LEGISLATIVE COUNCIL

Thursday 30 September 1999

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.15 p.m. and read prayers.

NATIVE TITLE

A petition signed by 47 residents of South Australia concerning native title rights for indigenous South Australians, and praying that this Council does not proceed with legislation that, first, undermines or impairs the native title rights of indigenous South Australians and, secondly, makes changes to native title unless there has been a genuine consultation process with all stakeholders, especially South Australia's indigenous communities, was presented by the Hon. Ian Gilfillan.

Petition received.

MOUNT BARKER PRODUCTS

A petition signed by 295 residents of South Australia concerning fumes from a Mount Barker foundry, and praying that this Council will use its powers to ensure that the operation of a foundry at Mount Barker is immediately terminated at its present location and that investigations into alternative, less sensitive sites be commenced forthwith and, further, that an inquiry be established into the adequacy of legislative safeguards against harmful pollution of our air, water and soil natural resources, was presented by the Hon. M.J. Elliott.

Petition received.

STANDING ORDERS

The PRESIDENT: I draw members' attention to the recently revised standing orders, copies of which have been distributed to each member in the chamber this day. These standing orders should take the place of all previous standing orders which members have in their possession.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Report of Auditor-General and Treasurer's Financial Statements, 1998-99—Parts A and B

By the Treasurer (Hon. R.I. Lucas)—

Budget Outcomes—Treasurer's Annual Report to parliament, 1998-99

Roxby Downs and Stuart Indenture—Amending Deed

By the Attorney-General (Hon. K.T. Griffin)—

Livestock Advisory Groups—Report, 1998-99.

STATE BUDGET

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a ministerial statement on the 1998-99 Budget Outcomes document.

Leave granted.

The Hon. R.I. LUCAS: The 1998-99 Budget Outcomes document that I have just tabled presents an analysis of the 1998-99 actual results against the 1998-99 budget tabled in parliament in May 1998. The estimated results for 1998-99 were included in the 1999-2000 budget documentation. The original budget did forecast a small underlying surplus of $4 million. When we tabled the 1999-2000 budget, this estimate was revised downwards to a deficit of $65 million. I now wish to report to the Council that the actual underlying deficit for the non-commercial sector for 1998-99 was $55 million, an improvement of $10 million on the government's revised estimate presented in the 1999-2000 budget documents. This deficit compensates for the surplus of $48 million that occurred in 1997-98.

Notwithstanding the small increase in total outlays of $10 million, there were significant compositional variances between current and capital components. These variances largely reflect timing variations affecting the non-commercial sector aggregates, including the timing of wage agreements differing from allowances made in the 1998-99 budget and delays in major investment projects. These expenditures are now expected to occur in 1999-2000. To provide capacity to fund this additional expenditure in 1999-2000 rather than 1998-99, the government has brought forward payments to FundsSA to reduce superannuation liabilities and deferred the receipt of returns from the South Australian Asset Management Corporation and SAFA.

State owned source revenues fell short of budget by $135 million, reflecting the deferral of SAAMC and SAFA dividends, totalling $158 million. In addition, there were shortfalls in distributions from the electricity entities and performance of the non-commercial public trading enterprises was below budget. These deficiencies were partly offset by taxation receipts and commonwealth grants being in excess of budget estimates. Net debt as a percentage of GSP declined from 19.5 per cent at June 1998 to 19 per cent of GSP at June 1999. The government's guarantees and contingent liabilities fell from $2.9 billion at June 1998 to $2.7 billion at June 1999. In concluding, I would like to offer my thanks to the employees within government and various agencies who have assisted the government to achieve this sound result in 1998-99.

ROXBY DOWNS

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a ministerial statement on the subject of an amending deed to the Roxby Downs indenture.

Leave granted.

The Hon. R.I. LUCAS: Pursuant to clause 56 of the Roxby Downs (Indenture Ratification) Act 1982, I am today tabling a deed which amends the indenture to facilitate the entry of Western Mining Corporation into the national electricity market as a contestable customer. The effect of the deed is to release WMC from its obligation to purchase electricity under the indenture power purchase agreement, and in turn to release the state from its obligation to supply power under that agreement.

Members will be aware that since the establishment of the national electricity market, WMC has sought electricity price offers from electricity retailers (including the state owned retailer and generators) to supply electricity to its Olympic Dam operations. As a result, an offer was made by Flinders Power Pty Ltd, on a fully commercial basis, and in accordance with its normal business practice, for electricity supply to WMC over a three year period to 30 June 2002. This offer has been accepted by WMC.

As Flinders Power was not a party to the original indenture, a ministerial transfer order has been made pursuant to

section 8 of the Electricity Corporations (Restructuring and Disposal) Act 1999 to enable Flinders Power to assume ETSA's rights and obligations under the power purchase agreement. As a result of this change, Flinders Power and WMC have now entered into a power purchase agreement which gives effect to the agreed to commercial terms. This new power purchase agreement will come into effect five days from the execution of the deed, that is, 29 September 1999. However, if the deed I am tabling today is disallowed by parliament, the new power purchase agreement will terminate and the previous power purchase agreement will again take effect.

To enable this agreement to come into effect and pursuant to section 56(1) of the indenture, the state, WMC and Flinders Power have agreed to a number of amendments being made to the indenture and the power purchase agreement. These amendments have the effect of shortening the period of notice for WMC to terminate supply requirements (which currently stands at seven years), removing the provision for WMC to request a recommencement of electricity supplied by the state and Flinders Power, and deleting a number of clauses which reflect the cessation of the state's supply obligations.

The government believes that the decision to release WMC from its obligations to purchase electricity from the state is in the best interests of both WMC and the state of South Australia. It provides WMC with the opportunity to become an active participant in the national electricity market while being consistent with the government's policy of encouraging a fully competitive electricity market for South Australia. The government also believes that this decision is in the best interests of major development within the state which enjoys strong support within the South Australian community and is of continuing importance to our long-term economic development.

Clause 56 of the indenture requires that the deed which makes these changes to the indenture be tabled in both Houses of parliament within 12 sitting days of its execution (the deed was executed on 29 September 1999) and that any amendments to the indenture take effect on the day immediately following the twelfth sitting day after the amending deed is laid before both Houses of parliament, provided that during that time neither house has passed a resolution disallowing the amendments.

The deed to amend the indenture has now been signed by all parties. As I have outlined, it will come into operation following the twelfth sitting day from today providing that during that time neither house has passed a resolution disallowing the amendments. After an agreed period of five business days following the deed coming into effect, WMC will, in turn, give notice of the termination of the current arrangements concerning the supply of electricity under clause 18 of the indenture and the power purchase agreement.

CRIMINAL LAW (UNDERCOVER OPERATIONS) ACT

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Criminal Law (Undercover Operations) Act 1995.

Leave granted.

The Hon. K.T. GRIFFIN: In April, 1995, after the High Court decided an appeal called Ridgeway in favour of the accused, the parliament passed the Criminal Law (Undercover Operations) Act 1995 with the support of all sides of politics. The object of the legislation was to place the law of police undercover operations on a legislative footing and to ensure certainty in the law. It was clear that the High Court ruling on entrapment by police of drug dealers and other criminals had become a source of judicial uncertainty.

As honourable members may be aware, one of the safeguards that was built into legislation which clearly extended police powers was that there should be notification of authorised undercover operations to the Attorney-General and an annual report to the parliament. I am pleased to assure the Council that the system is meticulously adhered to by both police and my office. The details of these notifications form the basis of the report which the statute requires me to give to the parliament. I now seek leave to table that report.

Leave granted.

The Hon. K.T. GRIFFIN: I reported last year that it is clear that the legislation is working well. That continues to be the case. I will report on two decisions over the past financial year which may be of interest to members. The first is the subsequent prosecution of the same Mr Ridgeway, whose initial prosecution for offences against the commonwealth Customs Act led to the High Court decision which prompted the legislation. After his successful appeal to the High Court in relation to those offences, Mr Ridgeway was prosecuted for possession of the same heroin for sale contrary to the South Australian Controlled Substances Act. He was convicted at trial and appealed (Ridgeway [1998] SASC 6963).

There were numerous grounds of appeal and I will not take the time of the Council to rehearse them all. However, it is noteworthy that the impact of the Criminal Law (Undercover Operations) Act was canvassed on appeal. Members will recall that the act had a retrospective effect and therefore had the potential to validate the police tactics in the conduct of the undercover operation which led to the arrest of Mr Ridgeway. Chief Justice Doyle decided that:

1. The act extended to the legitimation of undercover operations approved by law enforcement authorities other than the South Australian police including, significantly, for present purposes, the Australian federal police. His Honour commented that, now that commonwealth undercover operations legislation existed, he would expect prospective approvals of such operations to be obtained under that legislation.

2. The notion of 'serious criminal behaviour' under the act extended to behaviour involving the commission of an indictable offence under a law of the commonwealth; and

3. The operation was 'of a type' that could have been reasonably approved under the act, but could extend only to the possession and sale of heroin in South Australia and could not extend to its antecedent importation into Australia.

Justice Olsson came to a similar conclusion, and Justice Lander agreed with the Chief Justice. It should also be observed that Chief Justice Doyle remarked that he found the application of the Act retrospectively difficult to interpret and that it may give rise to problems in the future, but he did not specify what those problems might be.

The second case is Rowe (1998), judgment S6750. The appellant was convicted on 14 counts of firearms and drug offences. The offences arose as a result of the usual police 'controlled buys' of firearms and drugs. At the time of the buys, a purported approval of the operation under the act existed. The trial judge, and Justice Perry for the court on appeal, found simply that the police had complied with the requirements of the act and had invoked its operation as soon

as the criteria for its invocation had arisen. This was a standard case of its type. I think members should be well assured that the legislation is working as it was intended to do. Although the Chief Justice in Ridgeway expressed some concern about the workability of the retrospective operation of the Act, those cases are likely to be few and to lessen with the passage of time.

CAMBRIDGE, MR J.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement from the Minister for Industry and Trade in the other place on the Chief Executive Officer of the Department of Industry and Trade.

Leave granted.

QUESTION TIME

HINDMARSH ISLAND BRIDGE

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Attorney-General a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. CAROLYN PICKLES: In August this year the government announced its plans to introduce a toll for the use of the Hindmarsh Island bridge. The announcement drew widespread opposition from many people living on the island, the RAA, the Alexandrina council and the Chapman family who described it as 'a stupid suggestion'. The Attorney has now changed his mind, suddenly recognising that the toll would not raise enough revenue to justify the enforcement and policing costs. My questions to the Attorney-General are:

1. Why were the government's own policy and consultative processes so inadequate that they failed to identify any of the revenue and enforcement problems at an earlier stage in the process?

2. Does the Attorney's sudden backflip have anything to do with pressure from the Minister for Human Services—

Members interjecting:

The Hon. CAROLYN PICKLES: —who has had to wear the government's inept handling of this matter?

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The minister will come to order! The leader cannot even ask her question.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

Members interjecting:

The Hon. CAROLYN PICKLES: If you really want to know, my personal view is that it is a stupid idea and it always was with—

The PRESIDENT: Order! The honourable member should ask her question.

The Hon. CAROLYN PICKLES: Does the Attorney's sudden backflip have anything to do with pressure from the Minister for Human Services, who has had to wear the government's inept handling of this matter?

The Hon. K.T. GRIFFIN (Attorney-General): Any issue of ineptness ought to be targeted back to the Bannon Labor government.

An honourable member: And Tickner.

The Hon. K.T. GRIFFIN: Yes and, as I am reminded, the then federal Minister for Aboriginal and Torres Strait Islander Affairs, Mr Tickner. I would have thought that was a catalogue of ineptness unmatched by any other. A toll or bridge usage charge was considered by the government. The government made the decision to pursue the issue of a toll or bridge usage charge and indicated that it was an issue for public consultation. There had not been public consultation in that form in relation to the toll or bridge usage charge before.

It was raised in the cabinet submission by the previous Labor government back in 1992, as I recollect, but it had not been explored publicly. It was raised by the Minister of Transport Development in those days, which was before the Liberal government came to office. It was always acknowledged that it was a difficult issue. Tolls create fairly fierce passions and quite divergent points of view, but the government took the view that, because so much of taxpayers' money was being put into the bridge, because there were issues relating to access to the island by potentially a larger number of people and that property values on the island would undoubtedly be enhanced by unlimited access via a bridge, the principle ought to be there for public consultation. There was nothing inept about that.

We would have been criticised, I am sure, by the opposition and others if we had not put that issue out for public consultation. The government genuinely believed that the issue ought to be subject to discussion. If the leader looks at the form of the draft bill that was released about six to eight weeks ago, she will see that it provides a framework. It does not lock into any one particular form of toll or bridge usage charge: it leaves it open. It might have been a permanent toll collector at the entrance to the bridge; it might have been a part-time collector; it might have been by a permit or licence; or it might have been by the parking ticket style dispenser for those visiting the island.

The framework was there; the legislative authority was identified with a view to further work being done on the toll subsequent to the release of the draft Bill and, as I say, there was nothing inept about that. We would have been criticised if we had not released the issue for public comment. As a result, the Alexandrina council took a very strong view opposed to it: there were people on the island as well as people on the mainland. The issue of costs arose, and some calculations were made at the time. However, no-one can quantify those with any level of precision because there has never been a bridge with unlimited access to the island. On many occasions queues have caused people to wait for three or four hours at a time to get across on the ferry, and that is certainly a disincentive for people to use the island and to use the ferry to get to the island.

There were so many variables that, in a sense, one had to make a guesstimate, and we had to put the issue out for public consultation because of the importance of the issue in relation to the Hindmarsh Island bridge. We made a judgment after that consultation. We certainly measured the significant opposition to it. We noted the arguments that were being made against it and about issues of enforcement, and ultimately, because of the inexactness of the calculations in relation to costs and revenue, we took the view that it appeared to be very much a lineball issue and, therefore, we decided that it was not worth persisting with it.

That is the essence of it. It was a Cabinet decision. Cabinet made the decision and approved the bill for release, and Cabinet made the decision in relation to no longer proceeding with that part of the bill. I come back to my initial point, that this is something that the Liberal government inherited when

it came to office at the end of 1993. We had a legal obligation. We have spent millions of dollars of taxpayers' money on both royal commissions and in defending claims right up to the High Court of Australia, and now it is time to get on with the job.

There will be some who will still persist, I suppose, in trying to prevent us from doing that, but all that I can say to those people is that they ought to listen to the community opinion, look at the law, stop spending money on legal fees which are fruitlessly spent and let the community get on with the job of building this bridge and dealing with the issues which that raises in relation to access to the island.

ELECTRICITY TRANSMISSION

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about electricity transmission.

Leave granted.

The Hon. P. HOLLOWAY: A report in the *Advertiser* of 20 September states that the government was to have talks with TransEnergie regarding the possible construction of a power transmission line from Victoria through the Riverland region. The government has previously stated that the Pelican Point Power Station was needed by November 2000 to avoid power shortages. My questions are:

1. Will the Treasurer confirm media reports of meetings between TransEnergie and a top level state government working party to consider construction of an electricity transmission line from Victoria to South Australia? If so, what was the nature of the meetings?

2. What effect will construction of the transmission line have on the price to be received for the lease of South Australia's power assets?

3. What information is the government providing to bidders for ETSA and Optima about future plans for additional transmission lines to carry power from interstate into South Australia?

4. Does the government still expect the Pelican Point Power Station to be completed and operational on time?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question. I am not sure where the honourable member has been for the past six months but the government indicated some time ago its support for a non-regulated or unregulated interconnection with the Eastern states. Certainly, for the past few months, TransEnergie, which is the company involved in an unregulated interconnector between New South Wales and Queensland, has been publicly discussing its investigations and proposals to construct an unregulated interconnector between the Eastern states and South Australia.

The Hon. L.H. Davis: As distinct from the Nick Xenophon option.

The Hon. R.I. LUCAS: As distinct, yes, from the regulated asset, the TransGrid New South Wales Labor government supported proposal. I have made a public statement on the matter, and I think I have made statements in this Council on a number of occasions as well. I am happy to check the record, but certainly publicly, and I am almost certain that I have made the statements in this chamber as well, the government was prepared to establish a working party of public servants and public officers from government departments and agencies to try to assist any proposal which might seek to build an interconnector between the Eastern states and South Australia.

The Hon. T.G. Cameron: I hope you are going to put Nick Xenophon on that committee.

The Hon. R.I. LUCAS: Whatever I might think of the Hon. Mr Xenophon I would not classify him as a senior public servant or officer capable of assisting a proposal to link with the Eastern states.

Members interjecting:

The Hon. R.I. LUCAS: That is true, I can say certain things in this chamber that I am not permitted to say outside the chamber. Indeed, I can call him sensitive and a number of other things, but I will not, Mr President. All I am saying is that we were intent on constructing a working party of public officers—not members of parliament—in the various government departments and agencies that would be able to assist a proposal to build a non-regulated interconnector between the Eastern states and South Australia.

The committee has been established and I understand it has met on two or three occasions, but I would have to check whether it has actually formally met with TransEnergie people. It has certainly been in contact and in correspondence with TransEnergie people. Whether that is by letter or by telephone, again I will check. But there certainly has been contact between the company and representatives of that committee. Whether they have formally met in committee session with the TransEnergie representatives I am not sure, and I am happy to check that matter. I suspect it is not of great moment.

The important thing is that the committee is up and working. It is in contact and having constructive dialogue with TransEnergie in relation to their proposals. Recent statements from TransEnergie would seem to indicate that their considerable feasibility studies or consideration at the moment would see them considering an underground or an interconnector which is substantially underground in terms of linking the Eastern states with South Australia. They believe that that is (a) quicker and (b) will resolve many of the potential issues that an interconnector above ground might confront in relation to environmental issues. So, I am happy to check the detail of that. Certainly, there has been no secret about that.

When we come to the second and third questions of the honourable member, unlike the Hon. Mr Holloway I am sure that the persons interested in purchasing or leasing our electricity assets will have been listening to public statements that I have made, would have been looking at the *Hansard* record of debates on this issue and would have seen media reports of the statements that I have made, and I can assure the Council that they are not people unfamiliar with collecting that sort of information and making their own judgments about the government's position and the impact on the leasing process that we are going through. They will have to make their own judgments about the impact on the value of the electricity assets here in South Australia. I do not intend to publicly speculate about that. We have made clear all along that the only way we could guarantee power for South Australia was fast tracking Pelican Point. We have done that. We have also made clear that, contrary to the suggestions from the New South Wales Labor government, its paid lobbyists and apologists, of which we have seen many in this chamber and in the public community, we were not interested in a position of just locking out all other generational transmission options for South Australia. We are genuinely interested in trying to construct a competitive power market in South Australia—

The Hon. L.H. Davis: He shakes his head.

The Hon. R.I. LUCAS: Well, the Hon. Mr Holloway can shake his head. If he is not careful, it might fall off. The government's position is quite explicit. We have Pelican Point going ahead and, at the same time, contrary to the Hon. Mr Holloway's shaking his head vigorously, another private sector competitor is actively considering a transmission option, an unregulated interconnection option, from the Eastern States to South Australia, even though Pelican Point is going ahead. These are commercial judgments for generation companies or transmission companies to take. Contrary to the commercial experience that might be available to the Hon. Mr Holloway and some others in this chamber, there are clearly others in the community who make a different commercial judgment. Ultimately, that is a decision—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: What do you mean, what are we telling them? I am telling them the same thing I am telling you. I have just repeated it again for about the sixth time. I am not sure how much more explicit I can be. We welcome an unregulated interconnector connecting the Eastern States power markets and South Australia over and above the existing interconnection we have already. I cannot be any more explicit—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I cannot believe that interjection—what am I talking to TransEnergie about? I have just for the past eight minutes explained what we—but not 'we'; I have not personally talked to TransEnergie—that is, government officers, have been talking to TransEnergie about. I wrote to TransEnergie when it first indicated its interest in this some months ago, but our government officers have been saying what I have just been saying to you for the past eight minutes. If the honourable member is—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: How much support? I have just explained. We are not putting financial incentives—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, Mr President, I am not sure where the Hon. Mr Holloway is coming from. I do not think he knows. He has asked a question: it is obviously a difficult day for constructing any other questions, so he has come in on this particular one.

Members interjecting:

The Hon. R.I. LUCAS: I am not sure. I have just explained the government's position. I have explained that we have established a working party to assist, and that is in relation to planning and development, but I have said that on half a dozen occasions in this chamber and outside. I have had discussions with members of the Labor Party, Independent members and no pokies in hotels candidate members: I have had discussions with a number of people about the government's position on unregulated interconnectors. I cannot be any clearer than that. If the honourable member has a specific question, rather than 'What are you talking to them about?' and 'What is your position?', then he needs to be more explicit. He needs to clarify.

In relation to the impact on the value, that is ultimately a decision for the purchasers or the potential lessees of our electricity assets. There is nothing secret or hidden here. I have been open and indicated the government's position, and I can assure the honourable member again that, unlike the deputy leader and the shadow minister for finance, these people understand the government's position. They have read my statements, they have heard me speak at public fora, they have read letters, they have looked at *Hansard*, they know explicitly the government's position, and they will enter the electricity leasing and sale process with the full knowledge of the options that are open for commercial sector operators in Australia in relation to our market.

Ultimately, it is not a decision for the South Australian government to take as to whether TransEnergie is successful or, indeed, whether TransGrid is successful. These are decisions that the commercial operators or a national regulatory authority such as NEMMCO will take. The government will express its views. I continue to express those views publicly—not privately—because there is nothing hidden in relation to this matter. The commercial operators who make these decisions about whether they want to lease or purchase some of our electricity businesses will do so with that full knowledge.

They will have to factor in not only the fact that TransEnergie might build an interconnector but also that there might be augmentation or increased capacity for the existing Victorian interconnector which has been talked about publicly in the market. They will also have to factor in the fact that Western Mining and BHP have said publicly that they might build generating capacity at Whyalla. They have announced publicly their intention to do that. They will also have to build in the fact that a number of others are talking within financial circles about additional generation options, as well. They are the decisions for the commercial market. Ultimately, they are not decisions that the South Australian government—or, with due respect, even the Deputy Leader of the Opposition in the Legislative Council—will be able to influence. They are decisions for the commercial market.

The Hon. NICK XENOPHON: By way of supplementary, has the government, either directly or through a working party or its consultants, undertaken an analysis of the potential differential impact on electricity prices in South Australia with a further unregulated interconnector with the Eastern states as distinct from a regulated interconnector?

The Hon. R.I. LUCAS: I will take some advice in relation to that matter. A lot of modelling has been done over the past 12 months in relation to the national market. However, I would need to check whether anything specifically has been done recently in the context of the honourable member's question.

The Hon. T.G. CAMERON: Will the Treasurer outline to the Council the difference in costs that would have been borne by either taxpayers or consumers of the regulated Riverlink line and the proposed unregulated line that he is now looking at?

The Hon. R.I. LUCAS: Again, I am happy to take some advice on that matter. Certainly, there are some immediate issues. Clearly, the government's original proposal some two years or so ago was to part publicly fund the regulated interconnector that TransGrid was suggesting. The government's costs for that were between $40 million and $50 million through ETSA. In relation to the regulated asset status, one of the government's key concerns has been advice it has received that, even in the event that New South Wales and South Australian electricity prices were to equalise in the future, as has been projected by a number of commentators, if we were not to use the interconnector for the flow of electricity for a 12 month period, South Australian consumers would pay transmission charges of somewhere between, depending on whose estimate you want to believe, $10 million to $20 million a year in increased transmission

charges, even if you are not using that particular regulated asset interconnector.

With an unregulated interconnector, the risk is taken by the commercial operator. There is not a guaranteed subsidy from South Australian businesses and industry to the New South Wales Labor government electricity utilities which has been supported by the proponents of the New South Wales Labor government proposal and its apologists.

ABORIGINAL COMMUNITIES

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question about education, training and employment support for Aboriginal communities in regional and remote areas.

Leave granted.

The Hon. T.G. ROBERTS: It was a very busy day in another place yesterday, with three questions being asked by members of the government to three government front-benchers in relation to Aboriginal affairs. Certainly, the Minister for Police and Correctional Services has been very busy in making public statements in relation to his recent visit to the Pitjantjatjara lands. Most of the publicity given to the statements made in another place involved correctional services. The Hon. Dean Brown's constructive statements relating to his portfolio's servicing of Aboriginal affairs were well placed, but he did not receive the airplay which the Minister for Police and Correctional Services received.

From dealing with Aboriginal affairs during the time I have been responsible for this shadow portfolio, it is clear that everyone has a view or a position regarding the difficulties that governments face when dealing with the problems of Aboriginal people, particularly in regional and remote areas, and in some cases in the metropolitan area. Everyone has a view where problems are made public, and they are quick to offer silver bullets for governments to make provision to correct those problems.

The police and correctional services minister advised the House yesterday about how he was dealing with sentencing programs for young offenders in particular. We on this side of the Council support his position of dealing with the problems of young offenders in their geographical locations rather than moving them to detention centres at Ceduna and Port Augusta, in particular, which are well away from family support and the provision of government services other than punitive services that are provided in correctional services and turn young law-breakers into young criminals by incarcerating them in prisons such as Port Augusta. So, we on this side of the Council congratulate the government for the steps it has taken.

It also appears that the attention being paid to the correctional services minister's statements and not to Dean Brown's statements also shows the frustration that governments have in dealing with problems in programs that are described as constructive rather than intervening at the last point: that is, detention and arrest. My questions, which relate to positive programs that the government may have to prevent young people in particular from reaching that stage of arrest and detention, are:

1. What long-term programs are to be put in place to address the root causes of Aboriginal incarceration and law breaking such as poverty, unemployment, under employment, substance abuse, and lack of appropriate educational opportunities, particularly in regional and remote areas?

2. Will the government provide details of the number of Aboriginal people employed in the South Australian mining sector at this point, and what training and education opportunities are being made available now, because mining and particularly oil exploration and production have as long a lead time as do educational programs in some cases?

3. What programs will be made available in the future for Aboriginal people in regional remote areas to participate in some of the outlined expansion programs in mining and oil exploration and production?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's questions to the minister and bring back a reply.

ONLINE GOVERNMENT PURCHASING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Administrative Services a question about online government purchasing.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that a new program of online government purchasing has recently been introduced. Apparently, state government suppliers will be able to sell the government a wide range of goods and services through this program. Will the Minister say whether the new online system will benefit suppliers and contractors in regional and rural areas of the state, and will he also give the Council an indication of progress on the government's procurement reform program?

The Hon. R.D. LAWSON (Minister for Disability Services): I thank the honourable member for his question, and I am well aware of his interest in matters pertaining to regional and rural South Australia. It is true that, earlier this week, we announced the development of a new program which we have called E-purchase. This program will facilitate suppliers to government and government buyers in terms of the transactions in which they engage by facilitating a paperless environment. I believe that this new system will, to some extent, break down the tyranny of distance and will provide opportunities for those suppliers and buyers in regional South Australia.

We have already established an electronic tender site. This is a web site which is to facilitate the letting of contracts and allow people, suppliers and tenderers to download specifications and, from next week, to lodge tenders. These developments will facilitate those who operate from outside the city. It will also enable the government to facilitate some of its objectives in the field of procurement. The procurement reform strategy was launched in the middle of 1998 and it had a number of elements, one of which was the use of electronic commerce. It was estimated by those who devised that strategy that the use of electronic commerce could save us up to $28 million a year, and that is, of course, a significant saving to the budget.

The E-purchase proposals that I mentioned will be trialled at a number of sites over the next few months. One site is a health unit, the Noarlunga Hospital, and the other sites are forestry units in the South-East of South Australia. The sites will enable the procurement officers in those organisations to use the new software, which will enable them to peruse on the web the catalogues of suppliers with whom the government has already negotiated prices and to make selections. It will also enable the invoices to be transmitted electronically and orders to be placed electronically. I believe

that it is an exciting development and we look forward to the results of this trial pilot program.

I am also looking forward to the results of the trial of the electronic lodgement of tenders. I do believe that, especially for builders in rural and regional areas, electronic lodgement of tenders does provide very great advantage. It means that people can lodge their tender on time over the wire rather than coming to Wakefield Street to deposit a tender in the tender box. It is a secure environment, and the prudential integrity of the system is a very important element. It also enables a rural and regional builder to get the full specifications on line rather than having to come into the city or await the vagaries of the parcel post. These are exciting developments.

EMERGENCY SERVICES LEVY

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Ageing a question about the impact of the emergency services levy on residents of retirement villages.

Leave granted.

The Hon. IAN GILFILLAN: The emergency services levy, otherwise known as the Liberal budget top-up tax grab, is levied mostly against the owners of real property. Retirement village residents are not property owners: they occupy their units under lease or licence, or sometimes by purchasing shares in a company which owns the land. However, the cost of these licences or shares can be similar to the cost of purchasing real estate. Prices are often as much as and, in some cases, well over $100 000; therefore, residents have an investment very much like that of a property owner. However, because they are not the registered property owner, they do not directly get billed for council rates, land tax and, now, the emergency services levy. These bills go to the registered owner of the land.

Section 10A of the Retirement Villages Act 1987 prevents a landowner recovering land tax from a resident. However, section 10A is silent on whether a landowner can recover from residents the cost of council rates and/or the emergency services levy. Therefore it must be assumed that these costs can be passed on to residents. It has been the case that council rates have been passed on to residents to pay, but now that an additional hefty charge in the form of the emergency services levy is about to be heaped upon retired people, even though they are not property owners, some of them are starting to wonder about the legal basis on which they are to be charged.

If the landowner splits the council rates and emergency services levy equally between all units in a retirement village, the occupiers of lower value units will be charged the same amount as occupiers of higher value units. All other South Australians will be charged according to the value of their property but, if this procedure is followed, residents of retirement villages will be charged a flat rate regardless of whether they occupy a $70 000 unit or a $130 000 unit within the same complex. I have been advised that this procedure has operated for years in respect of council rates at one large retirement village at Happy Valley.

Presumably the government's heavy impost of the emergency services levy will also be spread equally between these residents, irrespective of the value of their individual units. My questions are:

1. Can the minister advise me of the rights of licensees in lower value retirement village units who feel that they are subsidising the licensees of higher value units in the same complex?

2. Are they entitled to have their council rates and emergency services levy contributions assessed like other property owners on the correct value of the property they occupy?

3. If not, will he as the responsible minister urge the government to consider amending the Retirement Villages Act to give them that protection?

The Hon. R.D. LAWSON (Minister for the Ageing): I am glad that the honourable member has raised this issue. It is trite to say that the rights and obligations of residents in retirement villages depend largely upon the provisions of the particular agreement under which they have entered into the retirement village. Added to that are the protections contained in the Retirement Villages Act. Whether or not particular operators seek to levy the emergency services levy or any other charges and taxes on residents in a retirement village is a matter for the operator of the retirement village. It is worth recording that, as a result of the announcements made earlier this week by the Premier, the owners of retirement villages will receive a substantial benefit in respect of the emergency services levy as now proposed compared with that originally proposed.

The question that the honourable member asked about whether or not residents will be charged a flat rate is once again a matter for the provisions of individual agreements and also the policies to be adopted by the owner of the retirement village. The honourable member asked whether consideration would be given to amending the Retirement Villages Act to overcome what he considers to be an anomaly or an unfair provision. If there is some anomalous application, the government would give consideration as it always would to amending the provisions of the Retirement Villages Act. Those provisions are constantly under examination. I believe that I have covered the matters raised by the honourable member. If there are any matters outstanding, I will take the balance of the question on notice and bring back a more considered reply if additional information is required.

The Hon. IAN GILFILLAN: As a supplementary question, does the minister consider that it is an equitable system if a flat rate emergency services levy is placed on retirement village licensees who hold significantly different valued units?

The Hon. R.D. LAWSON: That depends upon the circumstances. If the flat fee is a low fee, it probably is equitable, but it could operate in an inequitable manner. I think that that is a matter to be negotiated between the residents of retirement villages and the operators. However, if the question of flat fees does give rise to substantial inequities across the system, we will have a look at making appropriate adjustments to ensure that all residents of retirement villages are treated equitably and appropriately.

The Hon. IAN GILFILLAN: As a further supplementary question, does the minister expect that the owners of retirement villages will bear the burden of the emergency services levy from their own profit level, or does he believe that they will pass it on as an ongoing cost to the licensees of retirement villages?

The Hon. R.D. LAWSON: That is an entirely hypothetical question, but I can say this: the emergency services levy is a universal levy, and the benefit of the emergency services is received by residents in retirement villages as by all other citizens of this state, and it is also a benefit received by the owners and operators of retirement villages.

HANDBAG ROBBERIES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question about the continuing problem of handbag robberies.

Leave granted.

The Hon. CARMEL ZOLLO: Following a constituent contacting me in early November last year, I asked a question of the Attorney-General in relation to handbag robberies. The constituent who contacted me was particularly shaken because, for the first time in her life, she was certain she had been stalked in a city lane for the reason that the person was after her handbag. Fortunately, she was able to take evasive action and the theft did not occur.

I must admit that the reply I received from the Attorney-General somewhat surprised me. I was accused of beating up the matter and joining my Lower House colleague—I assume the member for Spence—in misrepresenting the issue. The Attorney's response at that time was a lengthy one addressing many issues, and he concluded with the remark that if I had any constructive suggestions he would welcome them. I asked the Attorney at the time whether any steps had been taken to ensure that this serious offence was not allowed to escalate and whether he would undertake to make a commitment to implement a safety awareness campaign to reduce the risks.

It appears from recent media reports that these types of robberies have escalated. Many may in fact be linked and are being investigated by Operation Counteract. I ask the Attorney-General to advise whether Operation Counteract has been set up specifically in relation to handbag robberies, and whether a safety awareness campaign is being contemplated.

The Hon. K.T. GRIFFIN (Attorney-General): I do not have with me the reply that I sent to the honourable member. My recollection is that it was a long letter that endeavoured to provide information to the honourable member and that there was a genuine request at the end of the letter—if that is where the honourable member says it appeared—that, if she had any constructive suggestions to make, I would listen to them and consider them: and the same applies to anyone else. The difficulty, not from the honourable member but from one or two of her colleagues in another place, is that they are frequently not constructive.

The Hon. Carmel Zollo: That's subjective.

The Hon. K.T. GRIFFIN: It's not subjective: that's a fact that one can objectively assess. In terms of the issues raised by the honourable member in relation to Operation Counteract, I will take them and the other issues on notice and bring back a considered reply.

PIG IRON SMELTER

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, Natural Resources and Regional Development, a question about a pig iron smelter.

Leave granted.

The Hon. CAROLINE SCHAEFER: For many years now there has been speculation as to the viability of building a pig iron smelter somewhere in the north or west of South Australia. If such a plant were to go ahead it would mean a considerable amount of regional development in some of our more isolated areas and, in particular, it would also add to the viability of the north-south rail link. I ask the Attorney: does he have any information on the status of any such plans emanating from BHP and/or the commonwealth government?

The Hon. K.T. GRIFFIN (Attorney-General): The matter is very largely within the area of responsibility of the Minister for Primary Industries and Natural Resources and I will certainly refer the question to him. The state government does have an interest in this project and has been actively encouraging that advance. My understanding is that the federal Acting Minister for Industry, Science and Resources, the Hon. Jackie Kelly, has made a public statement about the issue, in fact welcoming news that South Australian Steel and Energy Pty Ltd will proceed with plans to build a demonstration pig iron smelter in Whyalla in the north of the state. From that press release I understand that it has been identified that something like $16.2 million will be spent on the pilot plant or the demonstration plant, and that it will trial some new technology. I gather, too, that that technology is directed towards making the smelting process among the world's lowest cost pig iron producers, and that, of course, is high quality feedstock for Asia's new generation of many steel mills.

The commonwealth government has extended major project facilitation status to the project. That augurs well for the project because it will assist with the completion of the federal government approvals, which are, of course, granted in conjunction with the appropriate approvals at the state level. I am told that if the demonstration plant does confirm the commercial viability of the Ausmelt process then a full scale pig iron plant will be built on a site in either Whyalla or the Coober Pedy area. From the company perspective, according to the information which has been released publicly at the commonwealth level, the company does envisage that there will be production of about 2.4 million tonnes a year and that that is currently valued at $400 million. If that gets off the ground it will certainly be a big plus for the state. It is something in which, as I said at the outset, the state has a particularly keen interest in seeing properly proved up.

AIR POLLUTION

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions about buses in King William Road and air pollution.

Leave granted.

The Hon. T.G. CAMERON: My office has received a number of complaints from constituents concerned over the number of buses in layover zones around the city, and particularly in King William Road. Apparently these buses do not turn off their engines but can remain idling for 15 to 20 minutes, spewing carcinogenic exhaust gases into the atmosphere. Anyone who travels down King William Road during the day can attest to the horrible stench at times which is emitted from the idling buses. The current situation is pretty unacceptable.

I am also informed that bus drivers are instructed not to switch off their engines because their on board electronics may crash. My questions to the minister are:

1. Is this in fact the case? Do the buses need to remain idling in order to not crash their on board electronics, or is there some other reason why they do it?

2. On an ordinary weekday, how many buses would leave their engines running for more than a few minutes on King William Road during working hours? Considering the fact that King William Road is next to the Festival Centre—a place dearer to the heart of the minister—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: —than all of us might be—and the Torrens River, two of Adelaide's most attractive tourist attractions, what action will the minister take to improve the current situation?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The parliament has already taken some action here because, as the honourable member will recall, when the Passenger Transport Act was first passed in 1994 we made provision for the number of buses per contract area to be capped at 100. Last year we changed the act to get rid of that cap. We now have seven contract areas and an unlimited number of buses per area. That means that, through this current contracting process, we will encourage the return of through running of services. That is important, not only in terms of cost savings per contract, which will arise from the much more efficient use of buses, but there will be fewer buses to carry the same number of people in the city, more through running of buses and certainly less idling on King William Road.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I would do almost anything to see patronage—

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Well, within limitations perhaps! The honourable member's interjection contained wise words. The standover time before returning to the contract area is a problem not only in King William Street but it has been acknowledged for some time in areas by St Francis Xavier's Cathedral, the Magistrates Court building, the police building, Frome Road and other areas of the city. I thank all my colleagues for addressing that issue in the parliament last year.

Secondly, increasingly all buses will be operating on clean fuel. Today I signed an authority for a further 50 buses over the next year to the end of 2000. They will all be CNG powered, not diesel, with a low floor and all the advantages one would want to see in terms of a modern transport fleet. They will certainly operate on clean fuel. As an aside, in acknowledging the GST debate and the environmental issues and the Australian Democrats' role, it was quite a dilemma for us in terms of the fuel that would be used for the next round of buses that I have just signed off. With its rebate, diesel was a much more attractive option some months ago but, unfortunately, that is no longer the case. So the cleaner buses, plus the fact that we are encouraging through running, will address that problem.

I am told, as the honourable member has clearly been informed, that this idling of buses is definitely an issue in terms of the electronics on board the buses. If we turn off the motors, it is highly difficult to restart the engines without assistance.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I will make inquiries about that issue, but it is the electronics component of the engine ignition mechanism.

MOUNT BARKER PRODUCTS

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment, a question about the Mount Barker Products foundry licence.

Leave granted.

The Hon. M.J. ELLIOTT: The Mount Barker Products foundry licence expires today. The people of Mount Barker would like to know whether or not a new licence has already been granted and, if a new licence has been granted, what conditions will apply to that licence. In the absence of a licence having been granted, the factory which is operating will be doing so tomorrow without a licence. The people of Mount Barker are concerned that thus far there has been no consultation with the public about what conditions might apply. It is worth noting in relation to the old licence that, in terms of contamination, the major conditions seemed to relate to the speed at which the gases where emitted from the chimneys and that the stack should be at least three metres high. One assumes that the new conditions might be a little more extensive and exhaustive than that, but thus far there has been no consultation with the community in relation to that. I ask the minister:

1. Has a new licence been issued? If so, what conditions apply to it? If not, how can the plant operate without a licence?

2. Does the government intend to have any public consultation before a licence is issued; and, before a final licence is issued, will there be thorough testing of both the plant itself, the emissions coming from the plant, and of the health status of people who work and live in the area?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I have just tried to make contact with the minister's office. There is nobody there at the moment who has direct information about this issue. They will seek an immediate reply. Therefore, I will refer the question to the minister.

DAIRY INDUSTRY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the dairy industry restructure package.

Leave granted.

The Hon. P. HOLLOWAY: It was announced yesterday that the federal government had agreed to a financial restructure package for the dairy industry to commence on 1 July 2000. This package includes the following details:

1. Subject to finalisation of agreed guidelines, restructure entitlements to be paid to eligible dairy farmers on the basis of 46.23 cents per litre for market milk, and 8.96 cents per litre for manufacturing milk produced in the base year of 1998-99.

2. Restructure entitlements to be paid quarterly in equal instalments commencing on 1 July 2000 for eight years.

3. Dairy farmers who elect to leave the industry will have the option of receiving $45 000 tax free subject to the family farm restart scheme assets test, or taking their entitlement which will be treated as an assessable income.

The federal government has also agreed to implement legislation that will collect a levy of 11 cents per litre on retail sales of all drinking milk, including UHT and flavoured milk, for eight years to fund the package. However, the provision of this package is subject to all state governments agreeing to remove farm gate pricing and supply arrangements as of 30 June 2000 when the current scheme ends. My questions to the minister are:

1. Does the government intend to support this package?

2. What steps have been taken to remove farm gate pricing and supply arrangements in South Australia?

3. Can the minister provide details on how many South Australian dairy farmers are likely to leave the industry as a result of deregulation?

4. What will be the impact on South Australian consumers as a result of the 11 cent impost on the retail sales of milk?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

The PRESIDENT: I wish to inform honourable members that Chris Schwarz will be marrying Jodie on Sunday. I am informed that not only is Jodie a formidable punter as far as winning the football pools in here recently but also she is a Port Power fan, so that will be difficult. I am sure that all members will join me in wishing Chris and Jodie well for Sunday and for their future. Call on the business of the day.

HINDMARSH ISLAND BRIDGE BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to ensure payment to the Crown of certain amounts on account of the construction of a bridge between Goolwa and Hindmarsh Island; and for other purposes. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this bill be now read a second time.

The Hindmarsh Island Bridge Bill is one of the outcomes of the settlement of all claims by the Chapmans and others, including Westpac Banking Corporation, against the government of South Australia. The bill provides a means by which the state may recoup some of the costs that will be incurred as a result of the construction of the bridge using taxpayers' moneys. The former government entered into a tripartite deed with Binalong Pty Ltd and the then District Council of Port Elliot and Goolwa. The tripartite deed provided that the council would contribute to the cost of the bridge by levying a rate on the owners of relevant allotments.

This bill gives statutory force to this liability by imposing directly upon the owners a liability to pay an amount to the Crown. The amount is payable by owners of allotments that have been subdivided or created since 28 September 1993, which is the day on which the former minister accepted the tender for the building of the bridge. The bill provides for collection of the amounts by the council at the same time as the council collects council rates, with an obligation for the council to forward the payments to the government. The amount to be paid by allotment holders varies depending upon whether the allotment is residential or non-residential.

The bill provides that the obligation on the part of the owner of any allotment ceases after 20 years from the date of practical completion of the bridge. The bill provides that owners can elect to make a lump sum payment of $4 500 in respect of the owner's allotment, and thereafter the owner's obligation to the Crown ceases.

The bill limits the liability of owners of allotments in the area of the Marina Goolwa (the Binalong area) to an amount that is approximately equal to the amount that those allotment holders would have had to pay had construction of the bridge been completed in 1994.

I commend this bill to honourable members and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

The provisions of the bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Preliminary

This clause sets out the definitions required for the purposes of the measure. Various definitions must be consistent with the Tripartite Deed. The provision will also set 28 September 1993 as the date on which the minister will be taken to have accepted the successful tender's tender for the completion of the Works under the Tripartite Deed.

Clause 4: Owners of new allotments on Hindmarsh Island to pay contributions towards cost of bridge

This clause will impose on the owner of a relevant allotment (being an allotment situated on Hindmarsh Island that must be taken into account for the purposes of the formula set out in clause 9.3 of the Tripartite Deed) a liability to pay to the Crown in respect of each relevant period (being any 12 month period that is relevant to the determination of an amount payable under the terms of clause 9 of the Tripartite Deed) an amount equal to the amount payable by the Council to the minister under the terms of the Tripartite Deed. The amount will be payable to the Council in conjunction with the payment of general council rates.

Clause 5: Council to pay amounts to Crown

The council will be required to pay to the Crown an amount equal to the aggregate of the amounts payable under clause 4 in respect of a relevant period. The Council will be entitled to recover any outstanding amounts from the owners of the relevant allotments who have failed to make payments in accordance with the requirements of clause 4.

Clause 6: Lump sum payments

The owner of a relevant allotment will be entitled to elect to pay a lump sum of $4 500 in respect of the allotment to satisfy the liability of the owner under clause 4.

Clause 7: Periods over which payment to be made

The overall liability to make payments under this measure will cease when *(a)* in the case of an allotment in the Binalong area (as defined by the Tripartite Deed)—the Binalong debt has been paid; or *(b)* in the case of an allotment outside the Binalong area—the Debt (including the Binalong debt) under the terms of the Tripartite Deed has been paid. Various assumptions must be made for the purposes of the calculation of debt. No payments will be required to be made in any event in respect of any period falling after the 20th anniversary of the date of practical completion of the Works (as defined by the Tripartite Deed).

Clause 8: Reduction of Council liability

Under the scheme proposed by this measure, the liability of the Council to make a payment to the Minster under clause 9 of the Tripartite Deed will be reduced to the extent that the Council makes a payment to the Crown under these provisions. A liability to make a payment in respect of a particular allotment will cease if a lump sum payment has been made under clause 6 or a liability has concluded under clause 7.

Clause 9: Separate rate no longer to be declared

It will no longer be necessary to contemplate the imposition of a separate rate under clause 11 of the Tripartite Deed.

Clause 10: Regulations

The Governor will be able to make regulations as necessary or expedient for the purposes of the measure.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Police

(Complaints and Disciplinary Proceedings) Act 1985. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this bill be now read a second time.

This is a bill that was introduced in the last session; therefore, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

A number of individuals and institutions, most notably the Police Association, have from time to time, expressed a variety of concerns of varying gravity about the operations and processes of the Police Complaints Authority ('the PCA'), the Commissioner of Police ('the Commissioner') and the Internal Investigations Branch of South Australia Police ('the IIB') in relation to their statutory functions in investigating and reporting on complaints against police officers under the *Police (Complaints and Disciplinary Proceedings) Act 1985* ('the Act').

These concerns may be summarised as follows:

1. There are undue delays in the complaints handling procedures;
2. There is a lack of professionalism at times in the investigative procedure;
3. There is no process by which a complainant or a police officer can seek external review of the manner or sufficiency of an investigation undertaken by the PCA;
4. There is no process whereby a determination of the PCA not to proceed with an investigation can be challenged;
5. There is no definition of the term 'assessment' in the Act and therefore the content and function of the assessment is ambiguous;
6. There is a general lack of fairness in the Act in that detrimental and unfair comments may be made and are made in published material without the subject of these comments being given a hearing or an opportunity to respond; and
7. There is a lack of confidentiality and unnecessary disclosure of information contrary to the intent of the legislation.

The government, and the Attorney-General, as minister responsible for the administration of the legislation, could not let these allegations continue to circulate and be repeated without investigation. To that end, the Attorney-General requested Mrs Iris Stevens to report on the operation of the Act. The terms of reference of the review were as follows:

1. Examine and review generally the operations and processes of the Police Complaints Authority, the Commissioner of Police and the Internal Investigation Branch in relation to their statutory functions in investigating and reporting on complaints against police officers under the *Police (Complaints and Disciplinary Proceedings) Act*, and report upon the effectiveness and appropriateness of those operations and processes; and
2. Without limiting the generality of paragraph 1 above, examine, review and report upon the following practices and procedures of the PCA:
   - the provision of reports of investigations, assessments or other material to complainant, police officers the subject of complaints and the Commissioner of Police;
   - the relevance of the principles of natural justice to the exercise of statutory functions by the PCA; and
   - complaint handling mechanisms within the PCA office.

These terms of reference were intended to exclude and did exclude any examination and review of individual cases.

Mrs Stevens reported in July 1998. I would like to now place on the formal record my gratitude to Mrs Stevens for the thorough, effective and timely manner in which she approached and completed the difficult task set for her. On Tuesday, 11 August 1998, I tabled a copy of Mrs Stevens' report in the parliament and made a Ministerial statement. That Ministerial statement did three things. First, it outlined the specific findings of the report. I will return to those below.

Second, it indicated that Mrs Stevens had not found any major problems with the operation of the legislative scheme or its practice and that therefore the Bills then before the parliament could proceed. Third, it indicated in relation to the specific findings made by Mrs Stevens, that there would need to be further consultation of a detailed nature before any attempt was made to resolve some of the technical and detailed issues identified by Mrs Stevens as requiring further consideration by the government.

That process of consultation has necessarily taken time. It should be borne carefully in mind at all times that the government is in this area dealing with the Police Complaints Authority, which is an independent statutory body and the Commissioner of Police, who has a special relationship with the government and the law.

I now turn to Mrs Stevens findings. She made no specific recommendations for reform. It is noteworthy that, despite assertions by some persons and individuals that the system with which she was dealing was fatally flawed and fundamentally unjust, she made no such finding. Instead, she raised issues. They were:

1. Whether the Authority, the Commissioner and the IIB should re-examine their procedures in light of the decision in *Casino's Case* to achieve strict compliance with the provisions of the Act by ensuring that no procedural steps required by the Act have been omitted and no procedural steps not sanctioned by the Act have been introduced;
2. Whether the ambiguities in the act, for example, in relation to the function of making findings of conduct and in relation to assessments, require statutory clarification;
3. Whether the inequities in the act in relation to the supply to police officers of particulars of the investigation and the opportunity to make submissions ought to be remedied by statutory amendment;
4. Whether the issues relating to the confidentiality of the contents of reports of the results of investigations ought to be clarified by statutory amendment; and
5. Whether it would be appropriate to transfer complaints concerning management issues to the Commissioner for managerial action.

These issues have been the subject of detailed and intense scrutiny by the office of the Attorney-General in consultation with the Police Commissioner and the PCA. The bill that is now presented to the parliament is the result of that careful process. In explaining what is in the bill and why, I will also explain what is not in the Bill and why.

The bill

The Bill addresses, of course, only those matters which require legislative intervention. I now turn to discuss each of these briefly.

(a) Determination that matter be investigated by PCA

Section 23(2) requires the PCA to consult with the Commissioner before determining to investigate a complaint himself. The procedure used by the PCA is to send the Commissioner a letter advising him that he has determined to investigate a complaint and that the letter constitutes the consultation required by section 23(2). Mrs Stevens points out that the letter is not consultation as required by the Act.

The requirement for the PCA to consult with the Commissioner before determining to investigate a complaint himself can be contrasted with section 22A which allows the PCA to *initiate* an investigation. If the Commissioner does not agree, he can advise the PCA of his disagreement and the minister is the arbiter if the PCA and Commissioner cannot reach agreement. On the other hand, s. 23 deals with the case in which the PCA decides that it wants to *investigate* a matter itself. Mrs Stevens makes the point that there has virtually never been an occasion when the Commissioner has disagreed with such a determination. It is considered that the cumbersome and high level intervention of the minister is not required for such cases as these. The amendment therefore provides that the PCA must notify the Commissioner and must consider the views, if any, put forward by the Commissioner but, in the end, if the PCA is determined to investigate the matter itself, it can proceed to do so.

(b) Production of documents and other property.

Section 25(5) requires a member of the police force to furnish information, produce documents or other records or answer questions when so required by the IIB. Section 28(6) provides that the PCA may by notice in writing require a person to furnish him with information, documents, or other records relevant to the investigation. The IIB has requested that the sections be amended to require the production of property as well. Sometimes property in the possession of the member of the police force can be relevant in the investigation of a complaint against the member. Consequently, the bill contains a number of amendments to sections 25 and 28 making clear that that power requires the production of property and records.

(c) The right of persons to make submissions to the PCA

Section 28(5) contemplates that if the PCA decides to express opinions critical of a person that person should be afforded the opportunity to consider whether he or she wishes to make repre-

sentations in relation to the matter under investigation. Mrs Stevens points out that this provision is not being observed.

It is considered that section 28(5) should be repealed. When the police investigate allegations of an offence, the person under investigation has no right to make representations about a decision to prosecute him or her. Under section 28(5) an assessment by the PCA has no immediate result. The Commissioner may disagree with the assessment and, if the matter goes to the Police Disciplinary Tribunal, the Tribunal may find the conduct not proven. Given this, it is hard to argue that natural justice requires the person about whom the PCA expresses a critical opinion should have a right to make representations before that opinion is expressed. Provided the person under investigation is, at the end of an interview or interrogation, asked if there is anything further he or she wishes to add, this is sufficient and conforms to good investigative practice. Further, police officers who are under investigation have ready access to advice through the Police Association and its lawyers. The repeal of section 28(5) will also remove any need to clarify what is meant by 'opinions' which was another matter considered by Mrs Stevens.

(d) Provision of the particulars of the matter under investigation

When a police officer voluntarily attends to answer the PCA's questions there is no requirement that the officer be given the particulars of the matters under investigation. Section 25(7) provides that where the investigation is by the IIB the investigator must, before giving a direction to the officer under investigation to answer questions, inform the officer of the particulars of the matter under investigation. Where the PCA gives written notice that he requires a person to attend before him and answer questions section 28(8) requires that the particulars of the matter under investigation be included in the notice.

Mrs Stevens suggests that it is inequitable that a person who attends voluntarily before the PCA to answer questions does not have to be informed of the particulars of the allegation. Mrs Stevens suggests that there should be one requirement that written particulars of an allegation should be supplied to a person under investigation before the person is interviewed by an investigator.

The supply of particulars of the complaint to the person under investigation should be reconsidered. Most of the complaints dealt with by the PCA are not within the category of minor complaints—they are the more serious cases. Complaints may involve a complaint about conduct which may result in disciplinary action. criminal prosecution or no action at all but, when a complaint is made, it is frequently difficult to tell whether or not it will ultimately lead to a prosecution rather than disciplinary action. A person under investigation for an offence is not supplied with particulars of the alleged offence before being interviewed nor are many persons facing disciplinary charges of various kinds. Therefore, it seems sensible and fair that, in relation to questioning on complaints, police are treated no differently from others in the same or similar situations. There appears to be no overwhelming justification for making an exception when police behaviour is being investigated. There do not appear to be other instances where a person whose conduct is to be investigated would be entitled to written particulars prior to an interview. In general, if a person is charged before the Tribunal or a Court the prosecutor will be obliged to provide particulars of the charge at that time. Therein lies the dilemma. The general rule described above has evolved as a general and widespread principle of good investigative practice. On the other hand, in general terms, when people are compelled to do things, they are, by and large, entitled to know why. In practice, police officers answer a summons to attend at the Authority voluntarily. The essence of the compulsion lies in the requirement to answer questions.

The above analysis suggests that section 28(8) should be amended so that the PCA is not required to give written particulars of the matter under investigation. Rather, the PCA should be required to inform the officer of the particulars of the matter under investigation before questioning the officer as is required under section 25(7).

The question that arises—what is meant by 'particulars'? In practice, of course, the particulars that will be supplied, and should be supplied under the amendment proposed, will vary from case to case. It is therefore impractical to define in legislation what they should be and so no attempt has been made to do so. That is also the position in relation to the obligation to supply particulars in relation to an ordinary criminal charge. In practice, however, it can be said that the police officer will be entitled to know the nature of the allegation in sufficient detail to know the case that he or she is being asked to answer, which will include the general nature of the allegation, including dates, times and places. Particulars will not normally disclose the identity of the complainants, although such a disclosure will sometimes be inevitable from the substance of the complaint.

(e) Contents of the IIB's Report

Mrs Stevens suggests that the reporting function of the IIB under section 31 needs to be clarified. It is not clear if the IIB is authorised to make any determination of conduct by a police officer. If it is the function of the IIB to make such determinations or findings then it is appropriate to include them in the report but unnecessary to supply the PCA with the confidential investigation files and evidentiary material.

The IIB is required to report the 'results of the investigation' to the PCA and the PCA is required to make an assessment as to whether the conduct falls within any of the sub-paragraphs of section 32(1)*(a)*. In order to discharge his duty the PCA has to determine what conduct the member has in fact engaged in. In order to do this the PCA needs the investigation file. It cannot be that the IIB has the power to make the findings. If this were so the PCA would be a mere rubber stamp. Whether the IIB report should contain a finding that a member was culpable in respect of particular conduct is not so clear. The words 'results of the investigation' suggest that the IIB should include a finding in relation to a member's conduct.

The present practice has worked well and appears to be in accordance with the Act. Given that Mrs Stevens considers that there is some uncertainty about the present practice, sections 31-33 are amended to make it clearer that the present practice is sanctioned by the Act.

(f) Provision of confidential memoranda by the PCA to the commissioner and provision of assessments and recommendations to complainants and police officers the subject of complaints

Where the PCA determines that the conduct under investigation involves, on its face, breach of discipline or criminality he has adopted a practice of not providing reasons in his report to the Commissioner or in his assessment but of supplying a confidential memorandum to the Commissioner. Mrs Stevens points out that there is no provision in section 33, or elsewhere, that allows the PCA to provide confidential memoranda to the Commissioner. Further the fact that the existence and contents of such memoranda are not revealed to complainants and to the police officers concerned may amount to a denial of natural justice.

The PCA agrees that confidential memoranda should not be sent to the Commissioner. However it is important that the Commissioner receives the views of the PCA on the evidence and his reasoning in coming to a recommendation that criminal or disciplinary charges should be laid. It is also important that reputations are not damaged if the material becomes public. The solution is for the PCA's reasoning to be included in the assessment provided to the Commissioner and for section 36 to be amended so that where there is a recommendation that criminal charges or disciplinary charges should be laid the assessment is not provided to the complainant.

Further, Mrs Stevens notes that section 36 does not require the release of the full assessments nor does it forbid such release. This is an additional reason why section 36 should be amended so that assessments are not released to the complainant where disciplinary or criminal charges are recommended.

(g) Confidentiality

The *Police (Complaints and Disciplinary Proceedings) (Miscellaneous) Act 1998* was part of the package that was mainly concentrated on the new *Police Act 1998*. Clause 6 of the 1998 amending bill was concerned about the sometime practice of defence counsel in a criminal trial subpoenaing the records of the PCA in relation to officers involved in the case in order to see if there was anything discreditable in their records which could be used in court to attack police testimony. Clause 6 amended s. 48(4)*(c)* of the Act to tighten this up by requiring that the court find 'special reasons' for making any such order *and* that 'the interests of justice cannot be adequately served except by the making of such an order'.

Section 48(4) regulates the confidentiality obligations of 'prescribed officers'. A 'prescribed officer' is defined in s. 48(1). It means (in effect) employees of the PCA and members of the

police force. It expressly excludes the Commissioner and the PCA himself. There is good reason for this. The confidentiality provisions in relation to the Commissioner and the PCA are treated separately in s. 48(7). The 1998 bill did not amend s. 48(7) to impose the same strict test, and so s. 48(7)*(c)* remains in exactly the same form that s. 48(4)*(c)* used to be before the 1998 amendment—that is, no special protection from subpoena.

The PCA has drawn attention to this. He is of the opinion that it is an anomaly which requires remediation. The government agrees. The bill therefore amends s. 48(7) of the Act so that the wording reflects exactly the protection enacted in relation to prescribed officers under s. 48(4).

Other Issues Considered

(a) Determination that investigation of a complaint is not warranted

At times complainants take issue with a decision by the PCA not to investigate, or further investigate, a complaint. There are complaints by complainants and police officers that the PCA has determined that there be no further investigation when relevant witnesses have not been interviewed. Concerns have been raised that there is no way a complainant or a police officer can challenge a determination of the PCA not to investigate, or further investigate, a matter.

Mrs Stevens did not come to a concluded view as to whether there should be an external review of the PCA's decision not to investigate a complaint. The arguments against an external review are stronger than the arguments in favour of such a review. A review of a decision not to investigate a complaint would add an extra procedure to a process that is already complex and add further delay to a procedure that is already subject to delays. There needs to be a way of quickly eliminating complaints that are not to be investigated. As with all administrative schemes and decision-making processes, a line must be drawn between that which is reviewable and that which is not. If the PCA has made the wrong decision then the investigation can be re-opened under section 50.

(b) Supervision by the PCA of investigations by the IIB

The PCA and the IIB consult by telephone on the progress of investigations. Mrs Stevens suggests a note of caution—telephone exchanges conducted in an informal manner may have the tendency to erode the appearance of the independence of the PCA. No legislative change is required. The parties need to take heed of this warning note.

(c) Investigation by the PCA where there has not been a complaint

Mrs Stevens suggests a proviso to section 22A to the effect that the PCA may only investigate a complaint on his or her own initiative when the Commissioner has not inquired into the matter.

This is something that can be left to the good sense of the PCA. If the Commissioner has inquired into the matter it is highly unlikely that the PCA will require a new investigation.

(d) Complaints receipt process

Police officers sometimes have difficulties in deciding whether there has been a complaint. Mrs Stevens suggests that this is an area which requires clarification or the introduction of guidelines. The IIB has requested that what is a 'complaint' be defined in the legislation. This was considered and rejected in 1995. Firstly, there is difficulty in defining what is a complaint. Secondly, the experience in NSW is that defining what is a 'complaint' leads to litigation. The matter is best resolved by the Commissioner issuing guidelines as to when something is to be taken as a complaint that should be investigated rather than the mere expression of a grievance.

(e) Managerial matters

Mrs Stevens considers that managerial matters should be dealt with by the Commissioner rather than be investigated by the IIB and assessed by the PCA and that perhaps the way to do this is for the PCA and the Commissioner to agree that a complaint is a kind more appropriately dealt with by way of managerial action.

The Act already provides for 'minor complaints' to be dealt with by informal inquiry. The categories of minor complaints can be enlarged by agreement between the Commissioner and the PCA if necessary. It should also be noted that there is nothing to prevent the Commissioner from taking managerial action during the course of an investigation by the PCA should he so desire. No change to the legislation is required.

(f) Provision of information about the interrogation process

Mrs Stevens considers that it may assist if there were a clearer understanding of the investigator's role under the Act and the guidelines under which he or she operates. She suggests the information should be provided to police about the process of cautions given both under the criminal law and under the Act. The Commissioner is establishing a Professional Ethics and Standards Branch which will have an educative function. It will be the ideal body to perform this function.

(g) Reporting process

Mrs Stevens considers that the reporting process is more complicated than the Act requires. The process of supplying a report by the investigator, a section 31 report by the Officer in Charge of the IIB and the contents of the investigation file to the Deputy Commissioner and then forwarding all the material to the PCA appears to involve duplication of effort. The material is read by the investigator, the senior investigator, the Officer in Charge, the Disciplinary Review Officer and the PCA. This is not a matter that requires legislative change. It may be a matter which requires administrative attention.

(h) Responses by the PCA to inquiries by complainants

Mrs Stevens points out that section 30 does not authorise the release of the report of the result of an investigation or its discussion with a complainant nor is there authority to release an assessment until it has been finalised. If such information is to be released it can only be released by authorisation of the release of particular information by a particular prescribed person. The PCA agrees with Mrs Stevens and has taken appropriate action. There is no need for any changes to the legislation.

(i) Provision of 'other materials' to complainants

Mrs Stevens notes that section 26(1) does not authorise the disclosure of information acquired during the course of the investigation or the release of the contents of any report. The PCA agrees with Mrs Stevens. The PCA is not seeking any change to the legislation.

(j) Complaint handling mechanisms within the PCA's office

Mrs Stevens found that although there is a criticism of the length of time that the complaints procedure takes, the complaint handling procedure in the PCA's office cannot be criticised in this respect. Mrs Stevens did not recommend any legislative changes under this heading.

(k) Delays in dealing with matters

It is a common criticism of the current system that it takes too long to finalise a complaint and that police officers have an allegation hanging over their heads for far too long. The real position is as follows. The vast majority of complaints are investigated by the Internal Investigations Branch of the Police Force. The PCA has put firm time guidelines in place. Where a preliminary investigation is required, it is expected to be finalised within one month. Where a full investigation is required, it is expected to be finalised within three months. If a preliminary investigation report has not been received after one month, the PCA follows the matter up. Where a full investigation is concerned, after two months, the PCA sends a letter to the IIB reminding the Branch of the impending deadline and again, if the report is not on time, the PCA will follow it up. The office of the PCA has a computerised 'bring up' system for case management and funds a full time position for this task. The cases where there are very long delays are commonly those where the subject matter will be dealt with, in whole or in substantial part, by a court. In such cases, the standard and correct practice is to place the complaint on hold until the court decides the issue. That may take far longer than the PCA deadlines. Those cases aside, the PCA estimates that approximately 90 per cent of its case load conforms to the time guidelines.

Conclusion

This bill therefore represents the results of a thorough and careful review of the entire police complaints system, both as it appears in legislation and as it operates in practice. The major part of the review has been conducted by an independent and experienced person who received submissions from those who had concerns about the system, who investigated those concerns and reported on them. The government has considered the issues raised, consulted with the Commissioner of Police and the Police Complaints Authority and has received representations from the Police Association in bringing the bill to this place. As a result of recent and more detailed consultation with the Police Association, the government is currently formulating an amendment to the bill in relation to a right to be heard where the PCA intends to make comment critical of any person.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 11A—Delegation by Authority

Section 11A allows the Authority to delegate his or her powers or functions under the principal Act to a member of the staff of the Authority. The proposed amendment widens this delegation to allow the Authority to delegate his or her powers or functions under any Act.

Clause 4: Amendment of s. 23—Determination that matter be investigated by Authority

Section 23 provides, in part, that the Authority may, after consultation with the Commissioner, determine that a matter should be investigated by him or her. The proposed amendment provides that rather than consult with the Commissioner, the Authority may make a determination under this section and then may, with the Commissioner's agreement, or after allowing the Commissioner five days to comment on the determination and taking into account any comments received from the Commissioner, commence an investigation into the matter.

Clause 5: Amendment of s. 25—Investigations by internal investigation branch

Clause 5 proposes amendments to section 25 to provide that a member of the internal investigation branch may, as well as being able to obtain information and make inquiries relevant to an investigation, obtain property, documents or other records relevant to an investigation.

Clause 6: Amendment of s. 28—Investigation of matters by Authority

Clause 6 proposes amendments to section 28 to provide that the Authority may, as well as being able to obtain information and make inquiries relevant to an investigation, obtain property, documents or other records relevant to an investigation.

This clause also repeals the subsection that provides that the Authority must not, in a report in respect of an investigation, be critical of a person unless that person has been given an opportunity to make submissions in relation to the matter under investigation.

Subsection (8) is replaced by this clause to provide that the Authority must inform the member of the police force whose conduct is under investigation of the particulars of the matter before directing questions to the member. In the current act, the member is told of the particulars of the matter in the notice requiring the person to attend to answer questions.

Clause 7: Amendment of s. 31—Reports of investigations by internal investigation branch to be furnished to Authority

Section 31 provides that when the internal investigation branch completes an investigation of a matter, a report of the results of the investigation must be prepared. The proposed amendment clarifies that the report is to be in relation to the investigation as a whole and not only of the results of the investigation.

Clause 8: Amendment of s. 32—Authority to make assessment and recommendations in relation to investigations by internal investigation branch

Consequential amendment—see clause 7.

Clause 9: Amendment of s. 33—Authority to report on and make assessment and recommendations in relation to investigations carried out by Authority

Consequential amendment—see clause 7.

Clause 10: Amendment of s. 36—Particulars in relation to matter under investigation to be entered in register and furnished to complainant and member of police force concerned

Section 36 provides that particulars of a recommendation or determination in relation to a matter under investigation are to be furnished to the complainant and the member of the police force concerned. The proposed amendment provides that if a recommendation or determination is that a member of the police force be charged with an offence or breach of discipline, the member and the complainant are to be furnished with particulars of the recommendation or determination only, without any other comments in relation to the matter.

Clause 11: Amendment of s. 48—Secrecy

Section 48 provides, amongst other things, that a prescribed officer, the Authority and the Commissioner may only divulge information obtained in the course of an investigation in certain circumstances. In relation to a prescribed officer, one of those circumstances is 'as required by order of a court, the court being satisfied that there are special reasons requiring the making of such an order and that the interests of justice cannot adequately be served except by the making of such an order'. Clause 11 proposes to amend section 48 so that this circumstance also applies to the Authority and the Commissioner.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Listening Devices Act 1972. Read a first time.

The Hon. K.T. GRIFFIN: I move:

That this bill be now read a second time.

As this bill is essentially the same as that which was introduced in the last session, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This bill makes a number of amendments to the *Listening Devices Act 1972*. As you will recall, a bill in essentially the same terms was considered by this parliament last session and, regrettably, laid aside.

Unfortunately, the government's first attempt to make significant improvements to existing listening devices legislation was lost due to the insistence of some members that an office of Public Interest Advocate be created. The creation of a Public Interest Advocate raises many complications that would unduly hinder the use of electronic surveillance devices in the investigation of criminal activity and work against the public interest, rather than provide a public benefit.

As the government indicated when the bill was laid aside in August of this year, it is committed to the development of appropriate legislation that will facilitate the use of video surveillance and tracking devices in the effective investigation of criminal conduct.

The bill amends the *Listening Devices Act 1972* to—

- update the provisions of the Act taking into account technological advance;
- make a number of other amendments aimed at overcoming some current practical problems in the Act;
- increase the protection of information obtained by virtue of this legislation;
- increase the level of accountability to accord with other similar legislation.

Since the *Listening Devices Act 1972* was passed, there have been significant advances in technology. The development of visual surveillance devices and tracking devices facilitates effective investigation of criminal conduct. Also, there have been a number of court cases which have raised issues about the operation of certain provisions of the *Listening Devices Act 1972*. As a result, the police are experiencing some practical problems in using all forms of electronic surveillance to their full potential in criminal investigations.

Electronic surveillance (encompassing listening devices, visual surveillance devices and tracking devices) provides significant benefits in the investigation and prosecution of criminal activity. Electronic surveillance as a whole was significantly praised by the royal commission into the New South Wales Police Service. The royal commission considered its use of electronic surveillance the single most important factor in achieving a breakthrough in its investigations. The report from the royal commission (the Wood report), released in May 1997, states that the advantages of using electronic surveillance included—

- obtaining evidence that provides a compelling, incontrovertible and contemporaneous record of criminal activity;
- the opportunity to effect an arrest while a crime is in the planning stage, thereby lessening the risks to lives and property;
- overall efficiencies in the investigation of corruption offences and other forms of criminality that are covert, sophisticated and difficult to detect by conventional methods;
- a higher rate of guilty pleas by reason of unequivocal surveillance evidence.

Currently, the *Listening Devices Act 1972* allows police to apply to a Supreme Court judge for a warrant to authorise the use of a listening device. However, the definition of a listening device does

not extend to video recording and tracking devices. While the use of visual surveillance devices and tracking devices is not illegal, the Act does not contain a provision to allow the police to enter onto private premises to set up a video recorder or tracking device.

In view of the limitations of the current legislation, it has been the practice in South Australia to install video cameras only where police have permission to be on particular premises, or where the activities can be filmed from a position external to the premises. However, criminal activity, by its very nature, is often conducted in private, resulting in there being an area where criminal activity is occurring, but where devices that have many investigative and evidentiary advantages cannot be used. The government considers that the police should be in a position to use up-to-date surveillance technology to detect and prevent serious crime. Therefore, this bill will allow the police to obtain judicial authorisation to install video surveillance devices and tracking devices (collectively referred to in the bill as surveillance devices).

However, the government also acknowledges that the legislation must seek to balance competing public interests. The government believes that the bill strikes a balance between an individual's right to be protected from unnecessarily intrusive police investigation, on the one hand, with the need for effective law enforcement techniques on the other.

The existing Act envisages obtaining information and material by use of a listening device in three ways—

- illegally, in contravention of section 4;
- in accordance with a warrant; and
- where the person records a conversation to which he or she is a party in certain circumstances.

The disclosure of the information or material obtained by such use of a listening device is currently restricted by existing sections 5, 6A and 7(2) respectively. The bill amends these existing sections and inserts new disclosure provisions.

The amendments are required for several reasons. Existing section 5 makes it an offence to communicate or publish information or material obtained from the use of a listening device in contravention of the act, and there are no exceptions to this rule. The Act does not provide for the information or material to be communicated to a court in prosecutions for illegally using a listening device or communicating the illegal obtained information in contravention of the Act. This has raised some concern and can make such offences potentially difficult to prove. New section 5 will restrict disclosure to relevant investigations and relevant proceedings relating to the illegal use of a listening device or illegal communication of the illegally obtained material or information. It will also allow communication of the information to a party to the recorded conversation, or to a third person where each party to the recorded conversation consents.

Existing sections 6A and 7(2) are problematic in that they make it an offence for the persons involved in recording the conversation to disclose information or material obtained through the legal use of a listening device except in limited circumstances. However, if the information is legally communicated to another person, it is not an offence for that person to communicate or publish the information to any other party.

Clauses 9 and 12 of the bill insert new sections to make it an offence to communicate or publish information derived from the use of a listening device except in accordance with the Act. New section 6AB will also make it an offence to communicate or publish information or material derived by use of a surveillance device installed through the exercise of powers under a warrant, except as provided.

Under new sections 6AB and 7(3), communication will be permitted to a party to the recorded conversation (or activity, in the case of new section 6AB), with the consent of each party to the recorded conversation (or activity) or in a relevant investigation or relevant proceedings. The new sections also allow for disclosure of material in a number of other circumstances, including where the information has been received as evidence in relevant proceedings.

In the bill, relevant investigation is defined as the investigation of offences and the investigation of alleged misbehaviour or improper conduct. The definition of relevant proceedings includes a proceeding by way of prosecution of an offence, a bail application proceeding, a warrant application proceeding, disciplinary proceedings, and other proceedings relating to alleged misbehaviour or improper conduct.

Clause 8 amends section 6 of the Act to allow a judge of the Supreme Court to authorise the installation, maintenance and retrieval of surveillance devices on specified premises, vehicles or items where consent for the installation has not been given. This will improve the ability of the police to conduct effective investigations into serious criminal activity.

Except in urgent circumstances, an application for a warrant must be made by personal appearance before a judge of the Supreme Court following lodgement of a written application. This bill requires the judge to consider specified matters, such as the gravity of the criminal conduct being investigated, the significance to the investigation of the information sought, the effectiveness of the proposed method of investigation and the availability of alternative means of obtaining the information.

In particular, the bill will also require the judge to take into account the extent to which the privacy of a person would be likely to be interfered with by use of the type of device to which the warrant relates. This provision was not included in the original government bill introduced to parliament in December 1998. However, a provision in these terms was debated by the parliament. While this provision may not really be necessary, given that every other factor that must be considered by the judge indicates that the privacy of the person is a relevant consideration, the government is satisfied about including the provision. Inclusion of these clear criteria is only one way in which the Bill seeks to balance the public interest in effective law enforcement with the right to be free from undue police intrusion.

Clause 8 also makes it clear that the judge may authorise the use of more than one listening device or the installation of more than one surveillance device in the one warrant, and that the judge may vary an existing warrant. Currently, a separate warrant must be issued for each device, and a new warrant must be issued if the terms of the warrant are to be altered. Requiring the judge to fill out a separate warrant for each device to be used or installed (as the case may be), or in requiring a judge to fill out a new warrant when he or she is satisfied that the existing warrant should be varied, does not offer any additional protection.

Until the decision of the High Court in *Coco—v- The Queen* (*Coco*), it was assumed that the legislative provision which empowered a judge to authorise use of a listening device also authorised the installation, maintenance and retrieval of that device. However, the Court, in *Coco*, held that the power to authorise the use of a listening device did not confer power on the judge to authorise entry onto premises for the purpose of installing and maintaining a listening device in circumstances where the entry would otherwise have constituted trespass. New section 6(1) will make it clear that a Supreme Court judge has the power to authorise entry onto premises for the purpose of installing, maintaining and retrieving a listening device and surveillance device.

New section 6(7b) will operate in conjunction with new section 6(1) to make it clear that the power to enter premises to install, use, maintain and retrieve a listening device will also authorise a number of ancillary powers. While some may consider that new section 6(1) already authorises the exercise of ancillary powers, it is considered beneficial, for the purposes of clarity, to specify ancillary powers that may be exercised. New section 6(7b) will make it clear that, subject to any conditions or limitations specified in the warrant—

- a warrant authorising the use of a listening device to listen to or record words spoken by, to or in the presence of a specified person who, according to the terms of the warrant, is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence will be taken to authorise entry to or interference with any premises, vehicle or thing as reasonably required to install, use, maintain or retrieve the device for that purpose;
- a warrant authorising entry to or interference with any premises, vehicle or thing will be taken to authorise the use of reasonable force or subterfuge for that purpose and the use of electricity for that purpose or for the use of the listening or surveillance device to which the warrant relates;
- a warrant authorising entry to specified premises will be taken to authorise non-forcible passage through adjoining or nearby premises as reasonably required for the purpose of gaining entry to those specified premises;
- the powers conferred by the warrant may be exercised by the person named in the warrant at any time and with such assistance as necessary.

A comprehensive procedure for obtaining a warrant in urgent circumstances has been inserted in clause 9 of the Bill. Under existing section 6(4) of the act, a warrant may be obtained by telephone in urgent circumstances. New section 6A will provide that an application for a warrant may be obtained in urgent circumstances

by facsimile machine or by any telecommunication device. The new section also provides that where a facsimile facility is readily available, the urgent application must be made using those means. Facsimiles provide an instant written record of the application and the warrant, if issued. This reduces the opportunity to misunderstand the grounds justifying the application or the terms of the warrant. However, for the purposes of flexibility, where a facsimile is not readily available, an urgent application can still be made by any telecommunication device.

This Bill makes significant improvements to the recording and reporting requirements under the Act and will insert an obligation on the Police Complaints Authority to audit compliance by the Commissioner of Police with the recording requirements.

Existing section 6B requires the Commissioner of Police to provide specified information to the minister three months after a warrant ceases to be in force. The Commissioner is also required to provide specified information to the minister annually. The minister is required to compile a report from the Commissioner's report and information received from the National Crime Authority (NCA), and table the report in parliament.

While the existing Act imposes a reporting requirement on the police, it does not specify that the information forming the basis of the report must be recorded in a particular place. New section 6AC will specify that the Commissioner must keep the information (which will form the basis of the report under section 6B(1)(c)) in a register. The information to be recorded in the register includes the date of issue of the warrant, the period for which the warrant is to be in force, the name of the judge issuing the warrant and like information.

New section 6B(1b) will require the police to provide specified information about the use of a listening device or surveillance device that is not subject to a warrant, in prescribed circumstances. The additional reporting requirements are based on similar reporting requirements under the *Telecommunications (Interception) Act* (Cth). Under that act, the report to the minister must contain information relating to the interception of communications made under section 7(4) and (5) of that act, which provides for the interception of communications without obtaining a warrant in certain circumstances.

There has been no suggestion that the police are inappropriately using listening devices in accordance with section 7, nor is there any suggestion that the police are inappropriately using surveillance devices. However, the additional reporting will increase police accountability in using a listening device or installing a surveillance device without a warrant and so guard against improper use. An example of a prescribed circumstance may be where the police use a declared listening device in accordance with section 7.

New section 6C will regulate the retention and control of records, information or material obtained in relation to the use of listening or surveillance devices by the police and the NCA. Currently, the police have adopted a comprehensive procedure to deal with information and material derived from the use of listening devices. However, this is largely a procedural rather than a legal requirement. New section 6C will allow the regulations to prescribe a procedure for dealing with the material and information derived from the use of a listening device under a warrant, or the use of a surveillance device installed through the exercise of powers under a warrant. It is proposed that a number of recording requirements relating to the movement and destruction of information and material obtained under the Act will be inserted in the regulations. New section 6C, when coupled with regulations, will allow for stricter controls over the information than the current legislation requires.

In addition, new section 6C will require the Commissioner of Police and the NCA to keep a copy of each application for a warrant under the act, and each warrant issued under the Act. This provision has also arisen out of debate that took place in relation to the original government bill to amend the *Listening Devices Act 1972*. Again, this provision will not affect current practices because the Commissioner of Police, the NCA and the Supreme Court already retain copies of these documents. It should also be recognised that, by entrenching this practice in legislation, parliament does not intend to alter the laws governing access to these documents.

The increased recording and reporting requirements in the Bill are also prompted by the decision to require the Police Complaints Authority to audit the records kept by the Commissioner of Police. Under the *Telecommunications (Interception) Act* (Cth) the police are obliged to keep registers of warrants which are audited biannually by the Police Complaints Authority in South Australia to ascertain the accuracy of the records and ensure that they conform with the reporting requirements. The government believes that it would be appropriate for the police records relating to warrants obtained under the Act to be independently audited by the Police Complaints Authority. New section 6D will require the Police Complaints Authority to inspect the records kept by the police in accordance with the Act once every six months and report the results of the inspection to the minister. New section 6E will set out the powers of the Police Complaints Authority for the purposes of the inspection.

Clause 12 will insert a new section 7(2) to extend the exemption from section 4 of the act, which makes it an offence to use a listening device. Section 7(2) will prevent prosecution of any other member of a specified law enforcement agency who listens to a conversation by means of a listening device being used by an officer of that law enforcement agency in accordance with section 7 of the Act. On occasions, police officers involved in undercover operations will have a device hidden on them which transmits conversations for monitoring by nearby police. Courts have previously held that the officers monitoring the conversation are not direct parties to the conversation and are therefore not covered by the exemption under section 7. However, this practice is used to help ensure the safety of the officer using the device. The procedure should therefore be permissible under the legislation.

Clause 14 will repeal existing section 10 of the Act and insert new sections 9 and 10. The repeal of current section 10 will remove the right of a defendant charged with an offence against the *Listening Devices Act 1972* to elect to have the offence treated as an indictable offence. This right (currently provided for in existing section 10) is inconsistent with the *Summary Procedure Act 1921* which classifies offences into summary offences, minor indictable offences and major indictable offences. Summary offences are defined to include offences for which a maximum penalty of, or including, two years imprisonment is prescribed. The offences created by the *Listening Devices Act 1972* fall within that definition.

Existing section 8 makes it an offence for a person to possess, without the consent of the minister, a type of listening device declared in the Gazette by the minister. In addition, existing section 11 empowers a court, before whom a person is convicted for an offence against the act, to order the forfeiture of any listening device or record of any information or material in connection with which the offence was committed. However, the legislation does not currently provide for the police to search and seize the record of information or declared listening device. This can impact on the effectiveness of existing sections 8 and 11. New section 9 of the Act will authorise a member of the police force to search for, and seize, a declared listening device which is in a person's possession without the consent of the minister, or information or material obtained through the illegal use of a listening device.

New section 10 will allow the Commissioner of Police or a member of the NCA to issue a written certificate setting out relevant facts with respect to things done in connection with the execution of a warrant, such as the fact that the device was installed lawfully. In the absence of evidence to the contrary, the matters specified in the certificate will be taken to be proven by the tender of the certificate in court. Such certificates will be used in connection with the prosecution for an offence in which evidence to be used in court has been obtained by use of a listening device or a surveillance device where a warrant was issued to allow the installation of that device. A similar provision has been enacted in the *Telecommunications (Interception) Act* (Cth).

The Bill will also make a number of other minor amendments to the *Listening Devices Act 1972*, including the insertion of definitions, review of penalties, re-wording of sections to include references to surveillance devices, general re-wording for the purposes of drafting clarity and statute law revision amendments.

As indicated above, there have been two modifications made to the original Bill that was introduced by this government in the last session. Those modifications essentially stem from parliament's debate about that Bill. There were two additional amendments debated—the establishment of the office of Public Interest Advocate and the declaration of certain tracking devices. Each of these matters will be dealt with in turn.

Public Interest Advocate

The government does not support the concept of the office of a Public Interest Advocate. Contrary to what has been asserted, the Bill does not significantly increase police powers. In relation to video surveillance and tracking devices, the Act only has implications where the police install devices on private premises without permission. Generally, it is not unlawful to use a video surveillance device or a tracking device in South Australia. There are, on average, only 20 applications per year for warrants to use listening devices

and there is no reason to suspect that there will be a significant increase in the number of such applications in the future. Neither is it anticipated that there will be a significant number of applications for warrants relating to the installation of video surveillance or tracking devices, given the limited impact the Bill has on the use of such devices.

While there are a number of powers that will, for the first time, be expressly included in the Act as a result of the Bill, some of these powers can, to some extent, already be exercised. For example, the courts already accept that the section 7 protection from prosecution for illegal use of a listening device will extend to cover officers who monitor or record a private conversation while assisting a police officer who is legally recording the conversation under section 7.

The functions proposed for the Public Interest Advocate in relation to warrant applications are similar to those functions of the Supreme Court judge, except that the judge is required to determine such applications. It has been proposed that the Public Interest Advocate would test an application for a warrant under the Act against the criteria set out in section 6(6) of the act. In order to determine an application for a warrant under the act, a judge must take into account the criteria set out in section 6(6). It has also been proposed that the Public Interest Advocate would be able to seek further information on an application through examining and cross examining witnesses. If, in order to determine an application, a judge would like further information, the judge may require further information be given before making the determination.

The Public Interest Advocate would not have access to any information other than what is provided to the judge. The need for applications for warrants to be heard expeditiously would make it impracticable for the Public Interest Advocate to have access to additional information about an investigation and, in addition, the necessity for confidentiality would make access to further information undesirable.

The judge deciding an application for a warrant must be satisfied, in all the circumstances, that the warrant should be issued. If the judge is, on hearing the application, satisfied as to the issuing of the warrant, it follows that the warrant is issued validly. The support for or opposition to the application by the Public Interest Advocate would largely be irrelevant and unlikely to carry any beneficial ramifications. The support or opposition of the Public Interest Advocate to the issuing of a warrant would not affect the validity of a warrant that has been issued by the judge. The opposition of the Public Interest Advocate to the issuing of a warrant would not affect a subsequent trial because the validity of the warrant would not be open to attack on the basis that the material laid before the judge was insufficient to justify the issue of the warrant.

The presence of the Public Interest Advocate at an application for a warrant in relation to the use of a surveillance device would depend on the type of device, who would be seeking authority to use or install the device and for what purpose the device would be used. There is no 'independent watchdog' present when a Supreme Court judge determines an application under the *Telecommunications Interception Act* (Cth) and there is no compelling reason for treating those applications and applications for the use or installation of electronic surveillance device applications under the *Listening Devices Act 1972* differently. Currently, the police and the NCA may apply for a listening device and telecommunications interception in relation to the same investigation at the same point in time. This would perhaps not be possible if the Public Interest Advocate were to be involved in applications relating to electronic surveillance devices.

In addition, applications for warrants to use listening devices may be made under the *Customs Act* (Cth) by commonwealth law enforcement agencies, including the NCA. In this regard, a peculiar situation would be created. If a warrant sought by the NCA relates to the importation of a narcotic substance, application for a warrant is made to a judge of the federal Court or a nominated member of the Administrative Appeals Tribunal. The Public Interest Advocate could not be involved in such applications. If, however, the listening device were to be used by the NCA in connection with an investigation into the manufacture or sale of a narcotic substance (without customs implications) the application would be made under the *Listening Devices Act 1972* and, therefore, subject to the involvement of the Public Interest Advocate.

A further irregularity would be created in relation to the federal Police who obtain power to use a listening device under commonwealth legislation without reference to state Acts. The federal Police would be able to obtain a warrant to use a listening device in relation to the same type of crime as the South Australian Police, yet the issue of the warrant would not be subject to Public Interest Advocate involvement.

The types of offences for which warrants have been issued since 1991 have been of a serious nature. The predominant classes of investigations requiring the use of listening devices have been murder and drug offence investigations. There are in place internal quality control checks involving the Crown Solicitor's Office (CSO). Prior to making an application for a warrant under the act, the CSO reviews the grounds for the application on which the police are relying. The CSO checks the intended application against the criteria set out in current section 6(6) and then recommends that the application be made or not as a result of this check. If the application is made, a solicitor from the CSO attends the application hearing before a judge of the Supreme Court to act on behalf of the Commissioner of Police on most (if not all) occasions. The police and the attending solicitor generally see the solicitor's role as one of informing the judge of all relevant matters without bias. On appropriate occasions, the solicitor will highlight areas that may be seen as 'weaknesses' in the application.

The procedures adopted by the police in using a listening device are closely scrutinised in any trial involving the tender of evidence obtained under a warrant, including the installation of the device, the location of the device, the use of the information obtained, and other relevant issues. Such scrutiny acts as an incentive to ensure that the warrant is executed appropriately.

Finally, the government is of the view that there are a number of other significant practical issues related to operations, resources and confidentiality in respect of the Public Interest Advocate that have not been addressed. For example, what would the outcome be if the Public Interest Advocate did not attend an application hearing? The proposed provisions would provide that the Public Interest Advocate must be present at any hearing for an application for a warrant under the Act as well as at applications for variation of a warrant. However, often a variation of a warrant is nothing more than the alteration of the name of the police officer to whom the warrant was issued. It is questionable whether there would be any need for the Public Interest Advocate to attend such a hearing but, as stated above, it would appear that attendance would be mandatory. This is just one example of the practical issues that do not appear to have been addressed.

Declared tracking devices

The government believes, in relation to declared tracking devices, that provisions making it an offence to possess a declared tracking device would not sit logically within the Act and, therefore, these provisions have not been included in this Bill. The current provision relating to declared listening devices was originally enacted to prohibit possession of listening devices that did not have a general lawful usage. The types of listening devices that have been declared to date, such as directive type microphones and laser listening systems, do not have general legal usage.

It is not an offence to use a tracking device. Therefore, it would be illogical to declare a tracking device and make possession of such a device illegal, on the basis that such devices do not have general lawful usage. The government has not been informed of any problems in relation to specified tracking devices being used indiscriminately or inappropriately. There does not appear to be any reason for making it an offence to possess a declared tracking device.

Conclusion

The government believes that it is important to improve the ability of police to monitor the activities of suspects as part of their investigations in serious criminal cases while, at the same time, the government recognises that an individual has a right to be protected from unnecessarily intrusive police investigation. The government is of the view that this Bill strikes the appropriate balance.

I commend this bill to the Council.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of long title

The principal Act regulates the use of listening devices. However, the effect of these amendments is to provide also for surveillance devices and hence the long title is to be amended to reflect the new purpose of the Act.

Clause 4: Amendment of s. 1—Short title

As a consequence of the proposed amendments, it is appropriate to amend the short title of the Act to be the *Listening and Surveillance Devices Act 1972*.

Clause 5: Amendment of s. 3—Interpretation

This clause sets out a number of definitions of words and phrases necessary for the interpretation of the proposed expanded Act. In particular, the clause contains definitions of listening device, surveillance device (which means a visual surveillance device or a tracking device), tracking device and visual surveillance device, as well as definitions of relevant investigation, relevant proceeding and serious offence.

Clause 6: Amendment of s. 4—Regulation of use of listening devices

The proposed maximum penalty for contravention of section 4 is 2 years imprisonment (as it is currently) or a fine of $10 000 (increased from $8 000).

Clause 7: Substitution of s. 5

5. Prohibition on communication or publication

New section 5(1) provides that a person must not knowingly communicate or publish information or material derived from the use (whether by that person or another person) of a listening device in contravention of section 4 (maximum penalty: $10 000 or imprisonment for 2 years).

However, new section 5(2) provides that new subsection (1) does not prevent the communication or publication of such information or material—

- to a person who was a party to the conversation to which the information or material relates; or
- with the consent of each party to the conversation to which the information or material relates; or
- for the purposes of a relevant investigation (*see clause 5*) or a relevant proceeding (*see clause 5*) relating to that contravention of section 4 or a contravention of this proposed section involving the communication or publication of that information or material.

Clause 8: Amendment of s. 6—Warrants—General provisions

The amendments proposed to this section are largely consequential on the proposal to expand the principal Act to make provision relating the use of both listening and surveillance devices.

Amendments to the section provide that a judge of the Supreme Court may, if satisfied that there are, in the circumstances of the case, reasonable grounds for doing so, issue a warrant authorising one or more of the following:

- the use of one or more listening devices;
- entry to or interference with any premises, vehicle or thing for the purposes of installing, using, maintaining or retrieving one or more listening or surveillance devices.

Such a warrant must specify—

- the person authorised to exercise the powers conferred by the warrant; and
- the type of device to which the warrant relates; and
- the period for which the warrant will be in force (which may not be longer than 90 days),

and may contain conditions and limitations and be renewed or varied.

An application for a warrant must be made by personal appearance before a judge following the lodging of a written application except in urgent circumstances when it may be made in accordance with new section 6A (*see clause 9*).

Subject to any conditions or limitations specified in the warrant, a warrant authorising—

- the use of a listening device to listen to or record words spoken by, to or in the presence of a specified person who, according to the terms of the warrant, is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence (*see clause 5*) will be taken to authorise entry to or interference with any premises, vehicle or thing as reasonably required to install, use, maintain or retrieve the device for that purpose;
- entry to or interference with any premises, vehicle or thing will be taken to authorise the use of reasonable force or subterfuge for that purpose and the use of electricity for that purpose or for the use of the listening or surveillance device to which the warrant relates;
- entry to specified premises will be taken to authorise non-forcible passage through adjoining or nearby premises (but not through the interior of any building or structure) as reasonably required for the purpose of gaining entry to those specified premises.

The powers conferred by a warrant may be exercised by the person named in the warrant at any time and with such assistance as is necessary.

Clause 9: Substitution of s. 6A

6A. Warrant procedures in urgent circumstances

New section 6A provides that an application for a warrant under section 6 (as amended) may be made in urgent situations by facsimile (if such facilities are readily available) or by telephone. The procedure for an application by facsimile or by telephone is set out.

New section 6AB replaces current section 6A.

6AB. Use of information or material derived from use of listening or surveillance devices under warrants

New section 6AB prohibits a person from knowingly communicating or publishing information or material derived from the use of a listening device under a warrant, or a surveillance device installed through the exercise of powers under a warrant, except—

- to a person who was a party to the conversation or activity to which the information or material relates; or
- with the consent of each party to the conversation or activity to which the information or material relates; or
- for the purposes of a relevant investigation; or
- for the purposes of a relevant proceeding; or
- otherwise in the course of duty or as required by law; or
- where the information or material has been taken or received in public as evidence in a relevant proceeding.

The maximum penalty for contravention of this proposed section is a fine of $10 000 or imprisonment for 2 years.

6AC. Register of warrants

There is currently no register of warrants required to be kept under the principal Act. New section 6AC provides that the Commissioner of Police must keep a register of warrants issued under this Act to members of the police force (other than warrants issued to members of the police force during any period of secondment to positions outside the police force) and sets out the matters that must be contained in the register.

Clause 10: Amendment of s. 6B—Reports and records relating to warrants, etc.

Section 6B deals with the reports and information relating to warrants issued under this Act that the Commissioner of Police and the NCA are required to give to the minister, as well as the report (compiled from the information provided to the minister) that the minister must lay before parliament. The reports given to the minister by the Commissioner of Police must distinguish between warrants authorising the use of listening devices and other warrants. The information for the Commissioner's report will be obtained from the information contained in the register of warrants (*see new section 6AC*).

New subsection (1b) provides that, subject to the regulations and any determinations of the minister, the Commissioner of Police must also include in each annual report to the minister information about occasions on which, in prescribed circumstances, members of the police force used listening or surveillance devices otherwise than in accordance with a warrant. The Commissioner must provide a general description of the uses made during that period of information obtained by such use of a listening or surveillance device and the communication of that information to persons other than members of the police force.

Clause 11: Substitution of s. 6C

6C. Control by police, etc., of certain records, information and material

New section 6C provides that the Commissioner of Police and the NCA must keep as records a copy of each application for a warrant under this Act and each warrant issued, and control and manage access to those records, in accordance with the regulations.

The Commissioner of Police and the NCA must,in accordance with the regulations—

- keep any information or material derived from the use of a listening device under a warrant, or the use of a surveillance device installed through the exercise of powers under a warrant; and
- control, manage access to, and destroy any such records, information and material if satisfied that it is not likely to be required in connection with a relevant investigation or a relevant proceeding.

6D. Inspection of records by Police Complaints Authority

In the current act, there is no provision for the Police Complaints Authority to monitor police records relating to warrants and the

use of information obtained under the Act in order to ensure compliance with the Act.

This new section provides that the Police Complaints Authority must, at least once each 6 months, inspect the records of the police force for the purpose of ascertaining the extent of compliance with sections 6AC, 6B and 6C and must report to the minister on the results of the inspection (including any contraventions of those sections).

6E. Powers of Police Complaints Authority

The Police Complaints Authority is given certain powers of entry, inspection and interrogation so as to be able to conduct properly an inspection in accordance with new section 6D.

A person who is required under new section 6E to attend before a person, to furnish information or to answer a question who, without reasonable excuse, refuses or fails to comply with that requirement is guilty of an offence (maximum penalty: $10 000 or imprisonment for 2 years).

It is also an offence for a person, without reasonable excuse, to hinder a person exercising powers under new section 6E or to give to a person exercising such powers information knowing that it is false or misleading in a material particular (maximum penalty: $10 000 or imprisonment 2 years).

Clause 12: Amendment of s. 7—Lawful use of listening device by party to private conversation

Proposed new subsection (2) extends the exemption from section 4 (Regulation of use of listening devices) given to a member of the police force, a member of the NCA or a member of the staff of the Authority who is a member of the Australian federal Police or of the police force of a State or Territory of the commonwealth, in relation to the use of a listening device for the purposes of the investigation of a matter by the police or the Authority to any other such member who overhears, records, monitors or listens to the private conversation by means of that device for the purposes of that investigation.

New subsection (3) sets out the circumstances in which a person may knowingly communicate or publish information or material derived from the use of a listening device under section 7 as follows:

- when the communication or publication is to a person who was a party to the conversation to which the information or material relates; or
- with the consent of each party to the conversation to which the information or material relates; or
- in the course of duty or in the public interest, including for the purpose of a relevant investigation or a relevant proceeding; or
- being a party to the conversation to which the information or material relates, as reasonably required for the protection of the person's lawful interests; or
- where the information or material has been taken or received in public as evidence in a relevant proceeding.

A person who contravenes new subsection (3) may be liable to a maximum penalty of a fine of $10 000 or imprisonment for 2 years.

Clause 13: Amendment of s. 8—Possession, etc., of declared listening device

It is proposed to amend the penalty for an offence against this section by increasing the fine to $10 000 from $8 000. The maximum period of imprisonment remains 2 years.

Clause 14: Substitution of s. 10

Current section 10 is repealed as a result of classification of offences and time for bringing prosecutions now being dealt with in the *Summary Procedure Act 1921*.

9. Power to seize listening devices, etc.

New section 9 provides that if a member of the police force, a member of the NCA or a member of the staff of the Authority who is a member of the Australian federal Police or of the police force of a State or Territory of the commonwealth suspects on reasonable grounds that—

- a person has possession, custody or control of a declared listening or tracking device without the consent of the minister; or
- any other offence against this Act has been, is being or is about to be committed with respect to a listening device or information derived from the use of a listening device,

the member may seize the device or a record of the information.

Certain powers are given to such a member for the purposes of being able to carry out the power given to the member under this proposed section and there is provision for the return of such seized items in due course.

10. Evidence

New section 10 provides that, in any proceedings for an offence, an apparently genuine document purporting to be signed by the Commissioner of Police or a member of the NCA certifying that specified action was taken in connection with executing a specified warrant issued under this Act (as amended) will, in the absence of evidence to the contrary, be accepted as proof of the matters so certified.

Clause 15: Insertion of s. 12

There is currently no provision for the making of regulations for the purposes of the Act but such a provision has become necessary as a consequence of the proposed amendments.

12. Regulations

New section 12 provides that the Governor may make such regulations as are contemplated by the Act including the imposition of penalties for breach of, or non-compliance with, a regulation.

Clause 16: Further amendments of principal Act

The Act is further amended in the manner set out in the schedule.

Schedule: Statute Law Revision Amendments

The schedule contains amendments to various sections of the Act of a statute law revision nature.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

SELECT COMMITTEE ON WATER ALLOCATIONS IN THE SOUTH-EAST

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a copy of a ministerial statement made today by the Hon. Dorothy Kotz, Minister for Environment and Heritage, on the subject of a progress report of the Select Committee on Water Allocations in the South-East.

Leave granted.

OFFICE FOR THE AGEING (ADVISORY BOARD) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Office of the Ageing Act 1995. Read a first time.

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

That this bill be now read a second time.

The purpose of this bill is to extend the membership of the Ministerial Advisory Board on Ageing to provide for increased representation and expertise on ageing, health and associated issues. The government currently receives advice from a number of different advisory bodies concerning ageing issues. These include the Ministerial Advisory Board on Ageing, the Older Persons Health Council (established by the Ministers of Health and Ageing in 1996) and a subcommittee of the council, the Continuity of Care, Casemix and Older Persons Advisory Committee (established by the Ministers of Health and Ageing in June 1995 and initiated through the South Australian Health Commission and the Commissioner for the Ageing).

There is overlap between the functions of these three groups, and the government believes that it would be better served by broadening the membership of the Ministerial Advisory Board on Ageing. This would allow for the provision of integrated advice across the ageing area whilst ensuring that human service and health issues are appropriately represented.

The terms of reference for the Ministerial Advisory Board on Ageing are to: provide policy advice to the minister for the Ageing on matters relating to the health and well-being of older South Australians; bring to the minister's attention

policy, research, planning and service issues which affect older people; monitor and advise on the impact of government policy on older people; and conduct consultations and hold forums on issues of importance to older people as required.

The creation of the Department of Human Services has brought together health, public housing, aged care and community services. This integration does provide an opportunity to consolidate the functions of the Ministerial Advisory Board, the Older Persons Health Council and the Continuity of Care, Casemix and Older Persons Advisory Committee. In order to ensure that there are sufficient members adequately to represent the wide areas covered by the Ministerial Advisory Board, it is proposed to expand the membership of the Ministerial Advisory Board. The formation of a single advisory structure through the expansion of the Ministerial Advisory Board on Ageing will ensure that there is a focus for ageing issues through one minister in relation to health, housing, community care and other areas of concern to older people.

Under the amendments, the Ministerial Advisory Board on Ageing is proposed to consist of: the Director of the Office for the Ageing (as an ex officio member) and not less than six and no more than ten (previously three and six, respectively) other persons with relevant expertise. They also prescribe that at least three of the board be women and three men. I commend the Bill to members and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 8—Advisory Board

The size of the Advisory Board on Ageing is increased from a minimum of four and maximum of seven to a minimum of seven and a maximum of eleven. A consequential increase is made in the minimum number of board members who must be women and the number who must be men.

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

GUARDIANSHIP AND ADMINISTRATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Guardianship and Administration Act 1993. Read a first time.

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

That this Bill be now read a second time.

The Guardianship and Administration Act and the related Mental Health Act 1993 came into operation on 6 March 1995. The two acts were introduced following an extensive policy development process from 1989 to 1993. The Guardianship and Administration Act 1993 provides a legal framework for the support and protection of people who, through mental incapacity, are unable to look after their own health, safety or welfare or to manage their own affairs. Mental incapacity may have arisen from various causes. Intellectual disability, acquired brain injury, stroke, dementia and mental illness are conditions which may bring a person within the scope of the legislation.

The legislation provides a range of options for substitute decision making on behalf of a person who lacks mental capacity. The two principal structures established under the Act are the Guardianship Board and the Public Advocate. The Guardianship Board is a multi-disciplinary specialist legal tribunal whose functions include: appointing a guardian to make personal lifestyle decisions for the protected person; appointing an administrator to make financial decisions; making decisions relating to major medical procedures, such as sterilisation and termination of pregnancy; and hearing appeals against detention orders under the Mental Health Act.

The Public Advocate has a major role in promoting and protecting the rights and interests of mentally incapacitated persons and their carers. The board may appoint the Public Advocate to be the guardian or one of the guardians of a person, but only if the board believes that no other order would be appropriate—in other words, the Public Advocate might be regarded as the guardian of last resort.

The principles which must be observed in making decisions under the powers of the act require consideration to be given, where possible, to the present wishes of the person in respect of whom the decision is being made. As that is not always possible, the act prescribes that paramount consideration must be given to what would be the wishes of the person, so far as there is reasonably ascertainable evidence. Consideration must also be given to the adequacy of existing informal arrangements for the care of the person or management of his or her financial affairs and the desirability of not disturbing those arrangements. Any decision or order made must be the least restrictive of the person's rights and personal autonomy as is consistent with his or her proper care and protection.

The 1993 legislation was a significant step forward in seeking to reduce the dominance of tribunal hearings and maintain family and local support for people with a mental incapacity but, at the same time, ensure that checks and balances existed. The creation of the Public Advocate was a major initiative aimed at promoting and protecting the rights and interests of people with mental incapacity and their carers.

During the passage of the legislation, parliament inserted a sunset clause to ensure that the legislation and the arrangements underpinning it were reviewed prior to the third anniversary of its commencement. The legislation was originally due to expire on 6 March 1998 but has been extended on two occasions to allow time for a legislative review and an operational review to be completed and considered. The current expiry date is 6 March 2000.

The legislative review was advertised widely and received 56 formal submissions. It is pleasing to note that generally there was support for the act. In broad terms, the legislative review concluded that the legislation could benefit from some changes, mainly of a technical nature. The operational review consulted with the authors of many of the submissions, with particular emphasis on clients, consumers and carers, sat in on Guardianship Board hearings and consulted with interstate counterparts, and met with service providers.

The operational review concluded that there were a number of non-legislative measures which could be taken to enhance the operations of the Guardianship Board and the Office of the Public Advocate and assist the community in their dealings with the guardianship system—measures such as increasing the community's awareness and understanding of the guardianship system, developing customer service/consumer rights policies and protocols, including a formal complaints mechanism, and establishing a quality assurance

monitoring and advisory committee. These will be progressively worked through with the relevant parties.

The operational review was mindful of the increasing workloads of both the Guardianship Board and the Office of the Public Advocate. The review sought to identify a mechanism to ensure that only those matters for which there was no other option but the board's involvement went before the Guardianship Board and that, in those cases, the necessary work-up and preparation of parties had occurred so that hearings were as expeditious and productive for all parties as possible.

The Bill therefore adopts the major recommendation of the review—the introduction of a process of mediation. Proposed new section 15A seeks to separate the executive and administrative functions of the current registrar and place them with the executive officer and place new mediation functions with the position of registrar. Transitional provisions are included for the current registrar to become the executive officer. The registrar may provide preliminary assistance in resolving proceedings before the board. This may include ensuring that the parties to the proceedings are fully aware of their rights and obligations; identifying issues in dispute; canvassing options that may obviate the need to continue proceedings; and facilitating full and open communication between parties.

The board, the president or a deputy president may refer proceedings or issues to the registrar for mediation. The board itself may endeavour to achieve a negotiated settlement of proceedings or resolution of issues arising and may embody the terms of the settlement in an order. The government believes that the introduction of mediation should assist the community in their dealings with the guardianship system and streamline the business of the board. Other amendments of a more technical nature seek to enhance the operations of the legislation. The definition of 'authorised witness' is expanded to include interstate justices of the peace and notaries public.

The definition of 'medical treatment' is extended to incorporate treatment provided by other health professionals as well as medical practitioners. A definition of 'health professional' is inserted to include registered physiotherapists, chiropractors and chiropodists as persons who may seek the consent of the Guardianship Board to their proposed treatment of a mentally incapacitated person where there is no other person with the appropriate authority. The principles on which the Guardianship Board must act are amended to include 'good conscience', as is the norm for quasi-judicial boards and tribunals.

In relation to guardians, provision is included to make it clear that the powers of both enduring guardians and board-appointed guardians are subject to any limitations spelt out in the act. It is also made clear that a person can appoint more than one enduring guardian. A new form is included for the appointment of sole or joint enduring guardians. Each relevant signature can be witnessed by different authorised witnesses if need be. Provision is also included for the concurrent hearing of an application for placement/detention with an application for guardianship.

This provision overcomes an unintended consequence of the existing act in that a guardian must be appointed before an application may be made to place or detain the protected person, which may result in multiple hearings when a single hearing would have been sufficient. The government believes that the principles embodied in the act are as relevant now as they were when they were introduced. The amendments enhance the capacity of the legislation to strike a sound balance between an individual's right to autonomy and freedom and the need for care and protection from neglect, harm and abuse. I commend the Bill to the Council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for bringing the act into operation by proclamation.

Clause 3: Amendment of s. 3—Interpretation

This clause deletes the reference to 'a clergyman' from the definition of 'authorised witness' and allows interstate justices of the peace and all notaries public to be authorised witnesses. The definition of 'health professional' is inserted to include registered physiotherapists, chiropractors and chiropodists as persons who may seek the consent of the Guardianship Board to their proposed treatment of a mentally incapacitated person (*see* sections 59 and 60). The definition of 'medical treatment' is similarly amended.

Clause 4: Amendment of s. 12—Decisions of the Board

This clause amends the principles on which the Guardianship Board must act by including a reference to 'good conscience', as is the norm for quasi-judicial boards and tribunals.

Clause 5: Insertion of s. 15A

This clause inserts a new section in the act providing for mediation of proceedings by the Registrar. The Registrar may also, on his or her own initiative, provide preliminary assistance in clarifying issues in proceedings that have been commenced before the Board.

Clause 6: Amendment of heading

Clause 7: Amendment of s. 17—The Registrar

Clause 8: Insertion of s. 17A

These clauses serve to hive off the administrative functions of the current position of Registrar and give them to the newly created position of Executive Officer of the Board. The Registrar's position will have semi-judicial functions only, including the new mediation functions. (*See* clause 18 for a transitional provision relating to the present Registrar).

Clause 9: Amendment of s. 25—Appointment of enduring guardian

Clause 10: Amendment of s. 31—Powers of guardian

These clauses make it clear that the powers of both enduring guardians and Board appointed guardians are subject to any limitations spelt out in the Act. It is also made clear that a person can appoint more than one enduring guardian.

Clause 11: Amendment of s. 32—Special powers to place and detain, etc., protected persons

This clause clarifies that an application for the appointment of a guardian can be accompanied by an application for an order relating to residence and detention, etc., of a mentally incapacitated person, and that both applications can be heard by the Board at the same time.

Clause 12: Amendment of s. 58—Application of this Part

This clause deletes the word 'reasonably' in relation to the availability of a medical agent, thus bringing this Act into line with the *Consent to Medical Treatment and Palliative Care Act* under which medical agents are appointed.

Clause 13: Amendment of s. 59—Consent of certain persons is effective

Clause 14: Amendment of s. 60—Person must not give consent unless authorised to do so under this Part

These clauses insert references to health professionals (*see* earlier definition) into two sections relating to giving consent to the medical treatment of mentally incapacitated persons.

Clause 15: Repeal of s. 86

This clause repeals the 'sunset clause' which provides for the expiry of the Act on 6 March 2000.

Clause 16: Substitution of Schedule

This clause provides a new form for the appointment of sole or joint enduring guardians. Each relevant signature to the document can be witnessed by different authorised witnesses if need be.

Clause 17: Further amendment of principal Act

This clause refers to some penalty amendments set out in the Schedule to the Bill.

Clause 18: Transitional provision

This transitional provision transfers the person who currently holds

the office of Registrar under the Act to the new position of Executive Officer of the Board, without prejudicing his salary and other employment benefits and rights.

SCHEDULE

Amendment of Penalties

The Schedule converts all penalties in the act from divisions to monetary amounts.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

ADDRESS IN REPLY

Adjourned debate on second reading.

(Continued from 29 September. Page 53.)

The Hon. A.J. REDFORD: First, I thank His Excellency, the Governor, who opened the Third Session of the Forty-Ninth parliament on Tuesday. It is a great honour to move this motion, and it provides me with yet another opportunity to thank His Excellency and Lady Neal for the hard work and dedication they provide to this state. I indicated on the last occasion that I made this contribution that I had, from all quarters of the state, continued to receive praise in relation to His Excellency's and Lady Neal's work, particularly from the business community. Indeed, it was only a day or so ago that another prominent community leader in this state remarked, entirely unrequested, that His Excellency, on every occasion that he had met with him, had been well-informed.

I know that, as a member of parliament, to hear comments such as that gives me great confidence in the direction and advice that the Governor might give in so far as any decisions made by Executive Council. It is not just the business community with which His Excellency is involved. I was privileged to attend the opening of the lights at the Kilburn Sports and Social Club some weeks ago. His Excellency opened those lights, and the way in which he mingled with all of the guests at Kilburn—and I must say that that covered all walks of life and all levels of our society—was terrific. He made everyone feel welcome and, indeed, he is very inclusive in the way in which he deals with the public.

I will not go into a great critique in relation to His Excellency's speech, although I do believe that tradition would indicate that that is my role as the mover of the motion. However, very early in his speech the Governor said:

> Within this policy balance—

and he is talking about government policy—

> it is imperative that quality of life receive the same level of priority as economic growth and debt reduction. To achieve this balance means ensuring that all South Australians wherever they live, whatever their situation in life, share the burdens as well as the benefits, of service delivery and economic development.

I wholeheartedly endorse and welcome those comments. When one looks at some of the excellent work done towards the end of the Second Session of the Forty-Ninth parliament, particularly in so far as the sale of ETSA is concerned, we have gone a long way towards achieving the object of debt reduction. With that occurring the government will now be able to move towards achieving a balance that does improve the quality of life and does ensure that we can equitably share the benefits of service delivery and economic development throughout the state.

I note that we will have a very busy time over the coming months. I note that we will deal with native title, WorkCover and electronic commerce transaction legislation. We will be dealing with a government business enterprises competition bill, a universities bill and amendments to the Ombudsman Act. In addition, we will be dealing with a guardianship and administration amendment bill, a state disaster amendment bill, a Forestry SA amendment bill, a petroleum administration bill in relation to geothermal energy, a land tax amendment bill, a Hindmarsh Island bridge bill, a highways amendment bill, a legal practitioners amendment bill, a summary offences amendment bill, a cremation amendment bill, a proprietary racing amendment bill, local government amendment bills, valuation of land amendment bills and a stamp duties amendment bill. That is a very extensive and heavy workload.

I know that all members will apply themselves diligently to their task in order to expeditiously and, at the same time, carefully deal with those bills. Of course, obviously other bills will need to be introduced as situations occur from time to time.

I want to talk about a couple of issues today and perhaps develop a theme to which I alluded when I moved the Address in Reply on the last occasion, particularly in relation to regional development and our rural communities. As I said on the last occasion, I always have cause to refer to my maiden speech, which was in early 1994, to remind myself of what I believed was important and to keep to what I thought was important at that time in so far as South Australia is concerned and in respect of my motivation for coming into this place. In my maiden speech I made a number of comments in relation to regional development in our rural communities, as follows:

> However, despite that rhetoric, can we not ask whether it is not social justice to ensure the very essence of rural Australia is allowed to survive? Is it not social justice to ensure that the post office remains open? Is it not social justice to allow country transport services, such as rail and telecommunications, to be retained? Is it not social justice to have a separate office for the Electricity Trust and the E&WS in towns?. . . Is it not social justice to continue small schools, which will prevent parents sending their children many miles away to boarding schools at very young ages? Is it not social justice to stop business after business moving out of this state?. . .
>
> What I am saying is that social justice for many people within the federal Labor Party is a concept that applies only to Labor held areas or swinging seats. . . At the same time, it has turned its back on the very heart of this country and watched in silence as rural communities have declined and in many cases collapsed. It has done so without any concern, without any compassion, and without any sympathy.

Some concern was expressed by rural communities in those days and I have no doubt that that concern continues. Indeed, my reading of our rural communities in South Australia is that there is a sense of utter frustration and powerlessness.

The Hon. T.G. Roberts: Hear, hear!

The Hon. A.J. REDFORD: The honourable member interjects, and I note that the ALP has noticed rural and regional areas, but not through its own initiative or developments, I imagine, because it has been somewhat distracted by other issues, if I believe what I read in the papers of late. I have noticed an increasing trend in the ALP's activities in rural areas. Indeed, I enjoy the opportunity to read some of the contributions made by prominent Labor person Bill Hender in the South-East about the ALP and what it can do in that region. I note that the Leader of the Opposition has been to Mount Gambier on a number of occasions of late, and I am sure that he looks far and wide on the map of South Australia and works out which part of the state might be furthest from the Supreme Court in Gouger Street and then makes his way quickly there.

I note that the leader indicated that the ALP is to take a greater interest in our rural and regional areas, and again on my side of politics I welcome that, I encourage that and I endorse that. My view is that the ALP is on a very steep learning curve and another six or 10 years in opposition might be sufficient, given that it has only just discovered this constituency, to enable it to have some remote understanding of what concerns rural communities.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The Hon. Paul Holloway interjects. To indicate the extent to which he has gone up that learning curve, I suggest that, when the federal government brought in the assets test and he was in another place, I have absolutely no doubt that his interjection would have been nowhere near as vociferous. I have no doubt that the Hon. Paul Holloway sat in silence as the Labor Party, leading up to the 1993 election, said absolutely nothing about our rural communities. I may well be wrong and I am sure that, if he did say anything about rural communities, he will drag it out and he will tell me.

Despite extraordinary demands across our rural communities for change in stamp duty treatment of intergenerational transfers, we have seen complete inactivity on the part of successive Labor treasurers and a total lack of response from the federal government.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The Hon. Paul Holloway is back in again. I know that you, Mr President, would well remember, as do many people in rural South Australia, the Keating 20 per cent interest rates, the recession we had to have, the total disregard in terms of the economic management of this country to ensure that people paid those sorts of interest rates.

The Hon. T.G. Roberts: That was two lifetimes ago.

The Hon. A.J. REDFORD: The Hon. Terry Cameron, one of the world's greatest spenders in terms of policy direction, would welcome 20 per cent interest rates because that is the inevitable consequence of ALP fiscal policy.

The Hon. Caroline Schaefer: You've got the wrong Terry.

The Hon. A.J. REDFORD: Terry Roberts, I am sorry.

Members interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron is probably the only person who has any fiscal understanding on your side of politics, and what did you do?

The Hon. Carolyn Pickles: He is not on our side of politics.

The Hon. A.J. REDFORD: He was for a long time. He was in the opposition's bosom for a long time. The Hon. Carolyn Pickles used to come in here and defend him and he used to defend the Hon. Carolyn Pickles. We looked across from this side of the chamber and thought that it was a united team. Then he left, and what happened to the opposition? It decided to resolve its difficulties, not in dealing with policy issues in its own forums, not in attending Labor Listens meetings and making it look like there is a crowd, but by consulting QCs. I am not denigrating people going to lawyers: it is something to be encouraged, particularly if it is the Australian Labor Party. But what we see before us is a policy development process that has been carried out in the Supreme Court down at Gouger Street.

I find absolutely enlightening that here, for all the world to see, is Labor policy development. It is fairly limited in its focus but it is interesting, and we on our side of politics are grateful for this unique insight into the internal machinations, philosophy and great traditions of the Australian Labor Party. Now Labor members are saying that they will embrace the rural communities. They will not secure the support of regional communities until they develop some policies.

The Hon. Carolyn Pickles: That is what Jeff said.

The Hon. A.J. REDFORD: What are your policies?

The Hon. Carolyn Pickles interjecting:

The Hon. A.J. REDFORD: We are not Jeffrey Kennett.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The honourable member should ignore interjections.

The Hon. A.J. REDFORD: I am sorry, sir, and I know I should not do that, but they are so easy to bat away. We have said consistently since 1993 that this government is not a Kennett government: it is an Olsen government and we do things differently. The Australian Labor Party says that it does not have to worry about policy because it has more important, vital things to do for the future and development of South Australians. From its perspective, the important and the vital thing is to spend most of its time at state executive meetings and in the Supreme Court. That is its policy development process at the moment.

Members opposite might take great heart from the fact that Steve Bracks was the beneficiary of a protest vote in Victoria, but Steve Bracks did not sort out his problems down at No. 1 Gouger Street. He got involved in some policy development. The reality is that the ALP has no policies and it has spent a considerable period of time to date in opposition developing no policies. No-one in South Australia is seeing any evidence of any policies.

The Hon. Carolyn Pickles: Rubbish!

The Hon. A.J. REDFORD: The Hon. Carolyn Pickles interjects and shakes her head, so I invite her to outline some policies in relation to regional development and our rural communities when she has the opportunity to address this place in her Address in Reply contribution. In so far as the honourable member is concerned, and if I believe what I read in the media, I know that it will be an academic speech because she will not be here after the next state election. I would be most interested to hear from the honourable member what policies and things the ALP will do to assist our rural communities and what suggestions it has to improve the lot of rural communities. While she is at it, she might even stand up and, on behalf of the Australian Labor Party, apologise to our rural and regional communities for the state it left them in in 1994.

I know that there is extraordinary concern in rural communities. However, there are areas where people are doing very well—the wine industry, the aquaculture industry and various horticultural industries. But a significant section of our rural communities are not doing well, and in that regard I refer to the wool grower, the sheep grower, the beef producer and some of those who are in the more traditional pursuits.

I think that to some extent the government needs to have a very careful look at what it can do to assist those segments of our rural communities because they are, to a large extent, quite correct in expressing their utter powerlessness and frustration in the face of declining prices or stagnantly low prices, particularly in cases where the cost of production exceeds return.

It is my view that the state government, in the face of the recent report concerning the future of the wool industry, has a real responsibility to meet with wool growers, whether they be young or old, new or traditional, to develop local strategies to overcome their difficulties, because, at the end of the day,

we need to ensure that they remain on their properties and become and remain a vital part not only of their local community but of the broader South Australian and Australian communities.

At the end of the day I think that the government, on any analysis, has one single, sole and primary responsibility, and that is to empower people to achieve their aims, aspirations and objectives. We all argue about the means by which we go about doing that, and there are all sorts of means by which we do this on a day-to-day basis. Even a schoolteacher will treat each child in his or her class differently. I think that as a parliament we need to discuss very seriously how we can empower those in rural and regional areas to achieve their aims and obligations.

I must say—and I say this in the most positive of ways—that the time for criticism and for jumping up and down and saying 'This is not right' is now over. I think we are now approaching the time where we must act constructively in terms of our rural and regional communities, and we must endeavour to put all our suggestions and viewpoints on the table. The obligation in that regard should not just fall on the government but also on local government, community leaders and individuals.

We are now well past the time of saying that things are rough in the bush and that things are not going well in the bush; we now need to move on to saying that we acknowledge, respect and believe that, and we need to know precisely what we need to do as a community to redress those problems.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: I will come back to that. I will put two things on the table that I believe ought to happen from the point of view of the government. The first thing that makes people in the country frustrated and feel disempowered is the way in which, on occasions, they are treated by certain agencies in their day-to-day lives. I think that, if any person in the private sector treated people the way some of our rural people have been treated, they would quickly, without hesitation, change their supplier. One example is banks, and we are seeing the Bendigo bank more regularly open up branches in rural communities, which I welcome and endorse, as I am sure the rural communities do. However, it would not get there if it did not provide a quality service.

The unfortunate thing in so far as the government is concerned is that, generally speaking, in providing some of the community services that it does, it is a monopoly. I would urge the government to seriously consider looking at improved training and management systems to ensure that the public service understands that country people will not accept a second rate service. The buzz word in the 1980s and early 1990s—I well remember getting brochures on a daily basis—was 'total quality management'. My understanding of total quality management is that we should endeavour to provide the best possible service on every occasion no matter its importance and effect.

If one looks at some of the things that have happened in the past few months one will see that there has been an absence of total quality management in the delivery of any service to our regional and country communities. There are many examples of that, and it is not a matter of resources and how much money: it is simply a matter of attitude. I give one example—the amateur craypot licence fiasco. I suggest that any private sector company which embraced a culture of total quality management would not have caused the absolute disaster, frustration, annoyance, concern and upset that we saw.

Members opposite, particularly those who have been in government, would know that some things that happen are beyond the control of we who are elected to this place and beyond the control, occasionally, of Cabinet ministers. I think that we would avoid some of these problems and the frustration felt in our rural communities if the public sector said that rural people deserve a high quality service, an outstanding quality service—and, if it is not provided, there should be mechanisms for accountability.

I have a great deal of cynicism in this regard in that those who mucked up the craypot licence procedure will probably be never brought to account. That is something that contrasts quite distinctly with services provided by the private sector. I do not want to pick on the craypot issue, but it is one that is contemporary. There are many other examples of a lack of total quality management or an assumption that rural people will accept second-class service from the public sector. What I am saying is that the public sector, led by not only the Minister for Primary Industries and Regional Development but by the whole of government, must insist upon an improved quality of service to the community.

The Hon. T.G. Roberts: Federal services are worse than state.

The Hon. A.J. REDFORD: I agree. I see it myself. There is almost an arrogance from some people in the public sector whereby they say, 'We are providing you with this. Why are you not grateful? You ought to be beholden to us, and you ought to count your blessings.' I think that, more than anything, gets right up people's noses. More than anything it makes people say, 'I will not put up with this. I pay my taxes. I am a member of this community. I provide all sorts of services to the community, and I believe that I am entitled to these services and, therefore, the government should not run around patting itself on the back for the mere provision of that service.'

As the honourable member interjected, it is probably some of the federal agencies that are worse than any others. We only need to look at some of the silly decisions made with the provision of employment services, particularly in Mount Gambier, to see a demonstration of that. Again, if we look at that process of the outsourcing of employment services to some of our rural areas, we would have to say that there was an utter absence of quality management in that whole process, where we saw the Salvation Army thinking that they were going to get a particular area, they tendered a price for that area and, lo and behold, when they got their letter they found that they had the price that they wanted but they were not covering the area that they had tendered for; they were covering approximately eight times the area they had tendered for. Again, that is an example of a total lack of quality management in the delivery of a service.

I go back to a point that I made earlier: I would bet that, other than at a political level, there was no real accountability in so far as those people who set up that program and who delivered that program were concerned. I know that some members opposite might disagree with the government policies in that regard. That is one issue, but the second issue is that, if that is the government policy, even if members opposite should unfortunately form a government, the obligation is on the public sector to deliver that policy in a proper, appropriate and fair manner. I am seeing examples—and I will not go through them all—where that is not taking place.

The second thing I would suggest, in the most constructive of ways, is that I think it is now incumbent upon all governments, particularly in relation to our rural and regional communities, to recognise that they are entitled to an appropriate level of government services, irrespective of income, irrespective of population base, irrespective of distances. Indeed, we are constantly told that the world has become a smaller place, and if that is the case why is it that, with all these technological advances, the level of services in some country regions are less than those we have come to expect and to take for granted in our metropolitan areas.

In fact, the opposite should have happened. There should now be no excuse for less of a service in our rural and regional areas than exists in our metropolitan areas. It is my view that the time has come for us to enter into some formal compact or contract—I will not use the word 'treaty' because that is a word that I think former Prime Minister Bob Hawke wanted to use—with our rural and regional communities as to an appropriate level of service, be it health, education, security or police, that they are entitled to. It ought to be clear and unambiguous and ought to be done by way of agreement so that everybody knows what they are entitled to and, if they are not in receipt of that appropriate service, they have every right to take the government, whether it be an individual public servant all the way up to the whole of government, to task.

If we went down that path I think the responsibilities would also fall back on our rural communities to really analyse what they are actually asking for. To be fair to governments, there is a sense of frustration from governments. We have seen over the past seven or eight years a decline, and we all acknowledge that. We have experienced our fair share, on both sides of politics, of the foot stamping and the suggestion that we do not think further than south of the toll bridge or north of Gepps Cross. We have all heard that, but I think there is a responsibility on the part of our rural and regional communities to be far more precise and far more definite about exactly what they want.

In that regard I think if we did embark on a process of 'Let's form a contract with our rural and regional communities,' the responsibility would be as much on them to clearly enunciate precisely what they want and precisely what they are after so that government can respond. To demonstrate that, I refer to an article in today's *Border Watch*, where the government announced the Pathways program. That was announced in the party room on Tuesday and was received with acclamation by our party room, that we were providing a service to every household in rural South Australia that was the equivalent of what metropolitan people receive in relation to internet and telecommunications access. It was a wonderful announcement for which a government, of any persuasion, whether it be this government or whether it had been members opposite who had been in that position, would deserve every sense of support and accolade.

But what do we get on the front page of the *Border Watch*? We get, 'Premier this isn't right. You might be competing with a private sector agency, and they cover 90 per cent of the South-East.' The Premier quite rightly responded to the effect, 'That is good for the South-East, well done. If they are getting 90 per cent access for the same price as they are getting in the city, at the same speed, they will be able to compete, won't they, and if they can't they will go out of business.' At the end of the day, what the Premier is saying is that the delivery of the service to ordinary South Australians is what counts, not some sort of artificial level playing field.

I use this argument to demonstrate that. Instead of the government being congratulated—and governments of all persuasions are entitled to be congratulated on occasion—we get shot at, along the lines of, 'You are putting somebody out of business who might be delivering an inferior service, and that ain't fair.' There is an inherent illogic in that sort of approach. If rural communities do this—and I am not suggesting that rural communities do this, but some elements of them do—they deserve some of the confused responses that they might get from time to time from government.

I will give you another example, Mr President. I was at a meeting a couple of months ago and I walked into this meeting of a substantial number of community leaders in a rural area. I will not say where. As I expected, I received a substantial amount of criticism and anger at the emergency services levy. I was told that it was disgraceful, it was unfair, it was something that this government should not do, that it would cost this government, that it was a disgrace, etc., etc. So, I did my best, as any member of parliament on the government side would do, to defend the government's position. As I pointed out to them, we do not sit around a party room—and I suspect the same applies to the cabinet room—looking for opportunities to increase taxes on people. They usually do it as a last resort, and I have absolutely no doubt that even the stupidest of politicians understands that the introduction of a new tax, or indeed increasing the rate of a tax, is not exactly going to be wholeheartedly endorsed by the general community.

I think one might come to the conclusion that governments do these things reluctantly and when faced with a position where they perceive there is no alternative. So, anyway, I copped that one sweet. What I found interesting was that then, for the next four and a half hours, I listened to a group of community leaders proceed to talk about what their relevant areas and towns and districts do. All bar two had a wish list of what they wanted from the federal government and what they wanted from the state government, and it was not an insubstantial wish list. Indeed, if one totted up the expenditure, one would have to say that, as a conservative estimate, in a region in South Australia they were demanding an increase in expenditure of some $100 million, of which half was recurrent.

These very same people who attacked me and attacked the government for the emergency services levy were demanding increased expenditure. Some of these people were in business. I can forgive some people from the public sector who think that way, but these people were in business and should understand that, if you are going to spend money, you have to make it from somewhere. The state government was faced with a very difficult situation.

The seven faceless judges who never have to go before the people, who decided because of some quirk of interpretation that happened to be different from that of their predecessors a few years ago that governments at a state level could no longer have anything to do with the taxation of cigarettes, alcohol or petrol and, as a consequence, took away our options and flexibility in determining rates of taxation and handed them to the federal government, are the ones responsible for this emergency services levy. They are the ones who forced these decisions on this government. I suspect that, if members opposite had been in government, they would have been forced to precisely the same conclusion. The only other option was to cut expenditure. To some extent, the people of

South Australia have not had properly explained to them the limited opportunities.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The honourable member interjects with a comment about the Motorola contract. I am not sure which contract he is talking about.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: If the honourable member carefully reads the Pathways press release—I should send him a copy: he probably overlooked it—he would see that this is one of the first dividends from that contract. The Pathways is a dividend of the government radio network. I know that it might have been buried in the detail and it might not suit the honourable member to highlight that—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: —but it is a dividend. The honourable member says he might have left that part in. I am sure that the honourable member would not put himself in the same category as that community group who said, 'We don't want an emergency services levy but, listen, can you give us an extra $100 million?'. Even the honourable member, with his left wing credentials, with some of the more radical approaches to economics, from my perspective at least, would not say that it is responsible government to increase expenditure by $100 million in an area that has 4 per cent or 5 per cent of the state's population, and without any increase in taxes. I am pleased to see that he is agreeing with me vociferously in relation to that issue.

To a large extent, I think it is now time for the rural communities to become more constructive. As I have said, I have laid some challenges. When I say that about rural communities, I believe that that challenge is as much on the communities themselves as it is on all members of parliament. I know that members of the Labor Party, with all their faults, do understand that they are the alternative government and, whilst they have not seen any evidence of this in the last six or so years (and right now they are distracted at the Supreme Court), even they understand that they have to provide responsible, balanced policies, and they know they have to be paid for.

I would urge, indeed implore, the lower house Independents to take that same level of responsibility—the sort of responsibility we have seen from the Hon. Terry Cameron and the Hon. Trevor Crothers, who I know both understand that, if you are going to increase expenditure, you have to increase taxes. I know they have been reasoned in their responses to government initiatives, but I would hope that the lower house Independents can take a leaf out of their book and can understand that, if they continually demand increased expenditure, the government's response to that, if it accedes to those requests, must be to increase taxes.

If one looks at the member for Gordon—and I do not like to pick him out but he does spring to mind—one notes that he has been vociferous and unrelenting in his demands for increased expenditure on health, education and police. He has been unrelenting in his demand for that increased expenditure. At the very same time, he has been unrelenting in his criticism in relation to unemployment; at the same time he has opposed the ETSA sale; and at the same time he has been unrelenting in his criticism of the emergency services levy. Even the Australian Democrats members acknowledge that, if we adopted some of their policies, the government would have to increase taxes. Even the Australian Democrats members would acknowledge—and have said quite openly and publicly—that we can solve a lot of our problems in South Australia (and I disagree with this) if we increase taxes, and that is in fact what this government ought to do. But the Independents, led by Rory McEwen, have some magic pudding out there.

The Hon. J.S.L. Dawkins: He said it was an insult to the intelligence of South Australians.

The Hon. A.J. REDFORD: Yes. He said that this week's announcement was an insult to the intelligence of ordinary South Australians. I defy the member for Gordon to bring out his magic pudding because, quite frankly, if he continues to come up with these bizarre, inconsistent economic policies, what he should do is leave politics and go and join the clergy, and pray for an improvement, because that is the sort of recipe, if you look at the whole broad spectrum of his statements, that he is delivering to this state. I see the Hon. Terry Roberts nodding his head again. He sits there and says, 'I want increased expenditure; I don't want any increased taxes; and you are not going to sell ETSA.' Even the Hon. Paul Holloway blushes when he says this.

I have to say that the member for Gordon has no shame at all. I have never seen him blush. He actually believes it. I know he reads my contributions with a great deal of interest, judging by some of the correspondence I have received lately, but I would like to see him come up with an alternative budget. I would like to see him propose a recipe as to how he would balance the books and what fiscal approach he would take for South Australia. If you are going to increase expenditure in schools, hospitals and police, as he is constantly demanding—and he is not going to have an emergency services levy—where will you get the tax from? What will he do? I will ask him—because I know he likes writing to me—in doing so, that he cost it, and not just hide behind the line of the month. I will give an example.

I know that the National Wine Centre is a source of annoyance to some people in the community, particularly the rural community. They are saying, 'Why is the government building the National Wine Centre and then hitting us with an emergency services levy? If the government did not build the National Wine Centre, we would not have to pay the emergency services levy.' Someone, when they were very angry, described it as the Taj Mahal. With all due respect to that person, the reality is that the National Wine Centre has been fairly well subsidised by the federal government—

The Hon. J.S.L. Dawkins: And the industry.

The Hon. A.J. REDFORD: —and the industry, and, secondly, it is a one-off payment. The emergency services levy is a recurrent payment. I ask that the member for Gordon, when he is framing his alternative budget, not hide behind that rhetoric. I know that he is an intelligent man and would not stoop to that sort of politics. My challenge to him is: if he says, 'More money for health, education and police, and no increased taxes', how will he do it? What is his magic pudding? Where will he come from? If we do not start demanding that the Independents do that, we will finish up exactly like Victoria, where one Independent wants to push all the water out through the Snowy River into the Pacific Ocean and another Independent is saying he wants more water to come down the Murrumbidgee. If that is the sort of representative government we will have to put up with in Australia over the next few years, and the sort of economic growth and the fruits of strong, hard, carefully considered government reform, it will go out the window, and this country will become a laughing stock.

The Hon. T.G. Roberts: Bracks will have the same set of problems.

The Hon. A.J. REDFORD: I know that he is optimistic. However, I would have to say—and this is probably why the honourable member has not done well at state conventions over the years—that Jeff Kennett currently has 43 seats and Steve Bracks currently has 41 seats, which puts Jeff Kennett two seats ahead. They might endeavour to cobble together a deal. Steve Bracks might take a different approach entirely to that which his Tasmanian colleagues took a few short years ago when they refused to do any deal with the Greens and gave government to the conservatives.

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

The Hon. A.J. REDFORD: Because the Greens ratted on them. However, Bracks is taking an entirely different approach, and I understand that. The reality is that Bracks is still two goals, two members or two points behind, depending on how you look at it. As the honourable member knows, they will go back to parliament in a couple of months and they will have their votes of confidence and no confidence and whoever wins the vote of confidence will march down and talk to the Governor. I am quietly confident that the person talking to the Governor will be Jeff Kennett.

Members of the Victorian Labor Party will wander into parliament, just as member opposite did a couple of years ago, and there will be a spring or bounce in their step. They will think, 'Gee, we went pretty close to forming a government.' They will look pretty good and they will dust off their maiden speeches, have a really good time and give their lovely speeches. The Liberal members will walk into the bar and they will be the subject of a lot of cheek, sniggers and snide comments.

Then, after a while, after a couple of months, they will realise. They will look at each other and they will say, 'Hang on! We're still on the right-hand side of the parliament. We're still in opposition. We're still powerless.' That will go on for a couple of months, and they will scratch their heads. They will run a couple of no confidence motions, but they will find that the Independents will stick with the government, because Independents know that, generally speaking, they will hold the balance of power for only one parliament and, the longer that parliament goes, the better it is for them, because people will not put up with hung parliaments on a successive basis. It is very rare for that to occur, because they know that the electorate will go hard one way or the other and they will lose their power.

The only way that they Independents remain significant and influential in that situation is to stick with the government. The honourable member is nodding his head and smiling, because he is sensing a bit of deja vu here, as I predict the future of the Bracks opposition. Because then members of the Bracks opposition will say, 'Gee, we're in opposition. We've tried every trick in the book. We've stooped to every level but the Independents keep voting with the government. We've got four years of this.' When Steve Bracks and the ALP return in Victoria, it will be to the same tried and true method of the ALP, Mike Rann, the Machine and the Independent Labour alliance in South Australia, and they will start fighting with one another.

They might even reach the stage of engaging QCs. One would hope that by then the use of QCs by the Australian Labor Party in this state will have declined, so they can go over there and advise the Labor Party in Victoria, and we will see Victorian ALP policy development style. The Hon. Terry Roberts well knows that the factions, divisions and problems within the Victorian Labor Party are every bit as bad as they are in South Australia. He knows that.

The Hon. T.G. Roberts: They are not as public now.

The Hon. A.J. REDFORD: They are not as public now, just as they weren't public prior to the 1997 election in South Australia. I am saying that in Victoria we will see a rerun. We will see Steve Bracks and his opposition unravel, and it will be lovely to watch. Indeed, if the Melbourne papers are wise, they will probably engage a couple of us in South Australia on our side of politics to become guest commentators to predict what is likely to happen, to predict which barrister might be engaged and which deal might be done with which faction.

An honourable member interjecting:

The Hon. A.J. REDFORD: I have not been unsuccessful in that respect. In the meantime, there will be no policy development, just as we are witnessing in South Australia. Mr President, I was distracted.

The Hon. Carmel Zollo: You were dreaming!

The Hon. A.J. REDFORD: The Hon. Carmel Zollo is up-beat. Given the way that the court case is going for the Machine, if I were her I would be very down in the mouth.

The Hon. Carmel Zollo: You haven't had your preselections yet, so I don't know what you are on about.

The Hon. A.J. REDFORD: The big difference is, if we want to have our preselections, we can. If we want to have our preselections, there is no impediment. Unlike the ALP, we will decide the timing of our preselections, without interference from any external source, such as a QC, a judge or successive judges. As we are in government, we are the masters of our own destiny, and we do not need to seek approval from some third party to conduct something as simple as a state convention. Members opposite get a bit of a spring in their step and believe that they could form a government, yet they have to go to the Supreme Court to run their own party. It is not a big party—only a couple of thousand people remain, depending on whether you count the latest raft of votes or on which set of nominations you take.

The Hon. T.G. Roberts: It can happen to any party at any time.

The Hon. A.J. REDFORD: The reality is that it cannot happen in the Liberal Party, because we require people to pay their own membership fee. In other words, a member of the Liberal Party cannot sign up his or her mates and then pay the cheque like some people do—

The Hon. Carmel Zollo: You can live wherever you like.

The Hon. A.J. REDFORD: Of course we can live where we like; we're Australian citizens. Is there some rule in the ALP constitution that says that you have to live in a particular area?

The Hon. Carmel Zollo: Of course you do.

The Hon. A.J. REDFORD: There is not. That is why the Machine gets into trouble and keeps losing court cases—it has the Hon. Carmel Zollo giving out stupid advice like that. I have absolutely no doubt that any ALP member can live anywhere they like. The Hon. Carmel Zollo is entirely wrong. It is disappointing that it takes a Liberal member to correct her about the words in her own constitution. They can live anywhere they like. There is no restriction on where a Labor Party member can live. Indeed, if a Labor Party member wants to migrate to another country, I am sure that there is nothing that the Labor Party constitution does or says that prevents that. If the Hon. Carmel Zollo is going to interject, she ought to think first before jumping in. That is just a small piece of gratuitous advice on top of some of the other advice I have been giving.

I was talking about rural and regional communities before I was so wickedly distracted by the Hon. Carmel Zollo with her rather uninformed comment about the ALP constitution. I turn now to the regional development task force. Unlike the jobs network exercise that was conducted earlier this year, we as a parliament did not have any specific motion whereby we could debate the report. It is incumbent upon me to make a couple of comments about it. First, those who were involved in it deserve the thanks of the people of South Australia for the enormous work and effort that went into the exercise. They also deserve the thanks of this parliament and, indeed, the government for the energy and the commitment that they put into their task.

It is an important document. However, at the risk of offending, I would have to say that it is a pretty lengthy document and, to the specific author, I would have to say that it is verbose. I suspect that only one in 100 ordinary South Australians could sit down and read this document from cover to cover without falling asleep on at least eight or 10 occasions. It is a poorly presented document and probably indicative of the way in which the public sector presents documents to ordinary rural and regional South Australians. Indeed, as a member of parliament, there are occasions where all I am interested in is reading the executive summary—although that is not the case on this occasion. Even the way in which the executive summary is presented in this report is probably more complicated, verbose and convoluted than some entire reports.

I urge those who were involved, if they get another opportunity to perform a similar task, to take the trouble to look at the market to which they intend to present these documents so that people can pick them up and read them with a view to understanding them. This is not a minor criticism; it is a significant criticism that the presentation of the document leaves a lot to be desired. However, the recommendations are important and significant.

In my view, the identification of the attitude and feelings of rural communities is absolutely correct. The report states:

> While the overriding concerns of communities related to the future of their region, these specific issues were at the fore: a feeling of a lack of respect for the contribution that regions make to South Australia's community and economy; angst about the withdrawal of services and staff from regional towns and cities and the associated flow-on effects to other services; the view that there are significant infrastructure deficiencies and a lack of priority given to regions' infrastructure needs; and a strong feeling of a lack of involvement in the decision making process by regions and a view that the government does not listen to regional leaders.

I think they have entirely and adequately summarised the feelings of our rural communities towards this government and the federal government and the feelings of some of those more extreme people to the so-called world government that resides in Paris, London or New York.

On the whole, the recommendations are worthy of serious consideration. However, I must say that I think they contain a fundamental flaw. They seem to pin significant hope on the appointment of a single minister for regional development, and they then refer to a centralised office of regional development. Quite frankly, I think—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Yes. I think the honourable member is absolutely correct. With the greatest respect, I think they missed the point entirely. It is the whole of government attitude towards rural and regional communities that is at fault. No single minister, department or advisory group will impact upon the government. I am pleased to see that the Hon. Terry Roberts nods his head.

I go back to my comment about total quality management. I seriously think that we have to say that this is a whole of government problem from top to bottom, from left to right and, in fact, involving the whole of the breadth of government.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Federal and state, yes. We must stop coming up with these mickey mouse responses of 'Let's appoint a minister for this and then that will work.' The same thing applies to the Minister for the Status of Women. Every portfolio deals with women and that issue ought to be at the forefront of their minds. Sometimes I think governments hide behind statements such as 'Well, we are doing a lot for a particular constituency because we have a minister for that constituency.' I often question whether that approach to government is the way in which to change the delivery of services by the public sector in whatever form. So, I am critical of the report in that respect.

To be fair to the authors of the report, I am probably underestimating or not covering clearly some of the other recommendations that they have made, but again it is all very much dependent upon a particular individual. We all know that, for good reason, we do not know who does what within the cabinet process where the single biggest decision making power resides. For all I know it may be the single city minister who is advancing the concerns of regional and rural communities. This might be because of the inactivity—I am not saying that that is the case here—of rural people who are not advancing their concerns because of apathy or they might not be selling, explaining or articulating the concerns of rural and regional people as well as they could.

When one looks at the recommendations one sees that some cover the whole of government, but I question whether they go far enough. In particular, I refer to the recommendation that the minister for regional development nominate a senior public service coordinator for each region responsible for facilitating improved program and service delivery for regions. To some extent, that is important, but I am not sure whether reporting to the minister for regional development is consistent with the way the government operates internally.

Perhaps the Department of the Premier and Cabinet ought to split itself into rural and regional areas and go to those areas to live. Maybe that is what we have to do. It would be interesting if we split the Department of the Premier and Cabinet into, say, four groups with one group based at Naracoorte or Mount Gambier and another at Port Augusta or Whyalla to see what effect that would have, because every single ministerial decision that goes to cabinet goes through the Department of the Premier and Cabinet. If we did that, perhaps then we would have the opportunity, but I am not sure whether that recommendation would achieve precisely what is wanted. I may be right; I may be wrong.

The Hon. T.G. Roberts: You would have a good health service at the university in every regional city.

The Hon. A.J. REDFORD: There is a hint of cynicism in that last comment, but that would not be a bad thing. I say with the greatest respect for the authors of this report that I am not sure whether they will achieve what they want by having a separate minister to whom everyone must report, because he has one vote in 10.

The Hon. Carmel Zollo: It depends on how much funding the minister has. The Office of the Status of Women

which you cited before does not have a separate budget. You are right: it is distributed through the other ministries.

The Hon. A.J. REDFORD: It depends on how you define their role, too. The honourable member is correct. When government delivers services, it delivers services to women or their fathers, mothers, brothers, sisters or children. Often we vote not for what the government can do for us but for what the government can do for our children—and they may be boys or girls. So, what the honourable member says is correct, and that is where I have a problem with this report.

As I say, I might be criticising around the edges, but the report does contain some good recommendations, particularly the recommendation to establish an infrastructure fund. Most importantly, it recommends that the government carry out an infrastructure audit and develop clear guidelines for privatising infrastructure needs and expenditure. That sounds good in theory, but at the end of the day, as all members know, in a political process that needs to be an ongoing process. You cannot sit there and say that these are our infrastructure priorities, because as we approach the 21st century they are changing rapidly.

I take off my hat to the Minister for Transport because she is reprioritising roads in South Australia. What we thought were important roads a few years ago will not be important in a few years' time. I attended a meeting the other week where it was indicated to me that if the blue gum plantations that went in over the past few years came off at the same time—and they are likely to—there would be enough timber to have a truck arriving at Portland every four minutes in the year 2010.

I hope that both the South Australian government and the Victorian government understand that, because there will have to be significant expenditure on road infrastructure and the like in some regional areas when some of these developments start to take off. That may well change their priorities in terms of whether to upgrade some projects. So, it is an ongoing process. I hope that when the state government undertakes that infrastructure audit the process will be ongoing.

My final point relates to volunteering. I spent quite a bit of time on the topic of volunteering in my last Address in Reply contribution and sometimes you think that no-one takes any notice when you make these speeches. I go on the record to congratulate and thank sincerely the Premier for his recent initiatives in relation to the grant to Volunteering SA and the clear and committed approach he has shown towards the volunteering sector in South Australia. I was privileged to attend the first summit held on that cold Sunday in that cold cathedral. I also attended the subsequent seminar, and I am extraordinarily grateful to the Premier and to the government for taking up the issue.

There is an attitude in so far as volunteering is concerned that it is for someone else to be, for someone else to do or for someone else to undertake. I have a particular philosophy on volunteering, that is, if you occupy space on this planet, or if God gave you, through the gift of life, the opportunity to be on this planet, then you have a duty and a responsibility to put something back into this planet. Volunteering in this country or, indeed, in any other developed country should not be an option. The only option for Australians, in terms of what they do, should be how they volunteer their services.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Well—

The Hon. T.G. Roberts: I was only joking.

The Hon. A.J. REDFORD: I will smile if the honourable member wants to take that gloss, but the reality is that, whether you serve as president of the Millicent Football Club or assist with Meals on Wheels, or if you are the runner for the Millicent Football Club or you become involved in some way, shape or form in your community, then you are probably fulfilling my expectation and philosophy on life so far as volunteering is concerned. The choice is yours, whether you serve in school canteen or whether you provide care and services to an extended family. But, in my view, no-one should have the option to opt out.

There needs to be some very serious thought and a lot of work done not just by this government but by all state governments and by the federal government to develop a culture in this country of volunteerism—a culture which is separate and independent from government, which is vibrant and which delivers important services to the community. Interestingly (and I have read the study and I must find the source), I remember reading a few years ago some North American studies on volunteerism which indicated that those people who volunteer suffer 50 per cent to 60 per cent less stress than those who do not. The reason is that if you volunteer you believe that you have some capacity to make some difference in the community. You believe that you can make some difference to your own life and to the quality of life of your own community and, as a consequence, you suffer lower stress levels. There is a real challenge to the Australian community that we do take some trouble and put some thought into how we do that.

I am grateful for my internet facility. I must admit that before I got it I did not think that I would ever use it much but now I use it quite a lot. I decided to do a worldwide search of volunteerism on the internet.

The Hon. R.D. Lawson: Volunteering not volunteerism.

The Hon. A.J. REDFORD: I did both and I got the same results. If the honourable member would like a copy of the voluminous material I had printed off, I would be happy to give it to him, because I know that he has a significant and important interest in that sector himself in his capacity as the Minister for Ageing. Interestingly, I found only four or five publications or books emanating from Australia, yet I found approximately 38 000 hits of publications relating to volunteerism or volunteering (to satisfy the Hon. Robert Lawson) from the United States. That is indicative of where we are at in relation to understanding and dealing with volunteers in this country.

There is a lot of work to be done. At the end of the day the Premier, the cabinet and the government have taken up that challenge. It is an issue that excites me and one that I think is very important for the future of this community, and for that I congratulate the government. I again thank His Excellency for his contribution and commend the motion.

The Hon. J.S.L. DAWKINS: It is with great pleasure that I second the motion for the adoption of the Address in Reply. I would like to thank His Excellency the Governor, Sir Eric Neal, for his speech in opening the Third Session of the Forty-Ninth parliament. I also take this opportunity to pay tribute to the contribution that His Excellency and Lady Neal have made to this state, the manner in which they carry out their vice-regal duties and their support for so many worthwhile South Australian organisations.

One organisation of which the Governor is patron is the Operation Flinders Foundation. I have twice had the opportunity to witness exercises conducted by Operation Flinders

at Moolooloo Station near Blinman in the Flinders Ranges. Operation Flinders is a project to rehabilitate young offenders and to assist youth at risk. Approximately 200 young people participate each year in exercises conducted in March, June, September and November. Operation Flinders works with the support of the Moolooloo Station proprietors (Keith and Lesley Slade), the state government, the corporate sector, the Variety Club, service clubs and, of course, many volunteers. I know that His Excellency's support for this worthy organisation has been most appreciated by all involved.

I would like to highlight a number of the government's initiatives in rural and regional areas of this vast state, some of which were mentioned in His Excellency's speech and some, I might add, which have been covered by my colleague the Hon. Mr Redford. Before detailing specific initiatives, I emphasise the fact that the government has an ongoing strategy of enhancement and development for the non-metropolitan areas of this state.

This has been developed and finetuned to adapt to the variation of different regions and the respective strengths and weaknesses of each region. Very importantly, it is aimed at ensuring that those who once predicted that South Australia would become a city state with almost all economic activity centred within the metropolis are wrong. It is not a knee-jerk reaction in any sense. Let me deal with some of the specific initiatives, first, the Premier's Food for the Future Council, convened by my colleague the Hon. Caroline Schaefer.

The Food for the Future Council is driving this state's food plan in helping to remove any obstacles slowing growth, team work and partnerships and pointing the way to prosperity. It aims to increase the economic value of South Australia's food industry from $5 billion to $15 billion by 2010. The Food for the Future team is now putting the plan into action using the partnership between government and industry. This state has always been exceptionally good at food and we have some of the best quality food in the world. When the committee started, food production was worth $5.5 billion: now, after two years, it is worth $7.4 billion and working well towards the target I mentioned earlier of $15 billion in 2010.

I also mention the Regional Development Task Force which was established last year in response to submissions to the Premier by the Regional Cities Association of South Australia. The Regional Development Task Force was chaired by Mr John Bastian and, in the second half of 1998, it toured significantly around the state taking evidence from many regions. Subsequently a set of recommendations was handed down, and I will mention just two of the key recommendations. One was the establishment of the Office of Regional Development with the aim to strengthen ties between rural areas and the higher levels of government to examine ways of generating more regional development.

Another key recommendation was the establishment of the Regional Development Council to be chaired by the Deputy Premier. This will follow very closely the successful model I have illustrated in the example of the Food for the Future Council, and I am pleased to have been asked to be the convenor of the Regional Development Council. The composition of the council will be finalised very soon after balancing the need to achieve a wide range of skills and experience, geographical representation, local government, small and large business, tourism, education and training, regional health, community and other interests.

I also mention another group that was established a little over 12 months ago, and that is the government's Rural Communities Reference Group. I was involved in the rural communities task force of the Liberal Party's Rural and Regional Council, which was established almost two years ago, and that task force released a report in June 1998. The Premier adopted all our recommendations, but the key recommendation that he accepted was the appointment of a group of government MPs which would regularly consult with local government and regional development bodies in developing strategies in the various regions on an immediate and planning basis. That fits in very well with something that the Hon. Angus Redford said earlier in his plea to rural communities to plan for what they want when resources become available.

One of the things that we have found since the establishment of the reference group is that it has been well regarded by local government and regional development bodies, business organisations and other community groups that we have consulted with, and they have valued the opportunity. Some of the centres that the group has visited include Port Pirie, all major towns in the Riverland, the Adelaide Hills, the Mid North region, the Barossa, and the central districts. The group comprises country Liberal members in the House of Assembly and Legislative Councillors with a rural background, and we are keen to further the activities of the group as we continue to communicate with community leaders in the various regions of the state.

I am also pleased to note the introduction of some other measures that the government has announced in the past 12 months, and one that is extraordinarily important is the $4.5 million that has been set aside in 1999-2000 and future years for the Regional Development Infrastructure Fund, which is another recommendation of the Regional Development Task Force. It is very important that this money be made available. It is over and above other existing infrastructure programs, but it is designed purely to assist development projects in regional areas that are in need of additional infrastructure that is not usually available or is available at great cost. That great cost might place the project at risk of going ahead. I am aware of a number of examples where the infrastructure needed might well be electricity connections, water, or the construction of road surfaces.

I also highlight what I think is a major project for South Australia, and that is the water filtration program, which has been extended to many more communities across the state. The state government and SA Water packaged the latest phase of its water quality improvement program into a build-own-operate-transfer or BOOT contract for 10 plants to serve the Adelaide Hills, the Barossa Valley, the Mid North and the Upper South-East, as well as the larger towns along the Murray River. This innovative proposal attracted bids from major international consortia including the world-class Riverland Water company, which eventually won the contract to finance, design and construct the 10 plants and to operate them for 25 years. At the end of that period ownership of the plants will revert from Riverland Water to SA Water.

Under the contract more than 100 000 people in over 90 rural communities enjoy clean filtered water which exceeds World Health Organisation standards and is produced using world's best practice technologies, with the most advanced control system in the Australian water industry. A number of people in this chamber have lived in rural communities and have experienced the provision of unfiltered Murray River water to their properties or homes and they have had to put up with a very brown coloured liquid. I know

that many women in country areas have very unhappily tried to wash clothes in water like that.

I am also well aware that, until the recent introduction of filtered water at Loxton, the local hotel-motel staff had to put blue liquid into all the toilets otherwise visitors looking at the muddy water would presume that the staff did not clean the toilets. Young children in those communities have for the first time been able to see the bottom of the bath after the water has been run of an evening.

I should also like to comment on a couple of other measures which this government has introduced in recent times and which are very important for rural communities. One of those was the announcement by the government of a review of the Valuation of Land Act so that rural land-holders could get a fairer deal. Many here would agree that there are far too many inconsistencies in the present system because it does not take into account the productive use of land and the economic return to landowners. Since I have been in the parliament, many landowners have come to me with concerns about the valuation system, and therefore I am very pleased that we are to have a review aimed at achieving a more equitable system and that it will involve representatives of the South Australian Farmers Federation and the Local government Association of South Australia.

I also wish to address the review of the definitions of metropolitan and country areas that will be carried out by the government. As someone who has spent most of their life living in a rural area and who now lives in a town just beyond the so-called metropolitan boundary of greater Adelaide, I can testify to the many inconsistencies in the boundaries that are operated by various departments. In fact, I understand from some ministers, including the minister at the table (the Minister for Transport), that in her portfolio a number of organisations have different boundaries between metropolitan and rural areas.

When many people talk about regional development and assisting rural communities they think that the communities most in need of attention are those communities that are quite distant from Adelaide, and in many cases that is true. However, as our rural communities reference group found in the Adelaide Hills, there are particular difficulties and concerns for those people who live in the rural regions that are on the cusp of metropolitan Adelaide.

Therefore, I am pleased that the Deputy Premier is convening a committee which will look at what are now known as peri-urban issues, and as well that this review of the definitions of the boundaries of metropolitan and country areas will be undertaken. Particularly in the area where I live, in many instances if it is advantageous to be metropolitan we are country, and if it is advantageous to be country we are metropolitan. Some might say that living at Gawler has many more advantages than living further out, and I would take that, but I think we need to find some consistencies in that boundary area, and I welcome that move by the government.

I would like briefly to comment on two other government initiatives. We heard a little bit about one of them yesterday in this chamber, and that is Transport SA's mobile customer connection. That excellent trial initiative has been conducted in recent months in rural and remote areas of this state and includes 15 locations—Hawker, Leigh Creek, Woomera, Roxby Downs, Glendambo, Coober Pedy, Marla, Kimba, Wudinna, Lock, Cowell, Elliston, Streaky Bay, Ceduna and Penong.

I commend Transport SA and the minister for this initiative. Although I understand that it includes information on other matters within the minister's portfolio, it does provide those communities, at no cost, with the sort of information that many people in metropolitan Adelaide and in some of the larger regional centres can access far more easily. It is an excellent initiative and I look forward to hearing more about the advancements made through that mobile customer connection.

In a similar vein, perhaps where the mobile customer connection is seen in a physical sense, we had the announcement this week of Pathway SA whereby, through the marvellous advances in computer technology and in consultation and cooperation with Telstra, as a result of the government radio network contract, within less than 12 months every community in this state will have quality internet access. This is a wonderful project. In fact, very few people I have spoken to about it have had anything but great enthusiasm for it.

As we all know, the development of technology and computer practices is fast running ahead of those of us who make legislation or who attempt to meet the community's needs. Many people in the rural areas of South Australia are adept at this technology but are very frustrated by the current limitations. This scheme, which will use the network of education facilities in this state, will provide a high-quality, world-class facility at a comparatively low cost compared to that in other states. I am also pleased to note that, rather than having to access this service with STD calls, 20 centres will be established throughout the state—Ceduna, Port Lincoln, Port Augusta, Port Pirie, Clare, Kadina, Yorketown, Loxton, Victor Harbor, Murray Bridge, Bordertown, Penola and Mount Gambier. This will mean that, in most instances, it will only require a local call to access the internet.

It is a great breakthrough for South Australia to provide this access. It is very important for not only rural young people to have access to such facilities but also those of more mature ages. I understand that about 90 per cent of schools will be connected to it within six months and all will be online in about nine months.

In concluding my remarks this evening, I would like to make a brief comment on the passing in the past 12 months of two esteemed members of this parliament, one being the former Premier of South Australia, the Hon. Don Dunstan, who served in the parliament with my father. While their political views were almost as distant as is possible, they did have some respect for each other. I would like to mention Mr Dunstan's involvement in this state. Even though he did many things that I did not agree with, I acknowledge that he was the elected Premier of this state for two terms totalling more than a decade.

I would also like to acknowledge briefly, because I spoke at the time of his death, the contribution to this state of the late Mr Keith Russack, who, of course, was a member of this chamber and also a member for two different electorates in the House of Assembly. On one occasion when electorates were changed and when there was an amalgamation of the Liberal Movement and the Liberal Party Mr Russack lost his pre-selection, but he returned to this chamber as an unendorsed Liberal candidate and showed great determination in doing so, as he did in every other facet of his work in the South Australian parliament.

Once again I thank the Governor for his speech to open this session and reiterate my pleasure in seconding the motion for the adoption of the Address in Reply.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

ADJOURNMENT

At 5.36 p.m. the Council adjourned until Tuesday 19 October at 2.15 p.m.