if the Commissioner or the judge is satisfied that the warrant is reasonably required in the circumstances for the purposes of an investigation into a potential issue of corruption in public administration.

An application for a warrant would ordinarily be made personally, However, if, in the opinion of the applicant, a warrant is urgently required and there is not enough time to lodge a written application and attend in person, the application may be made by fax, email or telephone in accordance with practices and procedures prescribed by regulation for applications to the Commissioner, or by rules of court for applications to a judge.

A warrant authorises an investigator—

- to enter and search and, if necessary, use reasonable force to break into or open—
  - the place or vehicle to which the warrant relates; or
  - part of, or anything in or on, a place or vehicle to which the warrant relates; and
- to give directions with respect to the stopping or movement of a vehicle to which the warrant relates; and
- in the course of executing the warrant—
  - to take photographs, films or audio, video or other recordings; and
  - to examine, copy or take extracts from a document connected with the investigation or any other investigation into corruption in public administration; and
  - to examine or test any thing connected with the investigation or any other investigation into corruption in public administration, or cause or require it to be examined or tested; and
  - if the investigator reasonably suspects that a person who is or has been on or in the place or vehicle has on or about his or her body evidence of a prescribed offence, to search the person; and
  - to seize and retain anything that the investigator reasonably suspects has been used in, or may constitute evidence of, a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator; and
  - to seize and retain anything that the investigator reasonably suspects has been used in, or may constitute evidence of, an offence other than a prescribed offence, or issue a retention order in respect of such a thing requiring that it not be removed or interfered with without the approval of an investigator, if the investigator reasonably believes that it is necessary to do so in order to prevent its concealment, loss, mutilation or destruction or its use in committing such an offence.

A *prescribed offence* is corruption in public administration or an offence against the Act.

The clause prescribes requirements in relation to applications, the matters to be specified in warrants and searches by investigators of persons.

A warrant expires 1 month after the date on which it was issued if not executed before that date.

30—Seizure and retention order procedures

This is a standard provision dealing with retention orders and what happens to seized items.

31—Obstruction

It is an offence under this clause for a person to—

- refuse or fail to provide a statement of information as required by the person heading an investigation; or
- include information in a statement of information knowing that it is false or misleading in a material particular; or
- without lawful excuse, refuse or fail to comply with a requirement or direction of an investigator; or
- alter, destroy, conceal or fabricate a document or other thing knowing that it is or is likely to be required by an investigator performing functions under the Act; or
- otherwise hinder or obstruct an investigator, or a person assisting an investigator, in the performance of his or her functions.

The clause authorises an investigator to arrest a person without warrant if the investigator reasonably suspects that the person has committed, is committing, or is about to commit, an offence under the clause and—

- when required to do so by an investigator the person failed to state truthfully his or her personal details or to produce true evidence of those details; or
- the investigator has reasonable grounds for believing that the person would, if not arrested—
  - fail to attend court in answer to a summons issued in respect of the offence; or
  - continue the offence or repeat the offence; or
  - alter, destroy, conceal or fabricate evidence relating to the offence; or
  - intimidate, harass, threaten or interfere with a person who may provide or produce evidence of the offence.

The clause requires an investigator who has arrested a person under the clause to immediately deliver the person, or cause the person to be delivered, into the custody of a police officer. The person will then, for the purposes of any other law, be taken to have been apprehended by the police officer without warrant.

32—Limiting action by other agencies and authorities

Under this clause, the Commissioner may require a South Australian law enforcement agency, inquiry agency or public authority to refrain from taking action in respect of a particular matter being investigated by the Commissioner or to conduct a joint investigation with the Commissioner in respect of a particular matter. The agency or authority must comply with the requirement even if the agency or authority is otherwise required or authorised to take action under another Act. The requirement is to be made by written notice, must specify the period for which it is to apply and set out details of the action that is not to be taken or the requirements governing any joint investigation.

33—Injunction to refrain from conduct pending investigation

The Commissioner may apply to the Supreme Court for an injunction restraining a person from engaging in conduct that is the subject of, or affects the subject matter of, an investigation or proposed investigation by the Commissioner. This is on the basis that the conduct is likely to impede the investigation or it is in the public interest to grant the injunction.

34—Prosecutions and disciplinary action

This provision recognises that the outcome of an investigation may be a referral for prosecution or disciplinary action.

Subdivision 3—Referral of misconduct or maladministration

35—Referral to inquiry agency

Before a matter is referred to an inquiry agency (the Ombudsman, Police Ombudsman or Commissioner for Public Sector Employment), the Commissioner is required to consult with the agency and take its views into consideration. This is designed to ensure that matters are dealt with by the appropriate body.

If a matter raising potential issues of misconduct or maladministration in public administration is referred to an inquiry agency, the directions or guidance that may be given to the agency by the Commissioner include (without limitation)—

- a requirement that the agency submit a report or reports on action taken in respect of the matter as set out in the directions; and
- a recommendation as to the action that should be taken by the agency and the period within which it should be taken.

The clause sets out certain requirements that apply if the Commissioner decides to exercise the powers of an inquiry agency in respect of a matter referred to the inquiry agency:

- the Commissioner must notify the agency in writing;
- the agency must refrain from taking action in respect of the matter;
- the Commissioner has all the functions and powers of the agency as if the Commissioner constituted the agency;
- the Commissioner is bound by any Act governing the performance of the functions or the exercise of the powers by the agency;
- a reference to the agency in any Act will be taken to include a reference to the Commissioner;
- the Commissioner must inform the agency of the outcome of the matter.

The Commissioner may, as he or she sees fit, do any of the following:

- revoke a referral to an inquiry agency;
- revoke or vary directions or guidance given to an inquiry agency or give further directions or guidance;
- withdraw from exercising the powers of an inquiry agency;
- decide to exercise the powers of an inquiry agency.

There is a process for raising issues with the agency, then its Minister and then Parliament if the Commissioner is not satisfied that the agency has duly and properly taken action in relation to a referred matter.

36—Referral to public authority

Before a matter is referred to a public authority, the Commissioner is required to consult with the authority and take its views into consideration. Again this is designed to ensure that matters are dealt with by the appropriate body.

The provision is similar to that in respect of referral to an inquiry agency except that there is no process for exercising any powers of the authority. The provision ensures that directions cannot be given to the Governor or a judicial officer or to the Attorney-General in relation to a matter concerning the Governor or a judicial officer.

Subdivision 4—Request for Auditor-General to examine accounts

37—Request for Auditor-General to examine accounts

This clause recognises the provisions of the *Public Finance and Audit Act 1987* under which the Auditor-General may conduct an examination of accounts at the request of the Commissioner.

Division 3—Evaluations of agency or authority practices

38—Evaluations of practices, policies and procedures

This clause supports the Commissioner's function of evaluating practices, policies and procedures of inquiry agencies and public authorities with a view to advancing comprehensive and effective systems for preventing or minimising corruption, misconduct or maladministration. Reports of evaluations are to be public.

Division 4—Recommendations and reports of Commissioner

39—Recommendations

If, on conducting an evaluation or in the course of conducting an investigation or overseeing the referral of a matter, the Commissioner forms the view that an inquiry agency or public authority should alter practices, policies or procedures or conduct or participate in educational programs, the Commissioner may make a recommendation to the agency or authority accordingly. If the Commissioner is not satisfied of compliance with the recommendation, the matter may be raised with the agency's or authority's Minister and if the Minister does not provide a satisfactory response, the Commissioner may provide a report to the Parliament. This follow up procedure is similar to that available to the Ombudsman in respect of recommendations.

Reports of recommendations are to be public.

40—Reports

The Commissioner is entitled to prepare a report setting out—

- recommendations for the amendment or repeal of a law formulated in the course of the performance of the Commissioner's functions; or
- other matters arising in the course of the performance of the Commissioner's functions that the Commissioner considers to be in the public interest to disclose.

This does not extend to a report relating to a particular matter subject to assessment, investigation or referral under the measure.

A copy of the report is to be provided to the Attorney-General, the President of the Legislative Council and the Speaker of the House of Assembly. The President and the Speaker are required to lay the report before their respective Houses.

Division 5—Miscellaneous

41—Proceedings before judicial body do not inhibit performance of Commissioner's functions

This clause is designed to prevent delay and allows the Commissioner to perform functions despite judicial proceedings. To achieve an appropriate balance, the Commissioner must endeavour to avoid, as far as practicable, prejudice to any person affected by the proceedings.

42—Public authority to assist with compliance by public officers

This clause requires the public authority responsible for a public officer to regard compliance with the Act by the officer as part of the officer's official duties and to reimburse expenses incurred in respect of travel, accommodation and meals.

Part 5—Accountability

43—Commissioner's annual report

This clause sets out matters to be included in the Commissioner's annual reports.

44—Annual review of exercise of powers

A person eligible to be appointed as the Commissioner is to conduct an annual review to determine whether powers under the measure have been exercised in an appropriate manner. A report of the review is to be tabled in Parliament. This provision is similar to that in section 34 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

45—ICAC Committee

The Commissioner is required to provide the relevant Parliamentary Committee (established by related amendments) with a copy of each annual report and other public report.

46—Commissioner's website

In the interests of the Commissioner conducting functions in an open and accountable way, as far as is practicable, the Commissioner is required to maintain a website. The clause establishes certain material that is to be included on the website.

47—Provision of information to Attorney-General

The Commissioner is required to keep the Attorney-General informed of the general conduct of the functions of the Commissioner and the Office and the Attorney-General may request information relevant to the performance of the functions of the Commissioner or the Office (but not information identifying or about a particular matter subject to assessment, investigation or referral under the measure)

If the Commissioner is of the opinion that to provide the information would compromise the proper performance of the Commissioner's functions, the Commissioner may instead provide the Governor with a detailed written explanation of the reasons for the opinion.

Part 6—Miscellaneous

48—No obligation on persons to maintain secrecy

This clause is designed to enable a person to disclose information to the Commissioner or an investigator despite the provisions of any other Act or common law relating to confidentiality. This would extend to confessional disclosures and medical disclosures.

49—Arrangements for provision of information by Commissioner of Police and Police Ombudsman

The Commissioner of Police and the Police Ombudsman are obliged to make arrangements to grant the Commissioner and investigators access to confidential information and databases for the purposes of an investigation.

50—Commissioner and staff to be regarded as law enforcement body

This clause ensures that the Commissioner and members of the staff of the Commissioner will be regarded as a body established for law enforcement purposes (however described) for the purposes of any other Act.

51—Impersonation of Commissioner, Deputy Commissioner, examiner or investigator

It is an offence to impersonate the Commissioner, Deputy Commissioner, examiner or an investigator.

52—Confidentiality

It is an offence for a person to disclose information obtained in the course of the administration of the measure in connection with a matter that is the subject of a complaint, report, investigation, referral or evaluation except in the circumstances set out in subclause (1). Subclause (2) contemplates various circumstances in which the Commissioner may authorise disclosure. If information is passed on, the person to whom it is passed on is bound by the same rules of confidentiality.

53—Proceedings to be heard in private

Proceedings under the Act (other than for an offence) are to be heard in private to prevent disclosures of the fact of a complaint etc, subject to an order of the court or judicial officer concerned to the contrary. Proceedings for an offence are to be heard in private if a public hearing may prejudice an investigation under this Act or unduly prejudice the reputation of a person other than the defendant.

54—Publication of information and evidence

It is an offence to publish (without the authorisation of the Commissioner)—

- information tending to suggest that a particular person is, has been, may be, or may have been, the subject of a complaint, report or investigation under the measure; or
- information that might enable a person who has made a complaint or report under the measure to be identified or located; or
- the fact that a person has made or may be about to make a complaint or report under the measure; or
- information that might enable a person who has given or may be about to give information or other evidence under the measure to be identified or located, or
- the fact that a person has given or may be about to give information or other evidence under the measure; or
- any other information or evidence publication of which is prohibited by the Commissioner.

55—Victimisation

This is a standard provision relating to victimisation, in this case based on a person making or intending to make a complaint or report under the measure.

56—Service

This clause is a standard provision setting out how notices and documents may be served. It is subject to the regulations, which may set out how a summons or a notice under Schedule 2 is to be served

57—Evidence

Evidentiary aids are provided in respect of appointments of examiners, investigators, delegations, notices, orders and receipt or non-receipt of documents, statements of information or other things.

58—Regulations

This clause provides general regulation making power.

59—Review of operation of Act

A report on the operation of the measure is to be tabled in Parliament within 5 years after its commencement.

Schedule 1—Public officers, public authorities and responsible Ministers

The table in the Schedule takes the approach of explicitly listing many classes of public officers and the public authorities responsible for them. This is designed to make it easier for many groups to understand that they are within the scope of the measure. If the Premier is the public authority, the Attorney-General is designated as the responsible Minister. If another Minister is the public authority, the Premier is designated as the responsible Minister. The Premier is designated as the responsible Minister in respect of the Governor, Members and officers of Parliament.

Schedule 2—Examination and production of documents and other things

The provisions in this Schedule replicate Part 3 of the *Australian Crime Commission (South Australia) Act 2004*, with necessary modifications. It contains practices and procedures for an examination or a requirement to produce documents and other things, deals with contempt and creates various offences.

Schedule 3—Related amendments

Part 1—Preliminary

1—Amendment provisions

This provision is formal.

Part 2—Amendment of *Australian Crime Commission (South Australia) Act 2004*

2—Amendment of section 18—Conduct of examination

The amendment ensures that if it becomes apparent in an examination that a person knows information relevant to another investigation, the appropriate questions may be asked.

Part 3—Amendment of *Child Sex Offenders Registration Act 2006*

3—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 4—Amendment of *Correctional Services Act 1982*

4—Amendment of section 28—Removal of prisoner for criminal investigation, attendance in court etc

The Independent Commissioner Against Corruption, the Deputy Commissioner or an examiner is authorised to direct the attendance of a prisoner for the purposes of an investigation.

5—Amendment of section 33—Prisoner's mail

This amendment adds the Independent Commissioner Against Corruption and the Office and the Police Ombudsman to the list of persons and bodies to whom a letter may be sent by, or from whom a letter may be received by, a prisoner without it being opened.

6—Insertion of section 35A

The new section requires assistance to be provided to a prisoner who wants to make a complaint to the Office or about corruption, misconduct or maladministration in public administration.

Part 5—Amendment of *Criminal Investigation (Covert Operations) Act 2009*

7—Amendment of section 3—Interpretation

This Act authorise the use of undercover operations and assumed identities for the purposes of criminal investigation and the gathering of criminal intelligence within and outside the State. The definitions of chief officer, law enforcement agency and law enforcement officer are varied so as to add the Independent Commissioner Against Corruption and investigators for the purposes of extending the Act to investigations by the Commissioner.

Part 6—Amendment of *Criminal Law Consolidation Act 1935*

8—Amendment of section 246—Confidentiality of jury deliberations and identities

Section 246 prohibits disclosure or publication of protected information—information identifying a juror or particulars of statements etc made by a jury in the course of deliberations. There are various exceptions including disclosure to a Royal Commission. The exception is expanded to encompass disclosure to the Independent Commissioner Against Corruption, the Deputy Commissioner, an examiner or an investigator or in the course of making a complaint or report to the Office.

Part 7—Amendment of *Criminal Law (Forensic Procedures) Act 2007*

9—Amendment of section 45—Access to and use of DNA database system

10—Amendment of section 50—Confidentiality

11—Amendment of section 57—Compliance audits

These amendments are consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 8—Amendment of *Defamation Act 2005*

12—Amendment of section 4—Interpretation

For the purposes of the Act matter that is published in the course of the proceedings of an Australian court or Australian tribunal is published on an occasion of absolute privilege and as such is not subject to action under the Act. This protection is extended to the Independent Commissioner Against Corruption, the Deputy Commissioner or an examiner conducting an examination.

Part 9—Amendment of *Freedom of Information Act 1991*

13—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

14—Amendment of section 4—Interpretation

The definition of agency is altered to ensure that the bodies that are agencies for the purposes of the *Ombudsman Act 1972* are agencies for the purposes of this Act.

15—Amendment of Schedule 2—Exempt agencies

The Independent Commissioner Against Corruption and the Office are added to the list of exempt agencies.

Part 10—Amendment of *Legal Practitioners Act 1981*

16—Amendment of section 21—Entitlement to practise

Section 21 sets out the scope of practice for which a person needs to be a legal practitioner. This includes representing a party to proceedings in a tribunal, unless the Act constituting the tribunal or some other Act allows an unqualified person to act. Tribunal is currently defined to include a royal commissioner and an arbitrator who is a

judge, special magistrate or legal practitioner. The Independent Commissioner Against Corruption, the Deputy Commissioner or an examiner conducting an examination is added as a tribunal for this purpose.

Part 11—Amendment of *Listening and Surveillance Devices Act 1972*

17—Amendment of section 3—Interpretation

18—Amendment of section 6—Warrants—General provisions

19—Amendment of section 6AB—Use of information or material derived from use of listening or surveillance devices under warrants

20—Amendment of section 6AC—Register of warrants

21—Amendment of section 6B—Reports and records relating to warrants etc

22—Amendment of section 6C—Control by police etc of certain records, information and material

23—Amendment of section 6D—Inspection of records by review agency

24—Amendment of section 6E—Powers of review agency

25—Amendment of section 7—Lawful use of listening device by party to private conversation

26—Amendment of section 8—Possession etc of declared listening device

27—Amendment of section 9—Power to seize listening devices etc

28—Amendment of section 10—Evidence

29—Amendment of section 11—Forfeiture of listening devices

30—Amendment of section 12—Regulations

These amendments allow the Independent Commissioner Against Corruption to obtain warrants to use listening and surveillance devices for the purposes of an investigation.

Section 6 currently requires the DPP to certify the requirement for an application for a warrant but then leaves it to the Commissioner of Police to cancel a warrant if the need for it no longer exists, and no certification is required in respect of ACC applications. The amendment leaves both issues to the chief officer of the investigating agency in all cases.

The Police Ombudsman inspects police records to ensure compliance. In the case of the Independent Commissioner Against Corruption, this role is to be performed by an independent person appointed by the Governor.

Part 12—Amendment of *Local Government Act 1999*

31—Substitution of section 63

New section 63 contemplates a code of conduct for members of councils being set out in the regulations.

32—Amendment of section 74—Members to disclose interests

These subclauses are removed as a consequence of the more comprehensive approach to discipline in section 263.

33—Insertion of section 78A

Under new section 78A, a scheme under which a member of a council may directly obtain legal advice at the expense of the council to assist the member in performing or discharging official functions and duties may be established by the regulations. The scheme may require the preparation and adoption of a policy by a council and may also include provisions for the variation of the policy and its availability to the public.

34—Substitution of section 110

New section 110 contemplates a code of conduct for council employees being set out in the regulations.

35—Amendment of section 129—Conduct of audit

The material that is deleted is moved to section 272(2).

36—Amendment of section 263—Grounds of complaint

This is expanded so that disciplinary action may be taken in respect of any contravention of Part 4.

37—Insertion of section 263A

New section 263A allows the Minister to refer to the Ombudsman for investigation and report any matter alleged to constitute grounds for complaint under the measure against a member of a council, in addition to contemplating that a person may make a complaint direct to the Ombudsman or the Ombudsman may act on his or her own initiative in investigating such grounds for complaint.

New section 263B sets out the recommendations that may be made by the Ombudsman on the conclusion of an investigation, namely—

- reprimand the member (including by means of a public statement); or

- require the member to attend a specified course of training or instruction, to issue an apology in a particular form or to take other steps; or
- require the member to reimburse the council a specified amount; or
- ensure that a complaint is lodged against the member in the District Court.

Councils are empowered to impose those sanctions. If there is non-compliance by a member with a requirement, the council is to elevate the matter to a complaint lodged in the District Court.

38—Amendment of section 264—Complaint lodged in District Court

This amendment requires an investigation by the Ombudsman before a public official may lodge a complaint in the District Court.

39—Amendment of section 267—Outcome of proceedings

These amendments ensure that the full range of sanctions is available to the District Court.

40—Substitution of section 272

Instead of the Minister instigating investigations of a council as well as the Ombudsman, the Minister may refer to the Ombudsman for investigation and report any contravention or failure to comply by a council with this or another Act or any irregularity that has occurred in the conduct of the affairs of a council. This avoids duplication.

41—Amendment of section 273—Action on report

These amendments are consequential.

42—Amendment of section 274—Investigation of subsidiary

This clause similarly provides for the Minister to refer a matter to the Ombudsman for investigation rather than duplicating the work of the Ombudsman by appointing his or her own investigators.

Part 13—Amendment of *Ombudsman Act 1972*

43—Amendment of section 3—Interpretation

This amendment clarifies the application of the Act to the Local Government Association, a body that was continued in existence for a public purpose by an Act. If the LGA contracts out the management of a local government indemnity scheme, paragraph (b) of the definition of administrative act ensures that the Act will apply.

The amendment also excludes the Commissioner and the Office from the application of the Act.

44—Amendment of section 13—Matters subject to investigation

This amendment ensures that the ability to lay a complaint for disciplinary action against a person does not prevent a person being able to lodge a complaint with the Ombudsman about the conduct forming the basis of the disciplinary complaint.

45—Amendment of section 19A—Ombudsman may issue direction in relation to administrative act

This provision is restructured and altered to make it workable. It sets out the circumstances in which the Ombudsman may direct an agency to refrain from performing an administrative act, namely, if the Ombudsman is of the opinion that the administrative act is likely to prejudice an investigation or proposed investigation or the effect or implementation of a recommendation that the Ombudsman might make as a result of an investigation or proposed investigation or likely to cause serious hardship to a person. It is recognised that a notice must not be issued if compliance with the notice by the agency would result in the agency breaching a contract or other legal obligation or cause any third parties undue hardship. The period for which the agency must refrain is limited to 45 days.

46—Amendment of section 20—No obligation on persons to maintain secrecy

This amendment is designed to clarify that a local government body (or any other agency to which the Act applies) is not entitled to rely on privilege to refuse to hand things over.

47—Repeal of section 22

48—Substitution of section 26

These amendments bring together the provisions about confidentiality, disclosure of information and publication of reports. It is an offence for a person engaged in the administration of the measure to disclose information obtained in the course of the administration of the Act except in the circumstances set out in subsection (1). Subsection (2) requires the Ombudsman to be of the opinion that it will be in the public interest to authorise or require information to be disclosed.

Subsection (3) enables the Ombudsman to make a public statement or report if of the opinion that to do so would be in the public interest.

Part 14—Amendment of *Parliamentary Committees Act 1991*

49—Amendment of section 3—Interpretation

This clause substitutes a new definition of 'Committee' so that the term includes all Committees established under the Act.

50—Insertion of Parts 5E and 5F

A parliamentary committee is established to promote compliance with standards of conduct required of members of Parliament by their respective Houses. The title of the committee is simply the Parliamentary Conduct Committee. The Committee is to be comprised of 3 HA members and 2 LC members. The functions relate to promoting compliance with the parliamentary standards of conduct and reporting potential contraventions to the relevant House. The committee may also formulate recommendations for modifications of the standards to the Houses.

The Crime and Corruption Policy Review Committee is also established. The Committee is to be comprised of 4 HA members and 3 LC members and has the following functions:

- to examine annual and other reports laid before both Houses of Parliament prepared by the Independent Commissioner Against Corruption, the Commissioner of Police or the Police Ombudsman as well as reports laid before both Houses under the Police Act 1998, the Serious and Organised Crime (Control) Act 2008 or the Serious and Organised Crime (Unexplained Wealth) Act 2009;
- to report to both Houses of Parliament on any matter of policy affecting public administration arising out of a report as the Committee considers appropriate;
- to perform other functions assigned to the Committee under the Act or any other Act or by resolution of both Houses.

The Committee may not report on the performance of the functions of the Independent Commissioner Against Corruption, South Australia Police or the Police Ombudsman. The Independent Commissioner Against Corruption must not disclose to the Crime and Corruption Policy Review Committee information in relation to a particular matter that is, or has been, the subject of a complaint, report, assessment, investigation or referral under the measure, except such information as could have been the subject of a public statement under section 23.

Part 15—Amendment of *Police Act 1998*

51—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

52—Amendment of section 38—Report and investigation of breach of Code

The amendment requires that, when a police officer makes a report about a breach of the code, details must be provided to the Police Ombudsman.

53—Amendment of section 67—Divestment or suspension of powers

This amendment corrects a minor drafting error in the provision.

Part 16—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

54—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

55—Amendment of section 12—Protection for Ombudsman and person acting under direction

This ensures that the protection extends to actions taken by the Police Ombudsman under another Act.

56—Amendment of section 21—Determination by Ombudsman that investigation not warranted

The requirement to give reasons when the Ombudsman determines not to investigate or further investigate a matter is removed.

57—Amendment of section 28—Investigation of matters by Ombudsman

The provisions dealing with obstruction are replaced by new section 28A.

58—Insertion of section 28A

A new comprehensive offence is created relating to obstruction of the Police Ombudsman or Internal Investigation Branch.

Part 17—Amendment of *Protective Security Act 2007*

59—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 18—Amendment of *Public Finance and Audit Act 1987*

60—Amendment of section 4—Interpretation

A new definition of a local government indemnity scheme is included for the purposes of section 32. The references in the definition of public funded body and publicly funded projects to councils and controlling authorities under the 1934 Act are updated so as to refer to councils and subsidiaries under the 1999 Act.

61—Amendment of section 32—Examination of publicly funded bodies and projects and local government indemnity schemes

The provision currently authorises the Auditor-General to examine accounts of publicly funded bodies and projects if requested by the Treasurer. The power of the Auditor-General to examine accounts is extended to a body managing a local government indemnity scheme. The Auditor-General is given a discretion to examine the accounts on his or her own initiative but can be required to do so not only by the Treasurer but also by the Independent Commissioner Against Corruption.

62—Amendment of section 36—Auditor-General's annual report

The Auditor-General is required to include in his or her annual report information about examinations conducted under section 32.

Part 19—Amendment of *Public Sector Act 2009*

63—Amendment of section 25—Public Service employees

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 20—Amendment of *Shop Theft (Alternative Enforcement) Act 2000*

64—Amendment of section 17—Confidentiality

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 21—Amendment of *State Records Act 1997*

65—Amendment of section 3—Interpretation

This amendment excludes the Commissioner, Deputy Commissioner, examiners, investigators and employees from the definition of agency and so from the obligations under the Act relating to records.

Part 22—Amendment of *Summary Offences Act 1953*

66—Amendment of section 74C—Interpretation

Part 17 of this Act imposes an obligation to record interviews related to indictable offences. The amendment extends the application of the Part to interviews conducted by investigators, but excludes examinations conducted by examiners under the *Independent Commissioner Against Corruption Act 2012*.

Part 23—Amendment of *Terrorism (Preventative Detention) Act 2005*

67—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 24—Amendment of *Whistleblowers Protection Act 1993*

68—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

Part 25—Amendment of *Witness Protection Act 1996*

69—Amendment of Act

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

70—Amendment of section 12—Access to register

This amendment is consequential on the change of name from Police Complaints Authority to Police Ombudsman.

71—Amendment of section 21—Offences

The protection given to investigations by the Police Ombudsman to ensure that relevant information may be obtained for the investigation is extended to the Independent Commissioner Against Corruption.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 15:40 the council adjourned until Tuesday 12 June 2012 at 14:15.