LEGISLATIVE COUNCIL

Tuesday 2 May 2000

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 9, 75, 89, 95 and 99.

BETTER HEARING

9. **The Hon. T.G. CAMERON:**

1. Is the minister aware that Better Hearing is the largest and most prominent organisation for people with hearing impairment in South Australia and that it receives no funding from the Government?

2. Is the minister aware that the organisation that now receives all of the government funding in this area enticed staff from Better Hearing in order to provide the necessary expertise to obtain both the funding and the provision of services?

3. Why is Better Hearing specifically excluded from any funding, despite being the primary body for 60 years?

4. How can this discrimination be justified, particularly as this is in contravention of the Disability Services Act and the proposed policy statement?

5. (a) Has the minister met with representatives of Better Hearing, as requested by them; and
(b) If not, why not?

6. Can the Minister fully explain the tendering process, particularly those individuals who are involved in the process and decision making?

7. Can the Minister provide details of the amounts paid to bodies involved with the hearing impaired in South Australia?

The Hon. R.D. LAWSON:

1. The South Australian branch of Better Hearing Australia (Better Hearing) is well known to many South Australians. Better Hearing is certainly well established in this State; whether it is the 'most prominent' such organisation is not an issue I can resolve. Better Hearing does not currently receive funding from the state government.

2. Better Hearing was in receipt of substantial government funding until 1995 when, I am advised, poor management practices led to the funding being allocated to another organisation. Staff previously employed by Better Hearing were dismissed from 21 December 1995 or had previously resigned. The service contract was put out to tender in February/March 1996. Better Hearing was invited to tender. However, another organisation, Hearing Solutions, was the successful bidder. That organisation did employ some former Better Hearing staff. I am advised that the staff were not 'enticed' (to use the expression employed in the question). The staff were already unemployed having been dismissed or resigned from Better Hearing two to three months earlier.

3. Better Hearing is not 'specifically excluded' from funding. Better Hearing is not funded because the organisation was not awarded the most recent tender for services. The length of time an organisation has been in existence is not the prime consideration for funding; rather it is the capacity of the organisation to effectively deliver quality services to consumers.

4. The question does not demonstrate that there has been any 'discrimination' in either a legal or a practical sense. The Disability Services Act is an enabling Act which gives government power to fund and prioritise but it does not specify which organisation will or will not be funded. Similarly, the draft disability services policy statement outlines a commitment to people with a disability without presuming to identify which provider is best able to deliver services. I am satisfied that no contravention of the Act or the draft Policy arises in consequence of awarding of the service contract to Better Hearing.

5. I have met with representatives of Better Hearing at different times to discuss issues around the tendering process and further funding requests.

6. With regard to the tender process I am advised as follows. The decision to call for expressions of interest to provide hearing advisory services was made in January 1996, when Better Hearing requested additional funding (equivalent to an increase of approximately 87 per cent) and informed the Disability Services Office that it proposed to deliver its services through a different model. This provided an opportunity to compare the Better Hearing request with other service models and to ensure the maximum quantity and quality of service provision to people with acquired hearing loss.

The Government acknowledged that increased funding for services was required and invited agencies to submit proposals to provide services for around $100 000 per annum.

In February 1996 correspondence regarding a tender was sent to a number of bodies, including Better Hearing. All tenderers had the same 30 day period to prepare submissions and all were required to provide the same information. Three submissions were received. They were assessed by an independent panel of experts comprising a representative of Better Hearing Australia (Sydney Branch), a speech therapist from the Northern Yorke Peninsula Regional Health Service and an audiologist from the Otoneurological Diagnostic Centre. As a result of this process Better Hearing was not selected.

Following a request from Better Hearing to have the tender process and decision reconsidered, a new, independent reference panel of experts was appointed to assess the three submissions. The new panel upheld the initial recommendation that the submission from Guide Dogs Association of SA and NT be accepted as best meeting all requirements. This process was subsequently independently reviewed and supported.

7. Amounts paid to bodies involved with the hearing impaired in South Australia:

Organisation	Budget (as at 30/6/99)
Sensory Options Coordination	$774 731
Guide Dogs Association	$532 468
Lion's Hearing Dogs	$43, 367
Royal SA Deaf Society	$181 583
Townsend House	$158 801

Better Hearing Australia (SA Inc) was recently allocated a grant of $3 000 through the Disability Services Office to conduct a hearing loss education project.

HOLDFAST SHORES

75. **The Hon. M.J. ELLIOTT:**

1. (a) What aspects of the Holdfast Shores and the associated West Beach developments were the responsibility of the state government; and
(b) What was the financial cost?

2. (a) What aspects of the Holdfast Shores and the associated West Beach developments which were for public benefit, were the responsibility of the developers; and
(b) What was the financial cost?

3. (a) What public land was made available for the private parts of the development; and
(b) What was the value of that land?

4. (a) What other contributions were made by the state government or the developers; and
(b) What was their value?

5. What ongoing liabilities, for example, dredging, will occur in relation to the development?

6. Who retains each of the liabilities?

7. What is their estimated ongoing cost?

8. Why have the above questions, first asked on 17 February 1999, not yet been answered?

The Hon. R.I. LUCAS: The Minister for Government Enterprises has provided the following information:

1. (a) The State Government has responsibility for major infrastructure works associated with the project. These include:
- construction of harbour and infrastructure works at Glenelg;
- construction of West Beach (now Adelaide Shores) boat haven; and
- water quality improvements in the Patawalonga basin, the Patawalonga Catchment and in the stormwater discharging to sea from the catchment.

(b) Approximately $20 million has been spent to date, which includes the boat launching facility at West Beach and the Glenelg harbour. The Government contribution has been identified in the capital works budget papers throughout the course of the project.

2. (a) The Development Agreement with the Consortium provides for the Consortium to implement the master plan and to return a distribution to the government from the project.

The Master Plan for the Holdfast Shores project was publicly released in December 1995. The Plan proposes development of the Glenelg/West Beach area in ten precincts, as follows:

Precinct 1—Family Entertainment

Precinct 1 forms the critical interface with Moseley Square and Jetty Road. The Plan is to develop a quality entertainment facility for family groups and people of all ages.

Precinct 2—Tourism/Residential

Precinct 2 joins Precinct 1 to the Marina precinct and will provide an important element of shelter along its eastern side from prevailing south-westerly winds. Opportunities will also be developed to directly link the beach through to Colley Reserve.

A range of tourism/residential accommodation is proposed. Those facilities which will be available to the public may comprise:

- a hotel;
- all-suites units;
- serviced apartments; and
- associated conference facilities.

Precinct 3—Marina Pier—Opened December 1999

Precinct 3 comprises an intense mixed use of activities. At ground level, there are a range of commercial and retail activities, restaurants, cafes and bistros. These are accessible from the public promenade level, overlooking the marina and/or the beach.

Precinct 4—Marina Basin

The Marina Basin creates the major visual focus for Holdfast Shores.

The Marina Basin caters for:

- private pleasure craft moored in secure surroundings;
- a Fishermans' Wharf to create activity, particularly at peak tourist visiting periods; and
- visiting pleasure craft.

An open plaza at the end of Anzac Highway will provide views and public access through to the Marina.

Precinct 5—Marina South

Precinct 5 is the hub of the development as it is in a dominant position and visible at the end of Anzac Highway, a major gateway to Holdfast Shores.

Development will comprise a tavern or club facility, associated tourist facilities and some residential development.

Precinct 6—Marina East

Development of the precinct is critical to provide enclosure and human scale to the Marina Basin.

Occupying the area previously containing the Glenelg Sailing Club, its primary development will be for permanent residential units. It will have public access to the marina frontage.

Precinct 7—Patawalonga Frontage

Low density terrace house development with allotments of 8-12m frontages and 25-30m depth.

This precinct also contains the new northern breakwater protecting the Marina Basin. A wharf is located on the breakwater for use by the ferry, or other vessels, until the new terminal is completed in Precinct 3.

Public access will continue to be provided as a link across the weir to the southern precincts.

Precinct 8—Patawalonga Basin South

New Marina berths will be constructed within the basin, with access from the western bank, and utilising existing parking facilities to the north of the existing Dive Shop. A new lock gate, with automatic user operation, is being installed.

Precinct 9—Patawalonga Basin North

No work will be undertaken by Holdfast Shores within this precinct. The objective is to provide a safe inland waterway providing for a variety of public activities, including:

- canoeing;
- junior dinghy sailing;
- paddleboats; and
- windsurfing.

Precinct 10—West Beach Adelaide Shores Boat Haven—Opened March 1999

This precinct includes Barcoo Road and adjacent land and provides facilities for boat launching and return, boat servicing, chandlery, fuel, sailing clubs and sea rescue. It also provides for combined facilities for clubs. These facilities have a high degree of public accessibility.

Overall

As outlined above, much of the development by the consortium will result in public benefit.

(b) The projected overall development costs (excluding Precinct 10) are expected to be at least $200 million.

3. (a) The total developable area for the Holdfast Shores project at Glenelg comprises 17.60 hectares. The Government has contributed the following land parcels:

- Portion of Colley Reserve;
- Portion of Closed Road in LT 4205/85;
- Portion of Closed Road in RP 1827/A;
- Land out of hundreds (beach land—for construction purposes);
- Portion of Section 1023;
- Portion of Section 1520;
- Portion of Wigley Reserve; and
- Road (to be closed) at Glenelg North.

This includes land containing the harbour and breakwater and the Patawalonga Basin from south of King Street.

A significant amount of this land will be returned to the Council for public use.

(b) Prior to development, the land had little or no value, as extensive funds would have been required to bring the land to a marketable stage. The Holdfast Shores Consortium has value added to this land and, through the agreement with the government, will provide the government with a significant return.

4. (a) and (b) The Government has not made any other contributions apart from what it would provide through its normal activities and its role in managing the government aspects of the project.

5 Ongoing liabilities at the Glenelg site include:

- harbour maintenance;
- internal and external marina maintenance; and
- maintenance of Patawalonga basin, lock and weir gates.

6. The following liabilities will be the responsibility as below:

- Harbour Maintenance—Minister for Transport and Urban Planning;
- External Marina—consortium or assignees; and
- Other—subject to agreement between the consortium, City of Holdfast Bay and the Government.

7. The government has made a total budget provision of $750 000 p.a. for Glenelg harbour and West Beach Boat Haven maintenance, including dredging. $250 000 has been allocated to the facility at West Beach, whilst the remaining $500 000 is designated to the Glenelg harbour.

8. I provide answers to questions that appear on the notice paper. Sometimes questions require significant work by my department. As you may be aware, there is a long standing tradition of parliament that questions on notice in a session of parliament are not automatically reinstated on the notice paper in the subsequent session. It was assumed, if the question no longer appeared on the notice paper, an answer was no longer required.

MARALINGA

89. **The Hon. P. HOLLOWAY:**

1. Can the Premier advise whether the South Australian Government was advised of a decision to change the agreed process for the 'in situ vitrification' disposal of plutonium 239 contaminated waste in the Taranaki pits at Maralinga in favour of exhumation and reburial?

2. Was the consultative group (including representatives from the South Australian Department of Premier and Cabinet, the South Australian Health Commission and the Maralinga Tjarutja people) consulted before this decision was made?

3. (a) What was the reason for the decision to cease in situ vitrification in favour of exhumation and reburial; and
(b) Does the new process comply with standards of practice for the disposal of material contaminated by plutonium 239?

The Hon. R.I. LUCAS: The Premier and Minister for Human Services have provided the following information:

1. The question concerns a major project to remediate radioactive contamination resulting from the former British weapons testing program. The clean-up is funded by the Commonwealth Government with a contribution from the British Government. It should be noted that the land being used to secure the contaminated material is a Defence Reserve owned and controlled by the Commonwealth.

On 23 June 1999, the South Australian Government, along with other members of the Maralinga Consultative Group, was advised by the Commonwealth Department of Industry, Science and Resources that the Commonwealth would be pursuing an exhumation and reburial option rather than the in situ vitrification (ISV) melt approach to managing contaminated material.

2. The Maralinga Consultative Group does include representatives of the Department of Premier and Cabinet, the Radiation Protection Branch of the Department of Human Services and Maralinga Tjarutja.

Members of the Maralinga Consultative Committee had been aware for some time that the ISV technology was identified as having some deficiencies. At the meeting of 23 June 1999, all parties were advised of the Commonwealth's intention to abandon the ISV method.

3. (a) During one melt conducted on 21 March 1999 a limited amount of the material exploded, and while in this instance it did not result in injury or exposure of workers to radiation, it cast concern on the safety of the ISV approach.

Subsequently officers of the Commonwealth Department of Industry, Science and Resources (DISR) advised of their thinking on whether to exhume and ISV or to exhume and bury.

After investigations DISR has concluded that:

- The ISV approach is more risky than burial
- It has been substantiated that there is less plutonium in the exhumed pit debris than previously expected, and the level of contamination does not justify the additional risks of ISV
- The outcome of burial is an acceptable long term treatment of the waste

Accordingly, DISR is convinced that, from a safety and long-term management position, the best solution is to bury the waste.

(b) The Commonwealth regulatory body, the Australian Radiation Protection and Nuclear Safety Agency, has advised the burial is in accordance with the Australian code of practice for near-surface disposal of radioactive waste.

SPEED CAMERAS

95. **The Hon. T.G. CAMERON:**

1. How many people were caught by speed cameras exceeding set speed limits by more than 40 km/h during 1998-99?

2. How much revenue was raised as a result?

3. Of those caught speeding by speed cameras above 40 km/h in 1998-99, how many were subsequently:

(a) prosecuted;
(b) given jail sentences;
(c) lost demerit points; or
(d) lost their drivers' licences?

The Hon. DIANA LAIDLAW:

1.-3. (a) and (b) I am seeking advice from the Minister for Police, Correctional Services and Emergency Services in relation to this matter—and a response will be provided in due course.

3. (c) Where a speeding offence is detected by camera, the Commissioner of Police will issue a Traffic Infringement Notice to the person who is recorded in the register of motor vehicles as the registered owner of the vehicle.

If the registered owner expiates the notice, no demerit points will be incurred.

However, if the registered owner denies liability for the offence, and identifies the actual driver of the vehicle by way of a statutory declaration, the Commissioner will issue another notice to the person who has been identified as the driver.

If the driver expiates the notice, he or she will incur the number of demerit points prescribed for the offence.

I am advised by Transport SA that it was not able to identify any drivers who had incurred demerit points for exceeding the speed limit by more than 40 km/h (after having been identified by the registered owner as the actual driver of the vehicle) during the 1998-1999 financial year.

3. (d) None as a result of an accumulation of demerit points.

ROAD ACCIDENTS

99. **The Hon. T.G. CAMERON:**

1. Between 1 January 1999 and 31 December 2000, what were the top 10 South Australian metropolitan roads where serious road accidents occurred?

2. For the same period, at each of these roads:
(a) what were the worst days for accidents; and
(b) what were the worst times of the day for accidents?

3. For the same period:
(a) how many times at each of these roads were speed cameras placed on them; and
(b) how much revenue was raised from expiation notices as a result?

The Hon. DIANA LAIDLAW: In responding to the honourable member's questions, the following clarifications are made:

- 31 December 2000 in part 1 of the question is taken to mean 31 December 1999, and the information is provided on that basis.
- The information supplied for metropolitan roads is based upon those roads within Urban Adelaide, ie between Gawler and Moana and bounded by the foothills.
- The length of a road (whether or not a road has a divided carriageway) and the speed zoning of a road have the potential to affect the total number of road crashes reported. Therefore, when reporting the top ten metropolitan roads, South Road (47 km long) and Main North Road (31 km long) dominate the results, as they are the two longest metropolitan roads, and both are divided and have sections with relatively high speed zonings.
- Serious road crashes are defined as those where an injury occurs and the individual is hospitalised, or where a person is killed.

1.

Road Name	Total
South Road	152
Main North Road	103
Marion Road	78
Salisbury Highway	55
Prospect Road	52
Henley Beach Road	50
Goodwood Road	47
Portrush Road	47
Sturt Road	45
Greenhill Road	45

2. (a)

Road Name	Day	Total
South Road	Friday	31
South Road	Wednesday	30
South Road	Thursday	26
South Road	Monday	25
Main North Road	Wednesday	18
Main North Road	Thursday	18
Main North Road	Sunday	17
Main North Road	Tuesday	15
Main North Road	Saturday	15
Marion Road	Friday	15
Marion Road	Wednesday	13
Salisbury Highway	Monday	11
Salisbury Highway	Tuesday	11
Prospect Road	Wednesday	12
Prospect Road	Thursday	10
Henley Beach Road	Thursday	17
Goodwood Road	Thursday	12
Portrush Road	Friday	11
Portrush Road	Monday	10
Sturt Road	Monday	9
Greenhill Road	Friday	10
Greenhill Road	Wednesday	10

2. (b)

Road Name	Time of Day	Total
South Road	1000—1059	11
South Road	1200—1259	11
South Road	1500—1559	13
South Road	1600—1659	16
South Road	1700—1759	15
South Road	1800—1859	13
Main North Road	1300—1359	8
Main North Road	1400—1459	8
Main North Road	1500—1559	17
Marion Road	0800—0859	7
Marion Road	1600—1659	9
Marion Road	1700—1759	7
Salisbury Highway	1500—1559	6
Salisbury Highway	1600—1659	6
Salisbury Highway	1700—1759	8
Prospect Road	1200—1259	6
Prospect Road	1300—1359	6
Prospect Road	1500—1559	8
Henley Beach Road	1500—1559	6
Henley Beach Road	1600—1659	7
Goodwood Road	1600—1659	8
Goodwood Road	1800—1859	8
Portrush Road	0800—0859	7
Portrush Road	1400—1459	6
Portrush Road	1600—1659	10
Sturt Road	0800—0859	6
Sturt Road	0900—0959	6
Greenhill Road	0800—0859	5
Greenhill Road	1600—1659	5

3. I am seeking advice from the Minister for Police, Correctional Services and Emergency Services in relation to this matter and a response will be provided in due course.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 1999—
Senior Secondary Assessment Board of South Australia
Vocational Education Employment and Training Board

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

Judges of the Supreme Court of South Australia—Report, 1999
Regulations under the following Act—
Workers Rehabilitation and Compensation Act 1986—Claims and Registration—Self Managed Employer—Additional Information
Rules—Rules of Court—
Court of Disputed Returns—Local Government (Election Act)—Application of Proceedings
District Court—District Court Act 1991—Status Hearings

By the Minister for Transport and Urban Planning (Hon. Diana Laidlaw)—

South Australian Harness Racing Club—Report, 1999
Regulations under the following Act—
Development Act 1993—Significant Trees

By the Minister for Administrative Services (Hon. R.D. Lawson)—

Institution of Surveyors, Australia, South Australian Division Incorporated—Report, 1999.

WOOMERA DETAINEES

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a statement made today by the Premier on the subject of immigration.

Leave granted.

QUESTION TIME

PUBLIC ADVOCATE

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Disability Services a question about the Office of the Public Advocate.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the minister to the 1998-99 annual report of the Public Advocate, John Harley, which states on page 6:

> During my time I have had to come to the difficult decision that individual advocacy, pre-hearing investigations, our education program and a proactive approach to my guardianships must all be curtailed—hardly a record to be proud of.
>
> Due to lack of resources and an unprecedented number of guardianships (up to 220 current guardianships during the year), it was my decision that all efforts now need to be directed to, first, reducing the number of guardianships and, secondly, providing the best quality of guardianship that we are able.

He goes on to say:

> The result is that my office can now do no more than handle guardianships on a reactive basis only. We act as purely surrogate decision makers, reliant upon case managers to provide us with the necessary information upon which to base our decisions. This usually results in decisions being made in a vacuum without us personally knowing the people involved or indeed without us even having met the protected person.

Mr Harley goes on to list a number of issues requiring attention, including the lack of appropriate facilities for adolescents and young adults with a mental disorder, and particularly young females. My question is: what remedial action, particularly with regard to a lack of resources, has the government undertaken to address the very serious matters highlighted in the report of the Public Advocate?

The Hon. R.D. LAWSON (Minister for Disability Services): The matters raised by the Public Advocate in his annual report have been the subject of discussions between me, other ministerial colleagues and the Public Advocate. I begin by paying tribute to the work that Mr John Harley is doing as Public Advocate in South Australia. He has taken up his duties with great enthusiasm and great activity. I particularly commend him for the way in which he has made himself available to community groups: he is very accessible, visits widely and maintains a very close interest in all who are involved in this field.

The honourable member mentioned, as does the annual report, that the Office of the Public Advocate is dealing currently with some 223 guardianship orders—and that is a large number. Some other jurisdictions, in particular Western Australia, have a comparable system with a substantially smaller number of guardianship orders. I have certainly been examining ways by which we might reduce the number of guardianship orders which are made and which thereby come under the responsibility of the Office of the Public Advocate. If there can be some appropriate legislative or other policy change which will reduce the number of guardianship orders that are made it will correspondingly reduce the workload of the office, and that is a matter which I have under active consideration.

The honourable member refers to the Public Advocate's comments about resources allocated to his office. That is also a matter upon which I have had discussions and correspondence with him. It is a matter which was addressed, in part, in an operational review of the guardianship system. The matter,

however, of additional resources for the Office of the Public Advocate is tied up with the current budget process and is being considered in that context, and a further response will be given to the honourable member after the budget is announced.

BUSINESS INCENTIVES

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer and Minister for Industry and Trade a question about grants to business.

Leave granted.

The Hon. P. HOLLOWAY: It was reported in the *Australian* of 20 April as follows:

> A rising wall of secrecy surrounds taxpayer-funded incentives used to lure business to South Australia, with Premier John Olsen riding roughshod over a parliamentary committee designed to scrutinise the multi million dollar deals.

The article further states:

> Two of the most recent contracts signed off by the state government—a BHP business centre and an Optus call centre—both bypassed the committee. It is understood the two contracts encompassed incentives totalling $25 million, including foregone public revenue such as payroll tax concessions.

My questions to the minister are:

1. As the first industry minister in 60 years to repudiate bipartisanship in relation to industry assistance, how does he justify—

Members interjecting:

The Hon. P. HOLLOWAY: It is quite true. It was Tom Playford who introduced the IDC back in—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: You might laugh, Treasurer—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. P. HOLLOWAY: —but you are the one who will cop it. I repeat:

1. As the first minister in 60 years to repudiate bipartisanship in relation to industry assistance, how does the minister justify this unprecedented secrecy?

2. Will he confirm that he has given multi-million dollar grants for a BHP business centre and an Optus call centre without consideration by the IDC of parliament and, if so, how does he intend to justify to the public the expenditure of this taxpayers' money?

3. Will he release details of the future liabilities that this state will face as a result of these secret deals?

4. Has he warned the recipients of these large sums of taxpayers' money of his deliberate decision to politicise the process in relation to the allocation of their grants?

5. Does he intend that all future industry grants will bypass the Industries Development Committee of the parliament?

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The honourable member has asked his question. The honourable Treasurer can answer it.

The Hon. R.I. LUCAS (Treasurer): As I understand the position in relation to this matter, the statements made by the Premier are based on his personal understanding as the Premier and both the previous minister for industry and development and the now Minister for State Development. There is a very clear understanding from the Premier and from the government that the previous bipartisanship which for many decades, as the honourable member says, had been shared by governments and oppositions, whether Labor or Liberal, has, from the statements the Premier has made, quite clearly been breached in recent times.

The Hon. L.H. Davis: I was on that committee (and you were too, Paul), and they were never breached then. It is now leaking like a sieve, with a capital 'S'.

The Hon. R.I. LUCAS: The Hon. Mr Davis makes the point that, whilst both he and the Hon. Mr Holloway were on the committee, these sorts of concerns were not being raised. If I were the Hon. Mr Holloway, I would be asking his colleagues within his own party why these particular issues are now being raised and why the Premier—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order and stop pointing across the chamber.

The Hon. R.I. LUCAS: Mr President, I have placed on the record in this place my experience with Mr Foley in relation to another matter. In the middle of confidential briefings that the Auditor-General was giving to a supposedly confidential select committee of the parliament on the ETSA deal, Mr Foley was going out in the middle of the Auditor-General's evidence to do radio interviews. He did not even have the good—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —grace to wait for the Auditor-General to leave the meeting. He excused himself from the meeting and went outside to do the radio interviews. Now, you cannot be much more blatant—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, he was up front. He went right out and did the radio interviews.

The Hon. A.J. Redford: It was real time reporting.

The Hon. R.I. LUCAS: It was real time reporting from the opposition. That was in relation to a matter of which I have direct knowledge. Clearly, the Premier is the minister who has been responsible in this area for many, many years, as I said, wearing different hats for the six years of this government—for the first three years or so as minister for industry and trade or some similar title, and then in the past three years as both the Premier and the Minister for State Development. He clearly has direct knowledge of some of the critical information which mysteriously finds its way into the media after particular briefings to that particular committee.

Really, the challenge does not rest with me: the challenge rests with the Hon. Mr Holloway and his colleagues. Are they prepared to treat this committee, as every other opposition for decades has been prepared to treat the committee, in a true spirit of bipartisanship, ensuring that the information does not mysteriously find its way into the media or into business and investment circles?

I am sure that is the reason why the Premier, in relation to the interview, was asked questions about the Optus investment, and he responded on the basis of his knowledge. I have demonstrated in this chamber that in relation to issues like ETSA, for example, for the first time we will be tabling in this Council complete records of the lease contracts—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: We actually put it in the act. So do not say, 'The act required you to,' in a snide, sneering, whingeing, whining way; we did it because we agreed to putting it in there.

Members interjecting:

The PRESIDENT: Order! The Hon. Angus Redford will come to order.

The Hon. R.I. LUCAS: How much whingeing and whining can you get from people like Mr Holloway, Mr Rann and Mr Foley? We were upfront about it. We put it in the legislation. And here we have the Hon. Mr Holloway saying, 'That's only because the act required you to.' Who do think put it in the act? We introduced it. We put it there, we indicated right from the word go that we were going to table these—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! The Hon. Ron Roberts will come to order.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: The Hon. Ron Roberts will be warned soon.

The Hon. R.I. LUCAS: Hear, hear! Throw him out. In relation to the issues in respect of the IDC, I come to the portfolio as a new minister. I have been the minister for only a month or so. I am prepared to discuss with my colleagues, including the Premier, how we as an agency deal with this—and I have still to understand the exact detail of what in the past has gone to the IDC and what has not. I have not been a member of the IDC, unlike my colleagues the Hons Mr Davis and Mr Holloway. I will need to have a look at what has gone on in past years. I am told there is no requirement for all investment proposals to go to the IDC, that in some way there is some discretion that governments—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As I said, on the issue of bipartisanship I think the responsibility rests clearly on the shoulders of the Hon. Mr Holloway and his colleagues. You need to speak to your colleagues to get some assurance about the way that oppositions in the past have been prepared to treat this committee, that is, to ensure that the material does not mysteriously find its way into the public forum, whether it be the media or business investment circles. That responsibility very much rests on the shoulders of the colleagues of the Hon. Mr Holloway.

As I have said, as a new minister I am prepared to discuss with my own colleagues—including the Premier and others—our general approach in the future to the IDC. I can well understand the frustration the Premier would have in light of the way past oppositions have treated this committee and the information that has gone to it by, sadly, some of Mr Holloway's colleagues. The same treatment has not been delivered on the past few occasions.

POLICE PATROLS

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation before asking the Attorney-General, representing the Minister for Correctional Services, a question about solo police patrols.

Leave granted.

The Hon. T.G. ROBERTS: On 13 April an article appeared in both the *Advertiser* and the *Age* giving details of the Coroner's report in relation to the death of a Whyalla teenager who was run over accidentally by a police vehicle. The articles indicate the difficulties that the police officer had, as a solo patrol, in maintaining the security of the person taken into custody—a teenager in this case—and driving a vehicle at the same time. The Coroner made some observations which both the *Age* and the *Advertiser* reports detail and which the *Age* article refers to as follows:

> The Coroner, Mr Wayne Chivell, said he believed Constable Thomas' evidence that he had not seen Todd until just before the collision when it was too late. 'I accept that he had not been driving recklessly or in a way which consciously put Todd at risk,' Mr Chivell said.
>
> Constable Thomas defended his choice to leave Todd in the front seat, because 'he was completely cooperative and he was a juvenile, I didn't like to humiliate him or anything, so he, he was being very reasonable and. . . it wasn't necessary'.
>
> The Coroner said the case illustrated the difficulties confronting police on solo patrols. Constable Thomas was directed to convey a prisoner to the police station in the police 'cage' vehicle. If he had put Todd in the cage he would have been criticised for being harsh towards a juvenile. . . When Thomas went to put Todd in the back of the vehicle Todd ran away.

The article then describes more of the chase sequence. My questions in relation to the Coroner's recommendations are:

1. What is the frequency of solo patrols in South Australia, particularly in the larger regional areas such as Whyalla, Port Augusta and Mount Gambier?

2. Will the government act on Mr Chivell's recommendations in relation to solo police patrols?

3. Are there any guidelines on the use of solo police patrols and, if so, what are they?

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

ELECTRICITY, PRIVATISATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Leader of the House, the Hon. Robert Lucas, a question about South Australian energy prices.

Leave granted.

The Hon. L.H. DAVIS: There has been much debate about South Australia's energy needs and, in particular, the Pelican Point power station and additional power supplies from New South Wales and/or Victoria. Recently, I noticed an article in the *Advertiser* by one David Eccles, no less, that a Business Council of Australia report claimed that South Australian firms were paying higher energy prices for electricity when compared with New South Wales and Victoria. The opposition Treasury spokesman, Mr Kevin Foley, in a typical eight second grab, was quoted as saying:

> The Olsen government has chosen to lock out competition/electricity prices at a cost to the economy of millions and millions of dollars.

The implications of Mr Foley's comment are, of course, that profits to the providers of electricity, which in South Australia in the old days was ETSA, would have been slashed. My questions are:

1. Did the minister see the report from the Business Council of Australia and did he agree with its findings?

2. Does the minister have any observation to make about the accuracy of Mr Foley's comments in view of his previous oft-stated view that ETSA should not have been privatised because the profitability levels of ETSA could be maintained notwithstanding the consequences of the national electricity market?

The Hon. R.I. LUCAS (Treasurer): The honourable member has highlighted again the soft political underbelly of Messrs Rann, Foley and Holloway on this issue of electricity because, as he rightly identified, for two years we have heard opposition to the whole notion of the privatisation of our

electricity businesses on the basis that we always have $300 million (the figure seems to change depending on who is quoting it at the time), that this is good business and that it will continue to flow into South Australian budgets. Yet, at the same time, whenever a report such as this comes out, members of the opposition attack the government for, in their view, having locked out competition and locked in higher prices.

So far, nobody has been prepared to put the hard question to Mr Rann, Mr Foley and, to a lesser degree, the Hon. Mr Holloway as to the consistency of those two statements. As the Hon. Mr Davis indicates, they are not consistent. They cannot be consistent. If they argue that in some way government decisions have locked in higher prices and profitability for electricity businesses in South Australia, by necessity, if those prices and values are reduced, according to that argument the revenue streams coming into the government would be correspondingly reduced. So far no-one has put that question to Mr Rann or Mr Foley.

The Hon. L.H. Davis: Mr Eccles could.

The Hon. R.I. LUCAS: Well, Mr Eccles could. Indeed, any courageous, perceptive journalist who is prepared to spend some time on this issue could consider the paradox or the problem that has been posed as to how one can argue both sides of the one argument. The answer is that you do not try to do it in the one eight-second grab: you do one eight-second grab for one argument and then, the following day or the next week, you quote the other side of the argument and you hope that nobody out there understands that one of your arguments is entirely the opposite to the other argument.

The challenge remains, because Mr Foley does not have the privilege of being a member of this chamber and does not have the opportunity of having that question put to him when the parliament is sitting, or to get that sort of question from the media. He can make an eight-second grab at the tail end of the story and as long as someone does not remember the last eight-second grab and look at the two together there might not be a problem.

There are some elements of the BCA report with which the government does not have any major disagreement, and the government's view is that it has taken only the first steps down the path to developing a competitive market in South Australia, and it will not be until new capacity and supply comes on stream late this year and next year that we will see the next stage of the competitive power market in South Australia. Therefore, in the interim, there will continue to be an uncompetitive situation which developed from the government monopoly position where there was just the one generator and one supplier in South Australia. We have now disaggregated and we are part way through a process of privatisation and we are part way through a process of new capacity being generated and new interconnection coming into South Australia.

I want to comment on that last element because any rational analysis of the report would lead one to say that it is a very disappointing read indeed, and that is because it does not acknowledge the decisions that have been taken by the government in trying to develop the competitive market. National Power is putting 500 megawatts of power into our market, and three or four weeks ago it said that it is seriously contemplating increasing that by a further 60 per cent, so up to 800 megawatts of capacity will be generated at Pelican Point. TransEnergie has almost the same amount of power coming across the border through the Riverland as was envisaged under the original Riverlink proposal. The SARNI people are still trying to get national approval for their proposal. Boral or Origin Energy, as it is now known, has 80 megawatts of capacity up and going in the South-East. TransEnergie announced in the past two weeks that it is looking at a second, smaller second interconnector through the South-East of South Australia.

The Hon. L.H. Davis: Underground.

The Hon. R.I. LUCAS: Again, it is underground and unsubsidised, and that would be a second interconnection by that one company, which has demonstrated that it can build these interconnectors. It has constructed an underground, unsubsidised interconnection between Queensland and New South Wales, and it is virtually up and running as we speak. In addition, ATCO is continuing to say that it is prepared to have a look at further augmentation of the existing Victoria-South Australia interconnect.

The area where this report is disappointing is that it does not acknowledge that we are moving, in a very short space of time, from a government monopoly situation to, we hope, a much more competitive private sector driven market. There should have been some acknowledgment that that was occurring. As I have said on previous occasions, I am not a sensitive and litigious person, but continued claims by Mr Foley that the government deliberately locked out competition in electricity prices to artificially boost the value of its generators are wrong, and time will be able to demonstrate absolutely that they are wrong—

The Hon. T.G. Roberts: It didn't work.

The Hon. R.I. LUCAS: No, time will demonstrate to any sane and sensible person that those claims were wrong. The government encouraged interconnection and enticed a big competitor to Optima at Pelican Point, just a few kilometres down the track, so that people bidding for our generators would say, 'Okay, when we were the only government owned and controlled generator, we would have been prepared to pay a much higher price than in the competitive market this government is generating here in South Australia with increased competition and increased interconnection.' So, we will be able to demonstrate in the fullness of time what the government has said in relation to this issue is absolutely correct and that these statements made by Mr Foley and others are offensive. As I said, if I was a sensitive and litigious person in the public arena, I may well have taken action against certain people.

FREEDOM OF INFORMATION ACT

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Administrative and Information Services a question relating to freedom of information.

Leave granted.

The Hon. IAN GILFILLAN: When the Freedom of Information Bill was introduced in this chamber in 1991 the then Attorney-General, the Hon. Chris Sumner, said it aimed to 'strike a balance between rights of access to information on the one hand and the exemption of particular documents in the public interest on the other'. Referring to the bill, he said that it was:

> . . . based on three major premises relating to a democratic society, namely:
>
> 1. The individual has a right to know what information is contained in government records about him or herself;
>
> 2. A government that is open to public scrutiny is more accountable to the people who elect it;

3. Where people are informed about government policies, they are more likely to become involved in policy making and in government itself.

On 4 April this year the Premier is quoted as saying that his government is 'open and accountable'. The act sets up three mechanisms for accountability to ensure that agencies operate within the FOI law. There is internal review by an agency's chief officer; there is external review by the Ombudsman, the Police Complaints Authority or the District Court; and there is an annual report to parliament, under section 54 of the Freedom of Information Act, by the minister. As part of that latter process 'each agency must furnish such information as the minister requires'. However, it appears from the 1998-99 FOI annual report that this obligation is not being enforced.

Last year only 74 per cent of agencies completed their FOI statistical return. The previous year, 1997-98, the return rate was 79 per cent; and in 1996-97, approximately 57 per cent. To illustrate how incomplete the statistics are, one only has to look at the figures provided by the report for external review. The annual report says:

Agencies providing statistics reported that a total of 23 determinations were taken to the Ombudsman or the Police Complaints Authority for external review.

However, the Ombudsman reports that, in the same period, in fact 85 applications were received and 69 reviews were finalised. So, not counting the Police Complaints Authority, whose statistics are not available yet, we know already that a mere 27 per cent of external reviews, or fewer, are being reported by the agencies concerned.

Contrary to the act, the annual report is also silent on the number of ministerial certificates of restricted documents issued pursuant to section 46. I point out that, if no certificates were issued during that year, then zero is a number and under the act that must be reported. My questions to the minister are:

1. In view of the low response figures for three successive years, which agencies are the repeat offenders in failing to provide statistical returns as required by the minister under section 54?

2. What, if any, action has been taken against these agencies to ensure compliance with their FOI obligations in future?

3. In the face of these contraventions of section 54, how can this government still pretend to be, to use the Premier's words, open and accountable?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I thank the honourable member for his question, which relies upon a number of statistical analyses that I gather he himself has made from recent reports under the Freedom of Information Act. I do not have that statistical material immediately to hand. I will certainly examine it and bring back an appropriate reply, based on the actual figures.

The claim of the Premier that this government is open and accountable is one that I am very happy to justify. The number of requests made under the Freedom of Information Act has substantially increased in recent years, and the proportion of them dealt with expeditiously and in accordance with the standards laid down in the legislation has been rising. Some of the requests, especially some of those politically motivated requests from the opposition, have required an extraordinary amount of resources and public sector time to provide appropriate responses.

This government is committed to the principles of the Freedom of Information Act. We are aware that the Legislative Review Committee is undertaking an examination of the act and will shortly be reporting, and the government looks forward to that report with interest. It is worth saying, as the Premier did on the occasion when he responded to a number of issues under freedom of information, that, if the opposition or the Australian Democrats are so concerned about the way in which the freedom of information legislation is operating, it is quite open to them to move appropriate amendments. It is interesting that neither the opposition nor the Democrats, who are very keen to be critical of the government on this issue, have ever come up with any formulated amendments.

Finally, the honourable member suggests that there have been contraventions of section 54 of the act. Once again, I will look into that question and bring back a more detailed and considered response as soon as possible.

TRADE OFFICES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about the cost of running overseas trade offices.

Leave granted.

The Hon. J.F. STEFANI: South Australia has a number of trade offices in various overseas countries and I am aware that the State Government recently opened a new South Australian office in the Persian Gulf at Dubai. My questions are:

1. Will the Premier advise the number of trade offices this state has in overseas countries and in which countries they are located?

2. Will he also advise the total cost of running each overseas trade office, including wages, salaries and other benefits?

The Hon. R.I. LUCAS (Treasurer): I will refer aspects of that question to the Premier and bring back a reply. Some aspects are within my new ministerial portfolio brief and I am happy to take them on notice and also bring back a reply.

LEGIONNAIRE'S DISEASE

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement made today in another place by the minister for health on the subject of legionella control in South Australia.

Leave granted.

PHENTERMINE

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing a question to the Leader of the Government in the Council, so as to direct it to the Minister for Human Services, on the slimming drug phentermine.

Leave granted.

The Hon. T. CROTHERS: My question is in relation to an article which appeared in the *Sunday Mail* of 16 April this year and which stated that the slimming drug—and members can see that I do not have a personal interest in this—phentermine, which is marketed as duromine, was withdrawn from sale in Britain last month after a recommendation by the European Commission. According to the article, the amphetamine based drug has been linked to heart palpitations and high blood pressure—and I assure the Labor Party I am not on it—and it is also feared that it can cause damage to heart

valves. The latest possible data reveals that nearly 144 000 scripts were issued in Australia for the drug in 1997. In light of the above, will the Leader endeavour to communicate with his federal counterpart in an attempt to proscribe the drug phentermine; if not, why not?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the Minister for Human Services and bring back a reply.

GLENSIDE MENTAL HEALTH SERVICES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Disability Services, in conjunction with some responsibilities of the Minister for Human Services, a question on the subject of mental health services.

Leave granted.

The Hon. R.R. ROBERTS: For some years now the opposition has been hearing horror stories about Glenside Mental Health Services. In fact, there have been a number of news reports in this vein sourced from senior medical staff, concerned employees and concerned family members and carers. I personally have taken an interest in mental health problems facing care providers and health administrators in country South Australia. I have been advised by my colleague the Hon. Terry Roberts that he has recently experienced similar problems in the South-East, which unfortunately have led to suicides.

Recently, Mike Rann, Lea Stevens and I toured health units in the state seat of Frome where we were told that the No. 1 concern for them was mental health services. I have made representations on behalf of carers for travel assistance and sponsored carers for seminars on mental health care and I have spoken to numerous concerned people, including carers and family members. Members would remember that recently I asked a series of questions on the Brentwood facility at Glenside. Time does not allow me to go over all that again, but I did allege that adolescent patients were mixed in with adults and forensic patients, some with violent criminal and sexual problems. Following those questions, I also advised the Human Rights Commissioner of my concerns in this respect and I am pleased to have his support in advocating a better deal for mentally ill patients at Glenside, in particular those adolescent patients at Brentwood.

In the *Sunday Mail* of 30 April, the Minister for Human Services (Mr Dean Brown) in responding on behalf of the government said that Labor's claims were wrong in this respect and he stated that 15 to 17 year olds occupied the southern wing of the ward while violent offenders occupied the northern wing; that is, North Brentwood is on one side of the passage and South Brentwood is on the other side. He also said, 'They are separated and do not mix.' Clearly, the information that I have received conflicts with that and, clearly, either Mr Brown is wrong or I am wrong.

I think we can clear this up simply by the minister's answering my questions and request, namely: will the minister provide this parliament with the bed occupancy figures for the past three months by category, including adolescents by age and sex, forensic patients by age and sex, regional patients by age and sex and general patients, and the overflow from James Nash House or from corrections for both North Brentwood and South Brentwood wards? I want a break-down of the mix in both facilities. If I am right that the same or a similar mix occurs in both North Brentwood and South Brentwood, will the minister resign? If he will not do that, what will he do to overcome the serious problems facing the mental health system at Glenside? I expect that most of those questions will be taken on notice. How many adolescent patients were 'specialled' during the past three months of this year, and what were the staff ratio and numbers on a daily basis for the same three month period?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the minister and bring back a reply.

SCHOOLS, PHYSICAL EDUCATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott is on his feet. Members should show some respect.

The Hon. M.J. ELLIOTT: —representing the Minister for Education and Children's Services, a question in relation to physical education in public schools.

Leave granted.

The Hon. M.J. ELLIOTT: I draw the attention of the Treasurer to an article published on page 7 of last Saturday's *Advertiser* entitled 'More Students on the Sidelines'. The article reports Flinders University research which shows that fewer than 50 per cent of public schools are providing 100 minutes of physical education activity per week. This figure is significant because it was the figure recommended to schools by DECS in response to a 1994 Senate inquiry into physical education.

The Flinders University research, which reportedly is the largest of its kind in the past 20 years, goes on to highlight that 55 per cent of primary schools and 66.7 per cent of high schools in South Australia fail to meet the DEET recommended standards for physical activity. Further, it finds that the majority of students are not supplementing this lack of physical activity within schools with outside of school activity. These are not isolated findings. I draw the Minister's attention also to a 1996 Bureau of Statistics study which warned that only 22.6 per cent of all South Australian children aged five to 14 participated in activities organised by public or private schools out of school hours, which shows that this is not a recent trend.

The 1999 Western Australia Sports Federation 'Hands On' report surveyed the physical education performance of each state in Australia. It noted in relation to South Australia the absence of specialist physical education teachers and said that the lack of out of school physical activity was instrumental in the failure of public schools to meet the DEET 100 minute recommendation. For some time, local physical education advocates have expressed concern that a lack of confidence amongst general primary teachers in the area of physical education, due largely to receiving only one unit of PE in their teacher training and the complexity of the current curriculum, may be behind this trend.

Yet, despite calls for more specialist physical education teachers in primary schools, specialist PE teachers are finding employment increasingly difficult to obtain within South Australian public primary schools. This is causing concern because research is showing that not only are young people becoming increasingly overweight but the lack of primary school intervention is resulting in fewer young people developing habits which will encourage them to pursue a lifelong healthy approach to physical activity. Between 1985

and 1994, the number of overweight 9 to 15 year olds rose from 5.3 per cent to 10.4 per cent nationally, according to the Australian Fitness Education Award survey.

Further, a recent study by the Royal Melbourne Children's Hospital now places Australia behind only the US and Britain for childhood weight problems. More recently, these concerns have been emphasised by the University of South Australia research which found that South Australian children in 1997 were heavier, taller and fatter than in 1985. Of concern is the fact that, while the fittest and leanest quartile had not changed, the severity of the least fit and the fattest quartiles had increased markedly.

It appears that South Australian children are putting on weight disproportionately to their increase in height and, because diets generally have improved, the majority of this can be attributed to a lack of regular physical activity. It seems that, as we approach the Olympics, we will find the athletes on the track fitter than before, while the fans in the stands will be fatter than ever before, and the schools are less able to break the habit than they were before.

This government has paid a significant amount of attention to success in elite sports as economically beneficial to this state, yet it seems not to have appreciated the costs of less physical activity among the general population. Last year, obesity-related disease alone cost the nation $840 million, according to the NH&MRC. It was also estimated by Active Australia Framework in 1997 that regular physical activity had the potential to reduce absenteeism by an average of 1.5 days per worker per year. That is equivalent to about $66.1 million in South Australia alone in relation to absenteeism.

The cost to South Australia in just absenteeism and obesity related diseases is about $130 million a year. That is before other costs are considered. My questions are:

1. Will the minister explain why South Australian public schools are yet to meet the 100 minute per week minimum standard as set by the education department in 1994?

2. Given the social and economic importance as well as that of early habit-forming and life long healthy physical activity, will the minister make a commitment to increase the number of specialist physical education teachers in South Australian public primary schools? If not, why not?

3. What is the state government doing to address this problem and what does it plan to do to make out of school physical activity more affordable and accessible to all South Australian families?

4. Will the minister lobby to redirect post Olympic funding into programs that will foster greater physical activity amongst all young South Australians and not just the elite?

The Hon. R.I. LUCAS (Treasurer): I am happy to refer the honourable member's question but can I say, as the former Minister for Education, that the sorts of figures the Hon. Mr Elliott has quoted, for those of us who have been following this issue, have been around for a long time—for many years.

The Hon. M.J. Elliott: It's getting worse.

The Hon. R.I. LUCAS: It has been a problem for a significant amount of time. I think those who argue that this has not been an issue for a while have not gone back and had a look at the sorts of figures and the arguments that were put during my period as Minister for Education from 1993 to 1997 by many of the same people who are still involved at Flinders University.

It is an important issue: I am not disagreeing with that. What I am highlighting is that it has been with us for some time and it is time for the system to be responding in a number of ways. There is no simple solution. Regarding some of the ideas from the Hon. Mr Elliott, both commonwealth and state governments might be able to move in that general direction. It was one of the reasons why, in my last 12 months, the government signed off on this 100 minute physical education policy. It surprised me as minister that we did not have this requirement within our school system.

What we are now seeing is that, having put that guideline into the instructions for schools, given that particular survey—and I am taking on face value that it is accurate, but the minister may well be able to respond if it is not—a number of schools are not following the policy that has been laid down since 1997.

That is an issue that the system will need to address. It is not only a matter of extra Phys Ed teachers. It is an issue concerning existing training and existing classroom teachers. It is an issue of how schools, principals and teachers prioritise the various curriculum requirements within their school programs. Some schools—particularly primary schools—can manage it very well without seeing a loss of literacy and numeracy programs. It is an issue of looking at best practice within schools and sharing that information amongst the others that can see the goal there but perhaps have not worked out how they should get there. It is an important issue that the honourable member has raised, and it has been for some time. There has been some progress and I am sure the minister will be able to highlight the further steps that he and the system, together with the commonwealth system, will need to address over the coming years.

NATIONAL WAGE CASE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about the national wage case.

Leave granted.

The Hon. CAROLINE SCHAEFER: Yesterday, the Australian Industrial Relations Commission awarded an additional $15 per week to certain lower paid workers under the federal award system. Can the minister say whether this rise will apply to South Australians under the state awards and, if so, when is it likely to apply?

The Hon. R.D. LAWSON (Minister for Workplace Relations): It is true that yesterday the Australian Industrial Relations Commission did hand down its decision in the so-called 'living wage' case. That case directly affects persons who are employed under federal awards and does not have direct application to workers employed under South Australian awards.

In this state, over 60 000 persons are employed under state awards. A comparable number of those are employed in this state under federal awards. The South Australian Industrial Relations Commission will be convening, I believe very shortly, for the purpose of considering an application for the flow on of the federal decision. I do not imagine that there will be any delay in the process of that matter being argued. It will certainly be the position of the government in relation to that application that the flow on be supported.

Members will be aware that the commonwealth government as well as this state government argued before the Industrial Relations Commission that the rise should be of the order of $8 per week. The ACTU, however, had applied for a minimum increase of $24 a week. It was certainly the position of the federal government, this state government and

other state governments that that $24 a week, if granted, would have had serious ramifications and implications for those seeking employment at the moment in Australia. Although I have not yet had an opportunity to study in detail the stated reasons of the Industrial Relations Commission, I am certainly gratified, as I am sure would anybody searching for work in this state, that the full $24 was not awarded. As I say, we will be pressing the South Australian commission to pass on this new award to those South Australian workers who are affected by it.

EXPIATION NOTICES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, questions about speed camera expiation notices.

Leave granted.

The Hon. T.G. CAMERON: My office recently received a letter from a Mr P.K. Davis of Aberfoyle Park, who is very concerned about the lack of information supplied by the Expiation Notice Branch when people apply for an extension of time on expiation notices. The letter states:

> Dear Mr Cameron,
>
> On 16 March 2000 I received a radar camera-generated expiation notice for an alleged offence on 29 February 2000. The notice was issued on 13 March, a two week delay. With the car allegedly involved available to up to four different people, it is very difficult to determine who had the car at a particular time two weeks after an event. One person who may have been driving the car is in Queensland and at the time the notice was received had no fixed address. The due date on this is 10 April 2000, so to save time I contacted the Expiation Notice Branch and asked that the photo be sent to me. I was advised this could not be done by telephone and that I would have to forward the written request accompanying the notice.
>
> This was done, and on advice from your office I sought an extension of time so that I could endeavour to determine the identity of the driver. On 4 April I received a letter from the police department. In effect, it says pay up or else; no extension of time to make reasonable inquiries to ensure the right driver is nominated; no extension on the basis that it took the police two weeks to respond to my letter. . .
>
> If I wanted to carry out further inquiries I have been denied that right by the need to pay the notice within the next three working days. It is still not certain who had the car at the time of the alleged offence. I will pay it and sort out with those involved at a later time. Situations such as this make a mockery of the concept of justice and will be much worse if demerit points are attached to these sausage machine-generated expiation notices.

Mr Davis's letter says it all. It is quite disgraceful that it took a telephone call from my office to the expiation branch to get information that should be freely available to all. My questions are:

1. Why was Mr Davis not informed by the Expiation Notice Branch when he called it of his right to seek an extension of time if required?

2. Will the minister assure the parliament that information about the rights of motorists to apply for extensions to expiation notices is freely available, and will this information be printed on all future expiation notices?

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

WATER MONITORING COORDINATING COMMITTEE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Water Resources, a question on the state Water Monitoring Coordinating Committee.

Leave granted.

The Hon. CARMEL ZOLLO: The Water Monitoring Coordinating Committee was established by former environment minister Dorothy Kotz following the outbreak of several toxic water bugs in September 1998. I assume that the committee is now a committee of the Minister for Water Resources. At the time the committee was set up, Minister Kotz said:

> Ensuring a clean water supply through the protection of our water catchments is the responsibility of every South Australian.

She said that the committee would address water monitoring issues across the entire state. Minister Kotz also said at the time that the committee would address the need for 'an increased and integrated approach to water monitoring and catchment surveillance so that we have a better understanding of the activities which are impacting on our waterways'.

In view of this commitment and given the toxic water crisis that occurred on Yorke Peninsula recently, will the minister provide details on the levels of monitoring and surveillance that have occurred on Yorke Peninsula in the past two years, where it has occurred and the result of that monitoring and surveillance? Will the minister also provide details of what communications the committee has had with him or the previous environment minister in relation to maintenance and operational practices of SA Water over the past few years?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the minister and bring back a reply.

ADELAIDE CASINO

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question in relation to the Adelaide Casino.

Leave granted.

The Hon. NICK XENOPHON: On Monday 24 April, the ABC's *Four Corners* program broadcast a story on the gambling industry. It revealed how a Sydney gambler, Duong Van Ia, known to casinos as Van Duong, was the subject of extensive player inducements by the Sydney Harbour Casino, later Star City, to encourage him to gamble at the Sydney Casino. *Four Corners* reported that Van Duong was suspected at the time of being responsible for a large proportion of heroin being sold in the Cabramatta area and he was subsequently convicted and imprisoned for his role in the trafficking of heroin.

It was reported by *Four Corners* that, over six months in 1996, Van Duong's total turnover was $94 million at the Sydney Casino, and Detective Senior Constable Nick Bingham told *Four Corners* that Van Duong was gambling an awful lot through the Sydney Harbour Casino and other casinos around the country. In September 1997, Van Duong was banned from the casino by order of the New South Wales Police Commissioner Peter Ryan, and *Four Corners* reported that he continued to play Jupiters Casino on the Gold Coast and Crown Casino in Melbourne subsequent to that ban. *Four Corners* also reported on the issue of money laundering through casinos generally and referred to federal law that required casinos to automatically report large transactions to AUSTRAC (Australian Transaction, Reports and Analysis Centre). They are also required to report any suspect transactions separately. My questions to the Treasurer are:

1. Were any inducements offered by the Adelaide Casino at any time to Mr Van Duong, referred to in the *Four Corners* article, to gamble at the Adelaide Casino including from the time he was banned from the Sydney Casino in September 1997?

2. What protocol and procedures has the Adelaide Casino had to report any suspect transactions and how many have been reported to AUSTRAC and any other regulatory authority in South Australia or to the police by the Adelaide Casino?

3. What system is in place for the Adelaide Casino and regulatory authorities to receive and exchange information with the casinos and regulatory authorities elsewhere in Australia on suspect, high-level gamblers and money-laundering operations, and, in particular, was the Adelaide Casino or South Australian authorities advised of the ban implemented on Mr Van Duong by the New South Wales Police Commissioner?

4. What procedures does the Adelaide Casino and regulatory authorities have to ensure that the potential for money laundering at the Casino, particularly through drug dealing, is minimised?

The Hon. R.I. LUCAS (Treasurer): I will need to take some advice on a number of those questions and bring back a reply, but it is fair to say that the restrictions and guidelines that pertain to the operation of the Adelaide Casino are very stringent. With the Gaming Supervisory Authority and its staff, who pore over the operations of the Casino on a daily basis, the community should be assured that very strict controls are placed over the operations of our Casino here in South Australia.

I am aware that information is shared between various jurisdictions, but I will need to get the precise details as to exactly how that operates. Whether all that should be placed on the public record is something that I need to take some advice on. It may well be that I am prepared to speak to the Hon. Mr Xenophon on some aspects because, from a security viewpoint, it may not be appropriate. I do not prejudge this issue, but it might not be appropriate for security reasons that everything be placed on the public record in terms of how the various jurisdictions implement all those procedures.

I will need to take advice on the matter of the big gamblers. In relation to what was called the 'overseas junket market', many years ago the Casino was a participant in attracting wealthy overseas gamblers to South Australia. However, there was a conscious decision taken in South Australia to get out of that market, and it was left to the big casinos in Melbourne and Sydney to take on and attract the big punters, because it is a big business.

These big gamblers are attracted by very significant inducements to gamble in particular casinos around the world. We are not just talking about gambling in Australian casinos; they choose particular countries, and casinos within those countries compete amongst themselves to get these big punters (or gamblers) to come to their casino—obviously, from the casino's viewpoint, hoping the big punters lose considerable sums of money. So, there was a conscious decision by the South Australian Casino to get out of the overseas junket market.

I do not know the details of this individual, but from the information provided by the honourable member it sounded like he has been in Australia for a while, and therefore I would need to check the arrangements for people who are either Australian citizens or long-term Australian residents. I would be surprised if I did not come back and say that very little is done by our Casino, if anything at all, in relation to that area, but I think, wisely, that I should take advice from it. In the past the extent of my briefing has related to attracting these sorts of overseas gamblers into the Adelaide Casino, and I can speak with more authority on that grouping. I will seek information and bring back a reply.

In reply to **Hon. NICK XENOPHON** (28 September 1999).

The Hon. R.I. LUCAS: The Casino Act provides that before a Casino Licence can be issued the Minister must have entered into an Approved Licensing Agreement with a prospective licensee. As specified in the Casino Act, the agreement is about:

(a) the operation of the casino; and
(b) the term of the licence; and
(c) the conditions of the licence; and
(d) the performance of the licensee's responsibilities under the licence or the Act.

The agreement may also deal with other subjects relevant to the casino.

An Approved Licensing Agreement has been in operation between the Government and Adelaide Casino Pty Ltd since it was granted the Casino licence on November 25 1999. It is a requirement of the Casino Act that this agreement be tabled in Parliament. The content of the Agreement establishes a regulatory environment on terms and conditions that closely match those in place prior to the issuing of the licence.

A range of social issues are already set out in the Casino Act 1997. Given that broad social issues are typically conscience votes of Parliament it is appropriate that these issues are dealt with through Parliamentary consideration of legislation brought before it, not through the approved licensing agreement.

Provisions of the approved licensing agreement cannot fetter the discretion of Parliament.

In relation to commercial terms it is typical that commercial terms regarding the gambling environment be provided when issuing a Casino licence. These are important so as to maximise the return from the sale of the Casino. It is of course difficult to foresee the full range of options that Parliament may consider during the Term of the Agreement but I can confirm that the Approved Licensing Agreement in place between the Government and Adelaide Casino Pty Ltd does not contain commercial terms that would act to restrict or create a disincentive for the types of proposals currently being considered.

PARTNERSHIPS 21

In reply to **Hon M.J. ELLIOTT** (19 October 1999) and answered by letter on 28 January 2000.

The Hon. R.I. LUCAS: The Minister for Education, Children's Services and Training has provided the following information:

1. School Councils of Partnerships 21 sites must abide by the conditions set out in the Services Agreements. This agreement formalises the acceptance of sites and the Department of Education, Training and Employment of their mutual obligations in relation to the local management of sites.

The rights of students, including students with special needs, are protected under the Services Agreement of their school or preschool.

Under the Services Agreement, schools identify students whose education and other special needs require specific intervention, allocate resources to support these intervention strategies, and report on the effectiveness of the strategies.

Schools will also develop and implement their own performance measures to identify their effectiveness and improvement in the achievement of students, with specific reference to targeted groups.

All state government schools will be required to analyse and report student achievement data and other performance measures in relation to the Curriculum Standards and Accountability Framework and agreed benchmarks.

2. The right of access to the school's decision-making processes by parents of students of the school, continues to be protected under the Services Agreement.

Each Partnerships 21 school will develop and periodically review a Code of Practice for its governing council to make explicit the school's processes for community partnership building and democratic decision making to ensure that the learning needs of all students are addressed.

Where a parent continues to have concerns about their child's educational needs, they can access the school's grievance procedure

policy. Should a resolution not be found at the local level, the parent would be able to take their grievance to the district superintendent of the school.

POKER MACHINES

In reply to **Hon. NICK XENOPHON** (20 October 1999).

The Hon. R.I. LUCAS: I provide the following information in response to the honourable member's questions relating to a poker machine promotion at the Frost Bites venue in the City of Adelaide.

1. Inquiries by the Liquor and Gaming Commissioner indicate that the venue's actions could potentially have resulted in a breach of the following:

· Fair Trading Act 1987—requirements relating to misleading or deceptive conduct or the intentional non-supply of prizes on offer.

Section 56 (1) Misleading or deceptive conduct

'A person shall not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.'

Advice received from the Office of Consumer and Business Affairs indicates that contravention of Section 56 is not an offence under the act but is actionable as a civil matter by the consumer.

Their advice in relation to this section indicates the aggrieved patrons may have been 'led into error' by the advertisement and therefore grounds may exist for the recovery of expenses incurred by patrons in pursuit of the advertised benefit via civil means.

Section 62 Offering gifts and prizes

'A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, offer gifts, prizes or other free items with the intention of not providing them, or of not providing them as offered.'

Advice received indicates that under the circumstances the 'intent' not to provide gifts or prizes may be difficult to prove given the promotion was still being operated, albeit on conditional grounds. The Office of Consumer and Business Affairs has indicated that insufficient grounds exist to proceed with a prosecution under this section at present.

Part 9—Definition of the coupon scheme as a 'third-party trading scheme'

'Third party trading scheme' means a scheme or arrangement under which the acquisition of goods or services by a consumer from a supplier is a condition, or one of a number of conditions, compliance with which gives rise, or apparently gives rise, to an entitlement to a benefit from a third party in the form of goods or services or some discount, concession or advantage in connection with the acquisition of goods or services.

There is no longer any outright prohibition on third party trading schemes (commonly known as reward or loyalty schemes) although the Minister for Consumer Affairs may prohibit same if they are not genuine and reasonable or if contrary to the interests of consumers.

· Lottery and Gaming Act 1936—requirements relating to the licensing and conduct of Trade Promotions.

The Lottery and Gaming Act 1936 requires that trade promotion lotteries with total prize values exceeding $500 can only be conducted upon the issuing of an appropriate licence.

I am advised that the trade promotion was licensed to operate between 24 February 1999 and 30 March 1999 with a prize draw at the end of this period. There appears to be no obvious breach in relation to the conduct of this licensed lottery.

· The South Australian Hotel & Club Industry's Voluntary Code of Practice—requirements relating to the advertising and promotion of gaming activities.

The Voluntary Code of Practice both outlines and defines various practices that are considered to be either acceptable or inappropriate. A review process is available to assess those forms of advertising considered to be inappropriate. Section 3 of the Code provides:

(a) Advertisements and promotions must comply with the laws of South Australia.

(b) Advertising and promotions should focus on the *entertainment* value and not be false, misleading or deceptive, particularly with regard to winning.

(c) Advertisements and promotions should reflect prevailing community standards.

(d) The advertising and promotion of gaming machines should not be associated with excessive consumption of alcohol.

(e) The advertising and promotion of gaming machines should not be undertaken in a way that encourages minors to play.

(f) Prizes won must be genuine and unencumbered.'

I am advised that on the information provided to the Liquor and Gaming Commissioner, the promotion does not appear to breach the Code.

2. See answer to question 1.

3. Section 1.5 of the Code provides that:

(a) The handling of complaints related to the Code is not intended to replace any policies or procedures that may exist as part of Legislation or the Liquor and Gaming Commissioner's direction.

(b) The timely and effective resolution of complaints is a major objective of this code.

In the event that a patron has a complaint relating to a particular advertisement or promotion undertaken by an individual Hotel or Club the following procedure is recommended:

(c) Any complaints in relation to this Code which cannot be resolved between the patron and venue management, should be referred to the Australian Hotels Association (SA) or the Licensed Clubs Association for conciliation.

(d) Any complaints in relation to this Code which cannot be resolved by conciliation with the Australian Hotels Association (SA) or the Licensed Clubs Association should be referred to the Office of the Liquor and Gaming Commissioner.

Hotel and Club licensees will ensure that they:

(i) Support the Advertising and Promotion Voluntary Code of Practice in respect to the handling of complaints, and fully co-operate with the relevant parties in any complaint resolution process;

(ii) Maintain adequate procedures for receiving and responding to both verbal and written complaints, and

(iii) Respond promptly to all complaints and make every reasonable effort to resolve them.'

In addition, the appropriateness of the promotion can be reviewed by the committee administering the Voluntary Code of Practice.

4. The Code was launched on 24 June 1998 and received significant publicity at that time. The Code, modelled on the Victorian Code of Practice for Responsible Gaming was provided to all members of the Australian Hotels Association (SA) and the Licensed Clubs Association of South Australia.

I am advised that the Advisory Committee established under the Code has met on two occasions. The first meeting dealt with a gaming advertising proposal by a hotel gaming group and the second dealt with a concern that a gaming advertisement emphasised the music of a gaming machine following a win.

In respect of the first matter, the committee considered the proposed advertising material was within the guidelines set down in the Code. In respect of the second matter, the committee considered the advertisement was within the guidelines having regard to the requirement that 'Advertising and promotions should focus on the entertainment value and not be false, misleading or deceptive, particularly with regard to winning'.

MAITLAND AREA SCHOOL

In reply to **Hon. T.G. ROBERTS** (21 October 1999) and answered by letter on 28 January 2000.

The Hon. R.I. LUCAS: The Minister for Education and Children's Services has provided the following information:

1. A review was conducted in term 2, 1999 in response to concerns raised by the Goreta Aboriginal Council relating to the achievement of Aboriginal students at the Maitland Area School. The final report was presented to the Minister in term 3, 1999.

It was the view of the review team that a new model of educational leadership is required in the Maitland area to give expression to the recommendations and optimise the chance of them being successfully implemented.

Consequently, the review team proposed a model of Cooperative Leadership with the principal, Point Pearce Aboriginal School and the Principal, Maitland Area School holding a joint, cooperative, common responsibility for the realisation of successful educational outcomes for all Aboriginal students of the Maitland area. The model proposed that both principals would work from Maitland Area

School and be responsible to and report to the district superintendent, who would meet with them regularly to discuss ongoing implementation of the recommendations.

Following consideration of the model, the principal and school council chair of the Maitland Area School have had extensive discussions with the executive Director, Country Schools & Children's Services and the district superintendent.

The proposed outcome is that a Community Education and Development Officer will be appointed to work in the Maitland Area. This officer will work directly with the Maitland Area School and the Point Pearce Aboriginal School, along with other groups and organisations as appropriate. The key focus of this role will be to facilitate development of and access to education, support services and training for Aboriginal students and their families.

Whilst it is acknowledged that significant work has been done within the Maitland Area School, it is essential that a person is available who is external to the school environment, and who can work closely with the schools, other groups and organisations in the Maitland Area to facilitate the achievement of Aboriginal students.

The position will be based in Maitland and line managed by the District Superintendent. This approach has the strong support of the Superintendent for Aboriginal Education.

2. In addition to the resources allocated for the measure above, a small but representative group of key stakeholders will need to be formed to assist and support the officer.

Support for the Principal and teachers in addressing the needs of Aboriginal students is also available from support staff based in the Yorke District Office, members of the Learning Difficulties Support Team, members of the North Group of Districts Aboriginal Education Team, and staff based at the Aboriginal Education Team at Enfield.

EMERGENCY SERVICES LEVY

In reply to **Hon. CAROLYN PICKLES** (26 October 1999).

The Hon. R.I. LUCAS: The Minister for Police, Correctional Services and Emergency Services has provided the following information:

The method by which interest is payable on late payments of the Emergency Services Levy is laid out in the Emergency Services Funding Regulations 1999. Regulation 4 of those regulations states that interest accrues on an unpaid levy on a daily basis from the date stated for payment of the levy in the Notice under s16 of the Act.

The rate of interest is 12.8 per cent per annum, ie this amount is incremental over a twelve month period, compounding every six months. Any late notices issued would include the interest due, but only where this exceeds $20.

The interest rate was established to align wherever possible with the existing practices of RevenueSA under the *Taxation Administration Act 1996*. This approach was taken given that RevenueSA is the nominated collecting agent for the levy on fixed property. There is also a need to follow practices already well known to many in the community and to minimise the additional administrative costs associated with the levy.

EMPLOYMENT

In reply to **Hon. A.J. REDFORD** (11 November 1999).

The Hon. R.I. LUCAS: The Minister for Employment and Training has provided the following information in response to the questions asked of the Minister for Transport and Urban Planning in my absence:

Results from the *Morgan and Banks Job Index Survey* for the November 1999 to January 2000 quarter showed that employers in South Australia were experiencing buoyant conditions. In South Australia, 32.8 per cent of employers were planning to take on extra permanent staff over the next three months and only 8.9 per cent were planning to downsize their workforce—resulting in a 'net effect' of 23.9 per cent. This represented the second highest level of job optimism recorded for South Australia since the Index was first released in 1995.

According to the survey, South Australian industries showing the strongest levels of optimism included the Legal, Retail, Information Technology, Services and Construction/Property sectors. The Legal sector was the most optimistic sector in South Australia this quarter, recording a net effect of +48.6 per cent; followed by Retail (+38.9 per cent).

Employers in South Australia also expressed a healthy level of optimism for growth in contract/temporary opportunities over the next three months, mainly due to high levels of optimism within medium and large enterprises.

The results from the *Morgan and Banks Job Index Survey* were broadly in line with other recently released leading indicators of labour market activity. Both the Commonwealth Department of Employment, Workplace Relations and Small Business (DEWRSB) *Skilled Vacancy Survey Index* and the ANZ Bank *Job Advertisements Series* point to sustained employment growth over coming months both nationally and in South Australia.

South Australia's seasonally adjusted unemployment rate rose from 8.2 per cent in September to 8.8 per cent in October 1999. The rise in the unemployment rate estimate in October was the result of two key influences: the total number of jobs available fell (in seasonally adjusted terms) by 1 700 (0.3 per cent). At the same time, the total number of people seeking work increased—this was reflected in a rise in the seasonally adjusted labour force participation rate over the month from 60.5 per cent of the working age population to 60.7 per cent. This meant that the total 'workforce' in South Australia (those working or actively seeking work) expanded by 2 500.

Seasonally adjusted labour force figures, which are derived from a household survey conducted by the Australian Bureau of Statistics (ABS) each month, are notoriously volatile on a month to month basis. Trend figures, which more accurately reflect underlying conditions in the labour market, show that South Australia's unemployment rate rose only marginally in October (from 8.4 to 8.5 per cent); and had fallen from 9.7 per cent one year ago. Trend total employment in South Australia had been rising for sixteen consecutive months, and was then at the highest level on record.

The issue of a job bank was raised by the Hon. T. Crothers during the discussions in Parliament last year regarding the ETSA sale. While there is merit in the concept of establishing a job bank, whereby a proportion of the monies raised through the ETSA lease deal would be channelled into job creation initiatives, the Labor Party opposed Mr Crothers' amendment. The potential merit of this proposal was therefore never able to be tested.

PROBITY AUDITOR

In reply to **Hon. P. HOLLOWAY** (16 November 1999).

The Hon. R.I. LUCAS:

1. Fisher Jeffries were paid $63 929.25 in respect of probity auditing services that were provided with regard to the Electricity Reform Sales Unit activities from July 1998. It is pointed out that virtually all of this expenditure is in fact attributable to the Pelican Point project and the Inter Regional Settlement Residue (IRSR) project rather than the current asset lease process. Legislation authorising the lease was passed on 12 June 1999 and Fisher Jeffries advised a potential conflict a mere 10 days later and withdrew from any further involvement.

2. These costs were set at below normal commercial rates as a result of a competitive tendering process.

3. I do not propose to provide the number of hours involved as this, in conjunction with the answer provided to question 1, implicitly yields the commercially confidential hourly rate that was tendered by Fisher Jeffries.

4. The probity auditor was not contractually obliged to pay for the cost of a replacement probity auditor and therefore there was no question of holding him to any contractual obligation. It was agreed by Government that the probity auditor would depart the role because of a potential conflict of interest.

In reply to **Hon. CARMEL ZOLLO** (16 November 1999).

The Hon. R.I. LUCAS: The legal advice that was referred to in my comment was verbal advice provided to my representative overseeing the probity auditing arrangements in the course of discussing with the Crown Solicitor's Office the Auditor-General's allegations that the probity auditor's role was unduly restricted.

The Auditor-General's Director of Audits, Mr Alan Norris, was provided with the details of the advice and the names of the legal officers involved some days prior to my formal letter of response on 27 October 1999, so that the Auditor-General had access to the advice and these officers well before the stated final date of preparation of his report on 26 October.

This situation is quite clearly corroborated by my letter of 27 October 1999 to the Auditor-General and I quote from that letter as follows:

'You had previously raised concerns directly with me regarding what you perceived as restrictions on the scope of the probity

auditor's role and resources applied to the role. I promptly referred these concerns for further consideration to Dr Bernie Lindner as my representative for the purposes of administering the probity audit arrangements and the comments I made derived from his report of discussions he had with legal officers in the Attorney-General's department. Mr Norris has requested and been given details of the officers involved.'

AUDITOR-GENERAL'S REPORT

In reply to **Hon. R.R. ROBERTS** (17 November 1999).

The Hon. R.I. LUCAS:

1. The full amount of $20 900 was paid to the plaintiff on behalf of myself. Following this payment the action against both Mr Ingerson and myself was discontinued.

2. The total fees paid by the South Australian Government Captive Insurance Corporation (SAICORP) in respect of this matter were:

- $20 000 as claimed by the Plaintiff;
- $900 for the Plaintiff's costs;
- $1 476 for legal fees incurred on behalf of myself; and
- No Fringe Benefits Tax was paid by SAICORP.

EDUCATION, CIVICS

In reply to **Hon. M.J. ELLIOTT** (17 November 1999).

The Hon. R.I. LUCAS: The Minister for Eduction and Children's Services has provided the following information:

1. Civics and citizenship education is currently addressed within the existing Studies of Society and Environment curriculum.

All schools have the national 'Discovering Democracy' primary and secondary kits, CD ROMs, videos and other publications including activities for teachers and students from Years 4 to 10.

An extensive teacher professional development program currently exists which involves teacher civics and citizenship education networks, forums, seminars, contacts and consultants.

The Centenary of Federation will provide further opportunities for students to study civics and citizenship. For example, regional and state student forums and the Constitutional Centenary Foundation conventions provide for student discussions on civic and constitutional issues, with themes including 'The School as a Civil Society' and 'Aboriginal Reconciliation and the Australian Constitution'.

2. The Australian Constitution features in the Studies of Society and Environment curriculum and the upper primary to middle secondary units of work in 'The Australian Nation' section of the 'Discovering Democracy' kits.

Civics and citizenship education will form a compulsory part of the South Australian Curriculum, Standards and Accountability framework, which is currently being written.

SPORTS DRUG TESTING BILL

Second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this bill be now read a second time.

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

Leave granted.

Australia has a proud sporting tradition and our sporting achievements have long been considered a source of national pride. 'Fair play' has been a cornerstone of our nation's ethos. For over a century Australia has produced athletes of international quality. We are one of the few nations to have representatives at each of the modern Olympic Games.

Australia has had many outstanding sporting champions who act as role models and inspire the general population and specifically our young athletes. It is indeed fortunate that the youth of Australia can look at these champions and know that the vast majority of successes have been achieved without the use of performance enhancing drugs. In recent times fair competition has been maintained due to the diligence of such agencies as the Australian Sports Drug Agency (ASDA). ASDA is the key agency within Australia for developing drugs in sport education programs and sampling and testing programs among athletes. Australia's reputation internationally is as one of the 'world leaders' in the fight against drugs in sport.

A variety of chemical substances such as stimulants, anabolic steroids, diuretics, narcotic analgesics, peptide hormones and analogues, and doping methods such as blood doping, pharmacological, chemical and physical manipulations, are banned for health, ethical and legal reasons. Many drugs, especially if they are not used properly, can have serious effects on an athlete's health. Stimulants can cause elevated blood pressure and body temperature; steroids may result in acne, liver damage and behavioural changes; analgesics mask pain which may lead to an injury becoming worse, with other effects being poor coordination and nausea; peptide hormones can cause diabetes; blood doping side effects include blood clots, stroke and infections from sharing needles.

The majority of high performance athletes have a very clear but simple attitude when it comes to the use of banned performance enhancing substances and doping methods. It is cheating! Cheating in any form is 'un-Australian' and works to undermine the pursuit of excellence by athletes and devalues sport within general society. Doping is therefore not tolerated in sport and all attempts to eradicate its use are welcomed by all who value sport.

Under the Commonwealth legislation, ASDA, generally speaking, has the power only to test those competitors who are at the level of international competition. Unless a competitor in this state falls within the definition of 'competitor' in the Commonwealth Act, ASDA cannot test such a person, even though the person is at the top state level for competing in national sporting competitions. It is obviously desirable that all competitors who represent or have been chosen to represent South Australia at the most senior level, whether as individuals or members of a team, should be liable to testing, and this Bill seeks to confer power on ASDA to do so. It is important to note that testing may occur during a competition or 'out of competition'. It is widely accepted that testing 'out of competition', with no prior notification, is the most effective method from both a detection and a deterrent perspective.

The Office for Recreation and Sport has consulted widely with state sporting associations to determine the appropriate testing pool—those state athletes that ASDA will be able to test. As a result the following is proposed as the testing pool:

- Individuals, or members of a team, who represent (or have been selected to represent) South Australia, or a particular sport in senior open events (ie, national sporting competitions at the top level for the particular sport that are open to all ages).
- Members of state training squads from which persons will be chosen for senior open events.
- Persons who are on a scholarship with the South Australian Sports Institute, or who receive assistance (financial or use of facilities) from the Institute.

Australia has a reputation for being a sporting nation that strongly opposes the use of drugs to enhance performance. If Australia is to protect and enhance this reputation, the state, territory and commonwealth governments will need to work in partnership with sport to strengthen anti-doping activities that influence current and future generations of high performance athletes. The involvement of sport and governments at the state, territory and commonwealth levels provides an opportunity for a truly national approach to achieve drug-free sport.

A working party made up of representatives from each state and territory, the Australian Sports Commission and the Australian Sports Drug Agency was established to develop the National Drugs in Sport Framework. This working party chaired by the Australian Drug Agency, consulted widely with national, state and territory sporting organisations about what a national approach should seek to achieve and how it should be implemented.

The following are a summary of key strategies, which will contribute to achieving the framework goals:

- Develop drugs in sport policies in the government and sports sectors.
- Initiate drugs in sport education programs which aim to increase the skills and knowledge of athletes, coaches, administrators, medical practitioners and others who may influence athletes.
- Enact complementary legislation to enable the implementation of effective event and out of competition drug testing programs at the National, state and territory levels.

Before proposing this legislation, it was imperative that a state government policy that represented the views of the South Australian sporting community was developed.

As a result of broad consultation, such a policy on drugs in sport has been developed.

Drugs in sport education assists in helping athletes avoid inadvertent doping, reducing the concerns of athletes, coaches and administrators regarding the drugs in sport issue, and deterring athletes from using banned substances.

Over the past three years, the Office for Recreation and Sport has provided support and assistance to enable Sports Medicine Australia (SA Branch) to operate the Drugs in Sport Project. The project works to ensure that drugs in sport education is accessible to the South Australian sporting community. This program also offers state sporting organisations support and assistance in understanding policy issues.

With the education and policy aspects in place, this Bill will effectively achieve the final key strategy of the Framework in relation to state based drug testing.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause requires the Act to be brought into operation by proclamation.

Clause 3: Interpretation

This clause provides some necessary definitions. The expression 'Commonwealth Act' means the Commonwealth Act and regulations and orders under the Act, as in force from time to time. The definition of 'drug testing scheme' makes it clear that such a scheme under the Commonwealth Act may be modified by regulations made under this Act. The definition of 'senior open sporting event' is relevant to the definition of 'State competitor' which is set out in clause 4.

Clause 4: State competitors

This clause defines a state competitor. A person is a state competitor if he or she represents, or is to represent, a particular sport, or this state, in senior open national competitions. A person is a state competitor if he or she is a member of a state squad from which individual competitors or team members are selected to compete in open national sporting events at the top level. A South Australian Sports Institute scholarship holder is also a state competitor, as is a person who has been suspended from competition as a result of having had his or her name entered on the Register in consequence of this Act.

Clause 5: Functions and powers of the Agency

This clause sets out the functions of ASDA under this Act. Those functions are generally to educate the sporting community about the liability of state competitors to be tested for drugs and the consequences of testing positive, and to collect and test samples from state competitors in accordance with any relevant drug testing scheme. ASDA may do anything that is necessary, convenient or incidental to performing its functions. (It should be noted that, under section 9A of the Commonwealth Act, ASDA cannot perform functions or exercise powers that have been conferred by a State Act unless the relevant Commonwealth Minister has given ASDA written approval to do so).

Clause 6: Agency may request samples

This clause gives ASDA the power to request a state competitor to provide a sample and to make other ancillary requests of the competitor or of relevant sporting organisations. The power set out in this clause must be exercised in accordance with the relevant drug testing scheme. Subclause (3) sets out the circumstances in which a competitor will be taken to have failed to comply with a request for a sample.

Clause 7: Obtaining samples from competitors under the age of 18 years

This clause requires parental consent before a sample can be obtained by the Agency from a state competitor who is under 18 years of age. Such consent may be given generally or in relation to a particular request for a sample.

Clause 8: Entry of information on Register

Clause 9: Notification of entry on Register

These clauses require ASDA to enter a state competitor's name on the relevant Register maintained by the Agency if the competitor fails to comply with a request for a sample, or a sample tests positive. If a name is entered on a Register, the competitor and each relevant sporting organisation must be notified in writing. The competitor must be informed of his or her right to have ASDA's decision reviewed.

Clause 10: Review by the Administrative Appeals Tribunal of Agency's decisions

This clause gives a state competitor a right of review if his or her name has been entered on a Register. The Commonwealth Administrative Appeals Tribunal is the review body.

Clause 11: Removal of entries from Register

This clause requires ASDA to remove a state competitor's name from a Register if the competitor is successful on a review. All relevant persons or bodies must be notified of the removal.

Clause 12: Additional requirements as to notification

This clause sets out various additional requirements for the giving of notice by the Agency when it adds or deletes a state competitor's name on or from the Register. The Minister must be notified if an S.A. Sports Institute scholarship holder's name is entered or removed. The Agency must also comply with a request from the Minister for information about the entry or removal of a state competitor's name on or from the Register. A sporting organisation that has been notified by the Agency of the entry of a state competitor's name on the Register must advise the Minister of the action it has taken, or proposes to take, as a result of that entry.

Clause 13: Giving of notices

This clause provides that notices given under this Act must be given in the manner set out in the Commonwealth Act

Clause 14: Drug testing schemes to be laid before Parliament

This clause requires the Minister who has the responsibility for this Act to cause drug testing schemes and amendments to such schemes to be laid before Parliament. Any such scheme that had been promulgated before this Act comes into operation must also be so tabled.

Clause 15: Regulations

This clause gives the Governor power to make regulations for the purposes of this Act.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

FIRST HOME OWNER GRANT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 823.)

The Hon. P. HOLLOWAY: The opposition supports this bill, which seeks to offset the effects of the goods and services tax on first home buyers. It will operate from 1 July this year and will entitle eligible applicants to a one-off assisted payment of $7 000. It should be noted that this grant of $7 000 applies regardless of the value of the home or of the location anywhere in Australia: the grant is based on a calculation of a house and land package of approximately $150 000, so it is a one-off, catch-all scheme for first home buyers to compensate for the impact of the GST.

We are told that the value of this bill to South Australians in the year 2000-2001 will be about $63 million. Under the bill, neither spouse nor partner can have held an interest in a residence prior to making such an application. We understand that the scheme will be administered by Revenue South Australia and that financial institutions will assist in its administration. In other words, when people who might be eligible for the scheme apply through their bank, their bank will assist in the application paperwork and the payment will ultimately be made by Revenue SA.

The opposition supports this bill but it is important to note that, whilst this scheme does assist first home buyers to offset the significantly negative impact that would otherwise apply from the GST, it does not provide them with any net positive benefit, particularly if their house and land package is above the amount of $150 000 on which this is calculated. Unfortunately, in many parts of Australia today, that will be the case.

In summary, it is simply a measure to offset any negative impact from the GST. During the debate in the other place my colleague the member for Elder stated that the experience in New Zealand, when its goods and services tax was first introduced, was that there was a dramatic slump in the

housing industry after an initial rush of approvals prior to the GST being introduced. We have already seen evidence of part of that within Australia, where there has been a very rapid increase in housing activity over the past six months or so.

The fear of many economic commentators is that after 1 July, when the GST is added to the cost of new home buildings, there will be a slump in the building industry. I noted in some financial journals over the weekend that one of those groups that makes economic predictions was suggesting that, from its evidence, that is exactly what will occur after 1 July. It is rather unfortunate that the GST will have that effect.

We have already seen from an article in the *Advertiser* just a few weeks ago that it was predicted that this state is now getting a windfall of stamp duty, which will be very helpful to the state budget in this financial year. The problem is that, if the other prediction comes true (that there will be a slump in building activity after the GST takes effect from 1 July), there will correspondingly be a fall in stamp duty receipts in the next financial year.

When the budget comes down in a few weeks, we will look with great interest at what sorts of projections the government makes for stamp duty resulting from housing activity in the coming year. However, those matters are essentially beyond the control of the state government. The Labor Party's position on the GST is well known but, given that we now have no opportunity to prevent the GST from taking effect, all we can do is look at such measures as the government has put forward to try to mitigate the impact on the community.

Given that this bill will provide this across-the-board grant to some home buyers, the opposition will support it. However, I would like to record one concern in relation to this. When this bill was debated in the other place the minister representing the Treasurer indicated that this scheme will have a cost that I think was estimated at $650 000 to implement, that is, for Revenue SA to pay these grants, and that the ongoing cost was $310 000.

Within the commonwealth measures for this bill I understand that there is no compensation for the states in relation to the administration of the scheme, so it is another of these pea and thimble tricks that we have seen from the federal government, where it has said that if the GST gets through there will be all these benefits for the states but, increasingly, over the past 12 months we have seen how many of those benefits have started to disappear. The administration cost of this measure, as welcome as it might be, is just another case where the states will be out of pocket.

I will not make further comment on the matter at this stage. I note from the notice paper that we have another bill coming up that will give me a much greater opportunity to comment on the goods and services tax and how it impacts on the states, but in relation to this measure, which seeks to assist first home owners, the opposition will be offering its support.

The Hon. L.H. DAVIS secured the adjournment of the debate.

CHILDREN'S PROTECTION (MANDATORY REPORTING AND RECIPROCAL ARRANGEMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 836.)

The Hon. CARMEL ZOLLO: The opposition supports this bill. My colleague in the other place, the member for Elizabeth, commenced her contribution to this debate by saying that there is no greater responsibility for a civilised society than to ensure the protection of its children, a sentiment with which I am sure we all wholeheartedly agree. I understand that this bill makes two distinct amendments to improve the community protection of our children, the first of which is to reinstate pharmacists on the list of mandated notifiers under the Children's Protection Act 1993.

We would all agree that pharmacists are in a good position to spot the first signs of child abuse, with people purchasing medications to hide its signs and symptoms. The bill also implements national agreements for the efficient transfer of child protection orders and proceedings for children who cross borders between the states, the territories and New Zealand. I do appreciate that without this facilitation considerable difficulties have been experienced in the past in the transfer of child protection orders across jurisdictions due to differences in state, territory and New Zealand child welfare legislation and procedures. Two good examples which were given involved cases where a child could not remain with foster parents relocating to another state or appropriately placing a child with family members living interstate. The transfer of care and protection proceedings between jurisdictions is even more difficult and extremely frustrating when parents take the action of removing themselves and their children interstate.

I am pleased that in 1999 the community services ministers across Australia and New Zealand established a protocol for the transfer of child protection orders and proceedings and agreed to introduce legislation such as that being debated to ensure the appropriate protection and support of children who are moved across borders. I note that my colleague the member for Elizabeth raised several other matters that are of concern to the opposition. These matters, which have been raised previously, particularly during estimates committees, relate to resources.

The report on government services 1999 by the Australian Productivity Commission highlighted the increased number of child protection notifications in South Australia during 1997-98—an increase of some 15.4 per cent; of greater concern was the notification numbers for indigenous children—81.5 per 1 000. The minister's response during the committee stage in the other place indicated his belief that the increase was a result of better reporting methods with not all reported cases requiring follow up, and that the quality and effectiveness of the service provided by government agencies has been improved. I am equally certain that the minister would understand that we all do not share his confidence that we have the best resourced system in place to deal with child abuse.

I recently made representation to the Attorney in relation to a report 'A cost benefit analysis of child sex offender treatment programs for male offenders in correctional services'. The report received wide publicity, including publication by the Australian Institute of Criminology 'Trends and issues' in November 1999. The research was carried out by the child protection research group at the University of South Australia and the findings of the study reveal that in-prison intensive child sex offender treatment programs could result in substantial net economic benefits to the community. The acting Minister for Justice, the Hon. Rob Lucas, recognised in his response to me that the issue of sexual offender rehabilitation and other issues which the

report discusses, including the impact on child abuse, have wider reaching relevance.

I am pleased that the government committed itself to the establishment of a working group to investigate a range of issues relevant to the implementation of a prison-based child sex offender treatment program. Along with many other people, no doubt, I look forward to the group's recommendations. Nonetheless, I recognise that this bill is dealing with only two specific amendments in relation to child protection legislation and, as indicated, the opposition supports this amendment bill, which will assist in providing further protection to our children.

The Hon. L.H. DAVIS secured the adjournment of the debate.

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

In Committee.

Clauses 1 to 3 passed.

New clause 3A.

The Hon. IAN GILFILLAN: I move:

Page 1, after clause 3—Insert the following clause:

Amendment of s.22A—Authority may initiate investigation

3A. Section 22A of the principal Act is amended by striking out subsection (5).

I move this new clause which is, in intent, to enable the Police Complaints Authority to continue an investigation that has been raised on his or her own initiative. Unless my amendment is supported, the Police Complaints Authority can be prevented from pursuing that investigation by either a determination from the Commissioner of Police or the minister. It appears to us to be crystal clear that, for the Police Complaints Authority to fulfil the obligation of the position, he or she should be able to continue to complete any investigation that they raise on their own initiative and, therefore, I urge support for my amendment.

The Hon. K.T. GRIFFIN: The government opposes the amendment. As the Hon. Ian Gilfillan has said, his amendment deals with the section of the act which is concerned with the right of the Police Complaints Authority to initiate its own investigation. That is the right that is set out in section 22A of the act. That was inserted in 1996. Where the Police Complaints Authority decides that it wants to initiate an investigation, it must notify the commissioner. The commissioner is free to disagree with the decision. If so, he must then notify the Police Complaints Authority in writing of the disagreement. If that happens, either the Police Complaints Authority and the commissioner must sort out the matter for themselves, or, if they cannot do that, the minister has to make a determination on the dispute between them.

The amendment proposed by the Hon. Mr Gilfillan removes subsection (5) of section 22A, which provides:

Where the authority is notified of disagreement by the commissioner under subsection (4)—

(a) the investigation into the matter is to cease unless or until the matter is resolved by agreement between the authority and the commissioner, or by determination of the minister, and

(b) the authority may, if he or she is unable to resolve the matter by consultation with the commissioner, refer it to the minister for determination.

If one were inclined to support the amendment, which we are not, it must be observed that the amendment is not satisfactory in any event. It leaves in place the power of the commissioner to disagree (that is under subsection (4)), but provides no way of resolving the disagreement. So, if one is to do anything to amend, one has to remove both subsections (4) and (5), unless you want to leave subsection (4) swinging where there is a disagreement, but I would not have thought that was particularly desirable. The government is not supporting the amendment in any event.

One has to recognise that, whilst it might seem somewhat curious that there should be agreement between the commissioner and the Police Complaints Authority, it has to be remembered that the act was and remains a series of political compromises which, to be quite frank, have made the act much more complex and unwieldy than it should be. Notwithstanding that, that is what politics is about, and we live with the fact that on many occasions we do have to make compromises. In this instance, the compromise which is reflected in section 22A is a compromise that the government sees no good reason to abandon and therefore does not support the amendment.

The Hon. CAROLYN PICKLES: The opposition does not support the amendment moved by the Hon. Mr Gilfillan. We are persuaded by the arguments of the Attorney.

The Hon. IAN GILFILLAN: I would like to indicate that, if I am unsuccessful on the voices, I will be seeking to divide on this. I believe it is a critical amendment. I take the point which I think is more semantic but constructive from the Attorney that maybe subsection (4) should be embraced as well as subsection (5). However, I do not consider that to be a major block. The commissioner is perfectly free to indicate his or her opinion to the PCA.

The real nub of the issue is whether that disagreement then prevents the investigation from proceeding. That is the critical point, and it is the critical point which I would urge all members of this chamber to consider quite profoundly. How much faith can a public have in the operation of an unfettered, transparent and independent Police Complaints Authority if those investigations, which he or she has decided should be followed through, can actually be cut off or stifled by the commissioner of the very force which is in fact being investigated, or the minister who may do so for all sorts of reasons—and we can refer to political reasons—but for whatever reason? This is a critical amendment and I am very sorry to hear, at least at this stage, that it does not appear that I have the numbers in the chamber. I believe it is a matter which should be persisted with and I urge the chamber to rethink.

The Hon. K.T. GRIFFIN: I think the public must be reassured that it can have and should have confidence in the Police Complaints Authority if there is a disagreement between the commissioner and the Police Complaints Authority. Ultimately, in the context of such disagreement, the minister makes a determination. The Police Complaints Authority, if unhappy with that determination, has the capacity to report publicly, and I would have thought that, recognising the independence of the Police Complaints Authority—that is, an independence from ministerial direction—if there is something about which the Police Complaints Authority is dissatisfied, that will soon be in the public arena. There are those pressures of public comment and public scrutiny which ultimately will be brought to bear on the decision which, in circumstances envisaged by section 22A, might be made.

I am not aware of any dispute having occurred since 1996 anyway, and nor am I aware that the minister has been involved in that sort of discussion between the Police

Complaints Authority and the commissioner. I reiterate: I believe that the public can have confidence in the Police Complaints Authority. I do not accept the fact that, if this amendment of the Hon. Mr Gilfillan is rejected by the committee, it will in some way demean the Police Complaints Authority or undermine its power and responsibility. In fact, it does not impinge upon that in any respect.

The committee divided on the new clause:

AYES (6)

Cameron, T. G.	Crothers, T.
Elliott, M.J.	Gilfillan, I. (teller)
Kanck, S.M.	Xenophon, N.

NOES (12)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Holloway, P.
Lawson, R. D.	Pickles, C.A.
Redford, A. J.	Roberts, R.R.
Schaefer, C. V.	Stefani, J. F.
Weatherill, G.	Zollo, C.

Majority of six for the Noes.

New clause thus negatived.

New clause 3A.

The Hon. CAROLYN PICKLES: I move:

Page 1, after line 18—Insert new clause as follows:

Amendment of s.18—Action on complaint being made to member of police force.

3A. Section 18 of the principal act is amended—

(a) by inserting in subsection (1) 'in writing' after 'is made';

(b) by inserting in subsection (2) 'in writing' after 'is made'.

The opposition, through my two colleagues in the other place—the member for Spence and the member for Elder—has had very lengthy discussions with the Police Association on this bill. In its submission to the opposition, the Police Association stated:

> During Justice Stevens' review of the act it was clear that there was some difficulty presented to police officers in determining what is, and what is not, a 'complaint' within the meaning of section 18 of the act. . . Justice Stevens pointed out . . . that, whereas the act provides that a complaint made to the authority must be in writing, the absence of a similar provision in respect of the commissioner leads to difficulties in deciding whether an oral criticism may amount to a complaint. Justice Stevens has pointed out that a number of police officers are unsure as to what does and does not constitute a complaint. There is quite some uncertainty among our membership as to what action should be taken by them where members of the public make remarks which are critical of other police officers.
>
> It is our view that it would be appropriate to amend the legislation so as to require a complaint to be given in writing. The Attorney-General has rejected this, stating that it was previously rejected in 1995 and that the experience in New South Wales in defining what is a 'complaint' leads to litigation. We are of the view that this is a somewhat simplistic view given that the inclusion of a provision for a complaint to be made in writing would lessen the amount of litigation on the issue of 'what is a complaint'. The main issue is to provide police officers with some certainty as to what their required actions are in the face of oral comments made by members of the public (quite often prisoners) which could be construed as criticisms of the actions of other police officers. The clarifying of this issue would be in accordance with the recommendations made by Justice Stevens.
>
> The Attorney-General's adviser has told him that this is not an issue; however we have information to hand which deals with officers being pursued in a disciplinary sense for failing to have taken action on 'complaints' which originated as oral criticisms of the actions of other police officers.

As I indicated earlier, my colleague in another place the shadow Attorney-General has had long discussions with the Police Association and is persuaded that it has a point. If I am not successful in this amendment I will not call for a division.

The Hon. K.T. GRIFFIN: The government opposes the amendment. As the Hon. Carolyn Pickles has said, the amendment seeks to amend section 18 of the act, which deals with the obligations of a police officer to whom a complaint is made. In general terms, section 18(1) provides officer must refer complaints to the appropriate authorities for investigation. Section 18(2) is similar in terms and performs an ancillary function to section 18(1). If enacted, the amendment has the effect that a police officer to whom a complaint is made has no obligation to report the complaint or take any action on it if it is not in writing. This amendment, therefore, is most strenuously opposed.

For a great many years, it has been a general principle in the field of the investigation of complaints against the police that such complaints should not have to be in writing. As long ago as 1975, the Australian Law Reform Commission stated (paragraph 89 of the first report):

> It seems important that obligation should attach to oral as well as written complaints. In the context of complaints made against members of the Australia Police a complaint will be any statement made by a person to a police officer or member of the Australian Public Service concerning the conduct of a police officer which either expressly or by implication asks for some redress or disciplinary action with respect to the conduct of the member of the Australia Police.

The commission subsequently reiterated that view in its ninth report in 1977. This is but a representation of the consensus that has been reached in Australia and overseas that complaints should not have to be reduced to writing.

As the honourable member said in her second reading contribution, it is true that Mrs Stevens, at page 36 of her report, recorded the apparent problems which are said to arise when a police officer is not sure whether or not a complaint has been made and is therefore unsure whether he or she is under an obligation pursuant to section 18. But it is also true that Mrs Stevens did not state that the section should be amended: she said that it may be that there should be clarification or guidelines. It is not true, as the Police Association has said in correspondence to the honourable member, that complaints to the PCA must be in writing. The relevant section is section 16(3) which provides:

> A complaint made to the authority must, if the authority so requires, be reduced to writing.

It is one thing to empower an independent authority to require, in certain cases, that a complaint be reduced to writing: it is quite another to empower a person who is not independent to do so. Police officers in this context are not independent authorities. That is why we have the Police Complaints Authority. There is simply no reason to equate the two.

The honourable member also correctly pointed out in her second reading contribution that this requirement, should it be enacted, will have the effect of disempowering those who need the protection most. The limited research that is available on the subject indicates that police complaints systems tend to be less effective for those who need them most: people who are disadvantaged in some way, be it, for example, by reason of intellectual or mental disability, because they are indigenous, or because they have language difficulties. The Royal Commission into Aboriginal Deaths in Custody found that police complaints mechanisms were inaccessible to indigenous people partly because they were overly formal. The sort of requirement that the honourable member's amendment would enact makes the matter worse—

not better. It is a step backward from providing an accessible and responsive police complaints mechanism.

As to the supposed dilemma faced by police, the answer is simple. A complaint is a complaint. When in doubt, report it. Why not? What is there to fear? That should not be too hard to grasp. The Police Association has been making this argument for some time. That does not make it right. The effect of the proposed amendment will be a distinct disincentive to the making of complaints, especially among the most vulnerable. I urge honourable members therefore not to support this amendment.

The Hon. IAN GILFILLAN: I indicate that the Democrats do not support the amendment. We have had an opportunity to discuss this with the Police Complaints Authority. It is an unreasonable requirement and it does leave the possibility—and, if not the possibility, the unfair implication—that the officer or officers who have this period of time could be involved in concocting stories, alibis and other matters which could block or divert the investigation. We do not see that there is any injustice in the situation as it applies currently and we therefore oppose this amendment.

New clause negatived.

Clauses 4 and 5 passed.

Clause 6.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 11 and 12—Leave out paragraphs (d) and (e).

The effect of this amendment is to retain section 28(5) which is currently in the act and which gives any person subject to a critical finding the right to make a submission first. I am pleased to say that the Police Association does indicate support for this amendment. Those who have the bill before them will see that paragraphs (d) and (e) (page 3, lines 11 and 12) delete from subsection (4) of the principal act 'Subject to subsection (5), it' and substitute 'It'. I will not tax members' minds or my own by trying to go back to the act. Members will have had a chance to interpret the effect of this amendment, and I have outlined both in my second reading contribution and now the intent of it. If the committee does wish to go into it in further detail, I am happy to be drawn into that. I urge support for the amendment.

The Hon. K.T. GRIFFIN: The government opposes the amendment. This is a straightforward policy disagreement with the bill. The object of the amendment is to retain section 28(5). The object of the bill is to repeal it. The second reading explanation covers the reasons why we want to repeal it. In short, they are that under section 28(5) an assessment by the Police Complaints Authority has no immediate consequences for the police officer concerned, because the commissioner may disagree with the assessment. 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 Police Complaints Authority expresses a critical opinion should have a right to make representation before that opinion is expressed. Provided the person under investigation is, at the end of an interview or interrogation, asked whether 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.

It should be noted that the position is quite different where the finding or the comment does have immediate consequences. I have on file an amendment in relation to section 26 which ensures that there is a right to respond where the Police Complaints Authority wants to make adverse comment in a determination. As I said at the beginning, this amendment is very strongly opposed.

The Hon. CAROLYN PICKLES: The opposition opposes the amendment. We are mindful that the Police Association did support this amendment of the Hon. Mr Gilfillan; however, we are not persuaded by the merit of the Democrats' argument.

The Hon. IAN GILFILLAN: Since I now realise that I do not have the numbers for this, it is important that I read into *Hansard* the subsection being deleted by this. Subsection (5) provides:

> The Authority must not make a report in respect of an investigation under this section in which he or she sets out opinions that are, either expressly or impliedly, critical of—
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> (a) the police force; or
>
> (b) a person (including a member of the police force),
>
> unless, before completing the investigation, he or she has afforded—
>
> (c) if the opinions relate to the police force or a member of the police force—the Commissioner and that member; or
>
> (d) if the opinions relate to a person (other than a member)—that person,
>
> opportunities, or an opportunity, to appear (whether personally or by representative) before him or her, or before an authorised person, and to make submissions, either orally or in writing, in relation to the matter under investigation.

Certainly, I am keen—as are, I assume, other members of this place—to see a Police Complaints Authority rigorously undertaking investigation, fearlessly seeking out truth and confronting whatever blocks there may be. Sadly, the loss of my last amendment has diminished that to a certain extent, but I do not expect to have a perfect world. However, this expressly puts into legislation fair play, a fair go, basic human justice, where a person under these sorts of investigations with a critical opinion has an opportunity to have a say, to actually make a submission, either orally or in writing. What on earth damage can that do? To say that the government strongly opposes it I hope is transported back to the Police Association. I hope that the government is asked to stand up straight and answer the question: why has the government denied police officers and SAPOL itself a guaranteed opportunity to make submissions?' I hope that this is pursued by the Police Association, because I think it is a petty and ineffectual amendment. I do not necessarily blame the Leader of the Opposition in this particular case, because she may not have had the opportunity to analyse the matter in depth, but whoever has been making the decision on behalf of the opposition has been very shallow in their interpretation of it.

The Hon. CAROLYN PICKLES: I think that is a very patronising comment from the Hon. Mr Gilfillan and I am disappointed that he should make it. As can be seen, this bill has been before us for a very long time, and it is with some patience that I have been pressing my colleagues in another place to get a move on so we could deal with this legislation. As I indicated earlier, the member for Elder and the member for Spence have been toing and froing with the Police Association for some months over this legislation, and to say that we have not had an opportunity to look at it in depth is highly insulting.

The Hon. K.T. GRIFFIN: I think that the Hon. Mr Gilfillan misses the point. I can understand how he could do so because the legislation is complex in the different streams of activity that might be available. In my second reading contribution, I said that section 28(5) contemplates that, if the Police Complaints Authority decides to express

opinions critical of a person, that person should be afforded the opportunity to consider whether he or she wishes to make representations in relation to the matter under investigation. Mrs Stevens pointed out that this provision is not being observed and, because of that, it is considered that that subsection should be repealed.

It is important to note that, when 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 Police Complaints Authority 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 that, it is hard to argue that natural justice requires the person about whom the PCA expresses a critical opinion should have the right to make representations before that opinion is expressed. Provided the person under investigation is, at the end of an interview or interrogation, asked whether there is anything further he or she wishes to add, that is sufficient and, as I said earlier, that conforms to good investigative practice.

The repeal of subsection (5) of section 28 will also remove any need to clarify what is meant by 'opinions', which is the reference in that subsection, and another matter considered by Mrs Stevens. There seems no good policy or practical or natural justice reason for retaining the provision, and therefore I oppose the amendment as I have indicated.

Amendment negatived.

The Hon. CAROLYN PICKLES: I move:

Page 3, line 16—After 'The Authority must,' insert:
not less than 24 hours.

In the submission to the opposition in relation to this clause, the Police Association stated that the requirement placed on police officers to answer questions under compulsion places them in a substantially different position from other people who are interviewed in relation to their conduct. One of the difficulties commonly experienced by police officers is attending at a interview without any knowledge of what is about to be explored and then facing the expectation of answering questions without reference to accurate notes or records as to what actually occurred during the incident in question. It is the submission of the Police Association that this practice places police officers at risk of inadvertently giving an incorrect answer to a question asked under disciplinary provisions. By the insertion of the words 'not less than 24 hours', the clause would read:

The authority must, not less than 24 hours before directing questions to the member of the police force whose conduct is under investigation, inform the member of the particulars of the matter under investigation.

We believe this is a fairer way of dealing with the issue.

The Hon. K.T. GRIFFIN: The short answer is that it gives 24 hours within which to concoct a response and, from that observation, the committee should gather that I oppose the amendment. It is an amendment to that part of the clause that replaces old section 28(8) with a new section 28(8). As has been indicated, the section deals with the controversial question of the obligation of the Police Complaints Authority to provide particulars to any person brought before the PCA who might be required to answer questions.

The bill takes the position that the PCA should be obliged to provide particulars before requiring the person to answer the questions but is not obliged to provide particulars before that time. The reasons for that position have been canvassed at the second reading stage and it is not necessary for me to repeat them now. If it becomes a contentious issue, I will do so. The effect of the amendment proposed by the Leader of the Opposition would be to require the PCA to give a police officer 24 hours' notice of the direction to answer questions together with the particulars of the complaint. That is not acceptable in principle or in practice, and as I have indicated is vigorously opposed.

The principle is said to be that this places police officers at risk of inadvertently giving an incorrect answer to a question asked during disciplinary proceedings. The answer has two parts: first, the police officer who inadvertently provides an incorrect answer has nothing to fear; and, secondly, it is the police officer who wants the opportunity to prepare an advertently false or misleading answer who must be dealt with. What could be more calculated to assist the police officer subject to investigation who wants to invent a story than 24 hours' notice in which to do it?

The principle is also said to be that the amendment proposed places police officers on the same footing as other citizens in respect of employment-related discipline. That is not the point. The point is that police employment is employment unique in this society, and I should make some obvious points about that. The police enjoy a greater capacity to use force against citizens than any other employees. They are not only employees but, by law, have independent ministerial authority in the exercise of their legal discretions. They are entrusted with the right to bear arms and to do all kinds of other things which, if an ordinary citizen did them, would be against the law. They are a disciplined force subject to a command hierarchy. As a society, we trust the police a great deal and, in general, they are worthy of that trust. But nobody is perfect and no-one expects them to be. They are mere human beings.

So, things go wrong. And when a police officer goes wrong, that police officer has greater powers to cover it up than do ordinary citizens. There is a considerable and irrefutable body of evidence both in this country and overseas that the disciplined and unified structure of the police services conduces to a shared ethos that extends to the protection of others in the group so that cover-ups do in fact occur however much the bulk of police officers may wish that that did not occur and play no part in such an event. There is no corresponding body of evidence about other occupations that have no analogous characteristics.

In short, the police are a special case and in this instance require special rules. The government's position, as represented by the amendment in the bill, is as fair as is reasonable. The proposed amendment to it will lead to both frustration and delay in the investigation of complaints, if not their abandonment. It is very important to put that in context. This is not a criticism of police officers: it is a desire to ensure that fairness is not only done but is seen to be done and that, where there is an issue of discipline, even misconduct, it is appropriately dealt with by the Police Complaints Authority and members of SA Police.

The Hon. CAROLYN PICKLES: I am sorry that the Attorney will not support the amendment. I find his comment curious—that this is not a criticism of the South Australia Police—when he started his contribution by saying that this would give them 24 hours to concoct a story.

The Hon. IAN GILFILLAN: The attentive members would have picked up that I debated this amendment earlier. I am looking to see whether any member did. It shows how intently I am listened to, except if I accuse people of not doing their job properly: they are on their feet very quickly.

I refer readers of *Hansard* and members to my comments on the Opposition Leader's earlier amendment regarding the 24 hour hazard. I will not go through it again: suffice to say that we are opposed to that amendment, as we were opposed to the amendment relating to making the allegation in writing. We saw no purpose in it. In our view it does not add to the course of justice in that context. For the sake of the record, it is important that I make it plain that my earlier remarks apply to—

The Hon. K.T. Griffin: I thought they were plain enough.

The Hon. IAN GILFILLAN: You listened intently, did you? It is strange that the Attorney did not pick me up on it, because he is so particular. The summary of my position is that we oppose the amendment.

Amendment negatived.

The Hon. IAN GILFILLAN: I move:

Page 3, lines 17—Insert after 'investigation'—

(whether or not that member has been required to attend under subsection (7))

The amendment provides that a police officer who presents on requirement to the PCA will, as a matter of course, be presented with the details of the allegation that is being made against him or her. The anomaly concerns the person who suspects that they may be involved in some form of allegation and who voluntarily comes forward for questioning: they are not afforded that courtesy or right. This picks up an observation that Commissioner Iris Stevens made in her report and puts it into legislation. It seems quite an unfair discrimination against a conscientious person who hears a rumour, or who maybe quite rightly suspects that there is an allegation or a pending investigation of events, if that person does present and offers to answer questions. As I am advised, it is a practice now—it can happen—in which that person answers questions openly and voluntarily without having any idea of the particulars of the allegation or accusation. This amendment extends the intention of the bill and the act, that a person who is being questioned is entitled to know, prior to that questioning, the nature of the allegation that is made or could be made against them.

The Hon. K.T. GRIFFIN: The bill that we are considering seeks to change the requirement of section 28(8). If it is passed, it will provide that the Police Complaints Authority is obliged to provide particulars of the allegations to the police officer before directing questions to the police officer. That means that the police officer will still have notice of the allegation that he or she has to answer but will not have that notice before he or she attends at the Police Complaints Authority. The Hon. Mr Gilfillan's amendment I think will not alter the intent because, if the amendment is carried, the subsection will state that the authority must, before directing questions to the member of the police force whose conduct is under investigation, whether or not that member has been required to attend under subsection (7), inform the member of the particulars of the matter under investigation. That is generally what happens anyway, or is proposed to happen. I can indicate on this occasion that I support the amendment.

The Hon. CAROLYN PICKLES: The opposition, too, supports the amendment.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10.

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

Page 4—

Line 17—Strike out 'subsection (4)' and insert 'subsections (4) and (5)'.

Line 19—Strike out 'subsection' and insert 'subsections'.

After line 23—Insert the following subsection:

(5) If there is no recommendation or determination in relation to a matter under investigation that a member of the police force be charged with an offence or breach of discipline, the Authority may not make a comment that is critical of any person without giving that person an opportunity to respond in writing within seven days of being notified in writing of the proposed comment and taking into account any such response.

The first two amendments are merely drafting amendments consequent upon the insertion of the subsection contained in the third amendment. This amendment was requested by the Police Association, agreed by the government and has the approval of both the Police Complaints Authority and the Police Commissioner. It inserts a new subsection into section 36. The question of adverse comment made by the PCA in its final determination or assessment of a matter has been controversial in the past.

Under the proposed amendments to section 36 currently before the committee, new section 36(4) would provide that, where the PCA makes a recommendation or determination that a charge should be laid against a police officer, only that recommendation or determination and its particulars are to be made public until the charge is dealt with. That does not, of course, address the not uncommon situation in which a complaint is made to the PCA and the PCA is unable to make a recommendation or determination in relation to that complaint. This is not an uncommon situation for the most obvious of reasons. A significant number of complaints arise from a situation in which only the complainant and the police officer are present.

The PCA is often confronted by cases in which citizen X says that police officer Y did something untoward, and police officer Y denies it and there are no other witnesses. The PCA can make no finding on the evidence, and so there is no finding under section 32. There is concern, particularly on the part of the Police Association, that the PCA may nevertheless make adverse comment on the police officer concerned without giving him or her a chance to respond to the criticism. I might add that the same reasoning applies in relation to complainants.

The purpose of this amendment is therefore a simple one: it is to the effect that, if the PCA wants to make adverse comment in relation to a matter which cannot be determined, the PCA has to notify the subject of the proposed adverse comment, provide an opportunity to respond and take that response into account.

The Hon. CAROLYN PICKLES: The opposition supports the amendment.

The Hon. IAN GILFILLAN: I thought that was the purpose of subsection (5), which the government—

The Hon. K.T. Griffin: It is a different purpose.

The Hon. IAN GILFILLAN: I take it that it is a different purpose. I have not been able to interpret it.

Amendments carried; clause as amended passed.

Clause 11 and title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (SEXUAL SERVITUDE) AMENDMENT BILL

In committee.

Clauses 1 to 6 passed.

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

New schedule—After clause 6 insert:

The Summary Offences Act 1953 is amended by inserting after section 25 the following section:

Procurement for prostitution

25A.(1) A person must not engage in procurement for prostitution.

Maximum penalty:

For a first offence—$1 250 or imprisonment for three months.

For a subsequent offence—$2 500 or imprisonment for six months.

(2) A person engages in procurement for prostitution if the person—

(a) procures another to become a prostitute; or

(b) publishes an advertisement to the effect that the person (or some other person) is willing to employ or engage a prostitute; or

(c) approaches another person with a view to persuading the other person to accept employment or an engagement as a prostitute.

(3) In this section—

'advertisement' includes a notice exhibited in, or so that it is visible from, a public place.

I dealt with this at some length in my second reading reply. The amendment seeks to address an issue of procuring, and for the purpose of the consideration of this amendment it would be helpful if I were to reiterate some of what I said during the reply. It is important to note that none of the sexual servitude or child related offences that this bill will create will be affected by the outcome of the debate on the prostitution bills in the House of Assembly.

However, there is one offence that may be affected, that is, the offence of procuring for prostitution, and then only if one of the bills that seek to decriminalise prostitution is passed. If my amendment is accepted, the bill will amend the existing offence of procuring for prostitution and remove it from the Criminal Law Consolidation Act so that it becomes an offence under the Summary Offences Act, and it is only this new procuring offence that will perhaps need some additional consideration if one of the bills that decriminalise prostitution is passed.

When the Criminal Law Consolidation (Sexual Servitude) Amendment Bill was introduced, there were some, particularly the Festival of Light, who took some exception to the fact that section 63 of the Criminal Law Consolidation Act had been repealed. That deals with the issue of procuring. Initially, it was my view that their concern was without substance. When one came to look at it in greater detail and to understand better the argument that they put, it seemed that there were several relatively minor gaps in the sexual servitude part of this bill which, by the repeal of section 63 relating to procuring, might have been inadvertently overlooked.

It was for that reason that I asked my officers to give some further consideration to the way in which we could plug that gap. What we have come up with is a clause that complements the other provisions of the bill but reduces the penalty for the common offence of procuring, because, if one were to leave it as an indictable offence with a penalty of seven years imprisonment, it would not sit comfortably with the rest of the bill before us.

A more appropriate framework of penalties is that which I have set out in the amendment; that is, for a first offence a maximum of a $1 250 fine or imprisonment for three months; for a subsequent offence, $2 500 or imprisonment for up to six months. That, I think, sits more comfortably with the provisions in the rest of the bill, and I identified that rationale in my second reading reply.

The seven year penalty for the existing offence is to cover not only simple procurement but these more serious offences that are now separately dealt with in this bill as sexual servitude offences. The amended offence of procurement deals only with the less serious types of procurement and should not have the same maximum penalty.

If it did, the penalty for less serious forms of procurement would be greater than the maximum penalty of three years imprisonment for asking a child over the age of 12 years to provide commercial sexual services, which is an offence under proposed section 68(2) of this bill, and greater than the maximum penalty of two years for receiving the profits from commercial services provided by a child over 12 years, which is an offence against proposed section 68(3) of this bill.

I recognise that there is some argument about the overlap with the prostitution bills currently before the House of Assembly, but I hope that members will support this amendment because it then provides a comprehensive code dealing with sexual servitude and procurement.

If members want to revisit it in the event that one of the prostitution bills decriminalising prostitution passes the House of Assembly, we can do so at that time. However, I fear that that debate will take a long time to resolve. I would much rather have a comprehensive code in place as provided by the bill before us plus the amendment than to have this, in a sense, in no person's land for an indefinite period. I urge all those who might be inclined not to support it to support it on the basis that it will provide completion in respect of a comprehensive code relating to sexual servitude and procurement. Notwithstanding the criticisms that some may make of it, I think it will be an important and significant improvement to the criminal law as it relates to this area of criminal behaviour.

The Hon. CAROLYN PICKLES: I think I should make the opposition's position clear. We were trying to delay the passage of this legislation. We supported the second reading of the bill and we supported the legislation as it stood, as we dealt with it previously. However, we felt that this clause would be better dealt with in the context of the prostitution bills. We sought to adjourn this matter on the basis that we believe, quite strongly, it should be dealt with elsewhere.

Having said that, I indicate that the amendment is a conscience issue for members of my party, so Labor members will be voting one way or the other on it. Although I would like to look closely at the issue of procurement in the context of the prostitution bills, I will be opposing this because I believe the proper place in which to deal with this is in the prostitution legislation. If the bill that the Attorney-General has mentioned does pass the House of Assembly, what procurement laws will it contain and how will they sit with this bill? I think the whole debate is best placed in another area. However, members of my party will make up their mind on this issue. I do not intend to call for a division.

The Hon. SANDRA KANCK: We are in committee on a bill that follows the passage of the federal Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999. As we are placing this schedule in the bill, will there be similar sorts of amendments going into legislation in other states and into the federal act that is the basis for this bill at the present time?

The Hon. K.T. GRIFFIN: So far as the commonwealth is concerned, there probably will not be any amendment because it deals with international trafficking and sexual servitude in that broader sense. The commonwealth has not had any responsibility for the law relating to procuring. I do not imagine that the commonwealth legislation will be amended for that purpose. With respect to what happens in other states, I certainly do not know what will happen in other

states. My understanding is that, notwithstanding that this is a model criminal code officers' recommendation to Attorneys-General and Ministers for Justice, no other jurisdiction has yet gone this far, but others are contemplating the sexual servitude component of it.

Of course, it will depend on the state of the law relating to prostitution because procuring is essentially directed towards the procurement of men and women in the context of prostitution. Nevertheless, it is an important part of the criminal law and that is why I am arguing that we should enact the sexual servitude part of it because, even though that part is very largely related to prostitution, it has a wider ambit anyway. What happens in, say, Victoria, which has a registration or licensing system for prostitution, or what might happen in Queensland where there might be a different approach, depends on what is in their current law relating to prostitution. I do not know the answer to that.

In relation to South Australian law, if the bill is passed unamended, the offence of procuring will be repealed. In its place will be the law relating to sexual servitude. I am seeking to take into account the repeal of the law relating to procurement which is very significantly covered by the sexual servitude provisions of this bill and deal with those parts of the law relating to procuring which I have been persuaded have been inadequately covered by the principal parts of this legislation.

The Hon. A.J. REDFORD: I express my extreme disappointment that we are going down this path. I go on record as saying that this sends out a message that a person who procures another for the purpose of prostitution will now—as this Bill inevitably will get through this place—have a severe reduction in penalty from a prison term not exceeding seven years for a first offence to imprisonment for three months. We all know as a fact that the reality in terms of the imposition of penalties for this sort of behaviour will now mean that inevitably a fine will be imposed, and we are taking a huge step towards making this sort of conduct almost acceptable. The level of penalty is extraordinarily low when one considers the potential damage that might happen to someone who enters into prostitution through some sort of inducement such as increased income. I have to say that I am very disappointed.

The Hon. CARMEL ZOLLO: This is very unusual for me, but I echo the sentiments of the Hon. Angus Redford. I am not certain of the names of all the bills in the other place, but I was wondering how this schedule sits with the schedule in the bill in the other place which does not decriminalise prostitution.

The Hon. K.T. GRIFFIN: First, I note the concern expressed by the Hon. Angus Redford. He has a strong view on this issue which has been expressed also at the second reading stage. I believe that I have responded to it adequately, but obviously not sufficiently to curtail his concerns.

In terms of the bill in the House of Assembly which criminalises prostitution, I will have to get a copy of that and get it checked in a moment to determine exactly how it sits with this. My recollection is that there are a whole range of different offences, so that procuring is not specifically retained, but before the committee consideration is concluded I will check that out.

It is important to recognise that the present section 63 provides:

> Any person who—
> (a) procures any person to become a common prostitute;
> (b) procures any person, not being a common prostitute, to leave the state or to leave his or her usual place of abode in the state and to become the inmate of a brothel for the purposes of prostitution either within or outside the state,
> shall be guilty of an offence.

Procuring in that context covers a whole range of offences, where there is—as proposed in the amendment before us—no compulsion, merely an invitation, right through to undue influence. We have tried to deal with those upper end offences much more stringently and in a more coherent and express way than the present common law deals with them. One has to be reminded that procurement is more limited. It says:

> A person who engages in procurement is the person who procures another to become a prostitute or publishes an advertisement to the effect that the person or some other person is willing to employ or engage a prostitute, or approaches another person with a view to persuading the other person to accept employment or an engagement as a prostitute.

In the bill, the sorts of offences which go beyond procuring but in other respects are covered by the older common law offence of procuring include, for example:

> A person who compels another to provide or to continue to provide commercial sexual services is guilty of the offence of inflicting sexual servitude.

There is also deceptive recruiting and the use of children—a much broader range of offences than covered by the old common law offence of procuring. So, in those circumstances, whilst I note the disappointment, I do not agree with it.

The Hon. R.R. ROBERTS: In respect of this matter, members on this side of the committee are somewhat in a dilemma. We have clearly said that we are supporting the bill but, when you have a bill which you support generally with aspects of a conscience vote, it can get a little complex. The Attorney-General could tell me whether I am right or wrong, but my understanding is that, if this amendment is defeated, we then do not have an offence of procurement. The other point I would ask him to address, because I have some concern about it—and this comes back to the point made by the Hon. Angus Redford—is that we are substantially reducing the possible sentences involved. That leads me to my other question. What has been the sentencing history when these crimes have been committed in the past? Have they received two years, or is it less than what is proposed in this amendment?

The Hon. K.T. GRIFFIN: My information is that procuring has not been regularly charged, because 'procuring' is very difficult to prove. 'Attempting to procure' is generally the charge, and my information is that the penalties range between about three to six months.

The Hon. R.R. ROBERTS: So basically that is within the range proposed here. Let me indicate that I will be supporting this amendment on the basis that I think it is important that the statutes provide that procurement is an offence, but it would be my intention, given the results of the bills in the other place, whichever one comes up, to perhaps re-visit this by way of deciding at that time whether the penalties for these particular offences are adequate. I indicate that I will be supporting the amendment on this occasion.

The Hon. A.J. REDFORD: I will not take up too much time. I think I should go on record to say why I have not accepted the Attorney-General's explanation on this issue. I am sure the Attorney will correct me if I misstate his reasons, but my understanding of what he is saying is that he has set up almost a code with these serious offences that fall under

the broad category of sexual servitude, going all the way down to procuring, which is the lower offence—on the face of it is a lesser offence. I understand where he is headed in that regard.

However, sexual servitude in the context of the Model Criminal Code Officers Committee was dealt with in the context of dealing with issues of slavery rather than looking at the sexual and prostitution aspects of it alone. It was done in the context of slavery. It is a while since I have read the report, but there was not any specific thrust aimed at prostitution. I must say that, if one looks at the document that was produced by that committee, one sees that it was a good, academic treatise of how, in a perfect world, we ought to deal with these issues.

But I am a pragmatist and I am a politician, and I would hope that I reflect community attitudes, at least to some extent. I think we need more than to say this fits within the neat gradation of scale. We need to be very conscious of reflecting community attitude in relation to this, as members of parliament and as members of a profession of which I am very proud—the very high calling of being a politician. That, I think, underpins my view that, notwithstanding that this might look neat, the reality is that we should reflect as best we can what the community view is: that is, this should be considered in a very serious fashion in terms of penalty.

We have had a lot of debate over recent months and recent years, and the shadow Attorney-General has been leading the charge in some respects, particularly on talkback radio after most of us go to bed, about penalties and the range of penalties. I have often sat back and listened to these cosy fireside chats between the member for Spence and Bob Francis, when they generally go down the path of trying to outdo one another on issues of penalty. They then generally turn to the fact that we ought to be telling the judges—and the Leader of the Opposition subscribes to this—that they ought to be increasing penalties, and that we ought to be restraining the scope of discretion of our judicial officers as much as we can.

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The Hon. Ron Roberts does not agree with that and I am pleased to hear that. I am pleased to hear that there is a voice of reason, perhaps not listened to very often, within the Australian Labor Party: that judges should be given a discretion. If you look at the broad thrust of this, it is restricting the discretion of a judge. In response to an interjection from the Hon. Sandra Kanck, I think the only recent case was the Sylvia Chandra case, where she was given—and I alluded to this in my second reading speech, but if what I say now is different from what was in the second reading speech it is because I do not have my notes with me—a six month suspended sentence, where there was a police officer in an entrapment arrangement, who responded to an advertisement and sought to encourage her to commit that offence. Following that she then breached the suspended sentence. She committed some other offence—I cannot remember what it was, but not a particularly serious one—and, as a consequence, the suspension of that imprisonment was revoked and she had to serve that period of imprisonment.

However, the reality was that the court in the context of it looked at the matter very seriously and said that the conduct itself, under the legislation which is currently in existence, warranted a six month period of imprisonment. Because of the personal and other factors they then proceeded to suspend that. The issue of suspension generally pertains to personal matters associated with a person before a court. The actual sentence of six months imprisonment was the court's view about where that sort of conduct fell within the scheme of things, particularly with regard to the maximum penalty of seven years.

I would suspect that if exactly the same circumstances applied today there would not be anywhere near a six month suspended sentence. I would suspect that for a first offence you would get something in the order of a $300 or $400 fine for encouraging someone to become a prostitute. I would also suspect that the police, in looking at advertisements in newspapers—and I must say that the biggest recipient of income from the prostitution industry in Adelaide today is the *Advertiser*, with its full page ads—if they saw one advertising for a prostitute, would not go to much trouble to secure a conviction of people engaged in trying to encourage people to become prostitutes when they know at the end of it there is only a $300, $400, $500 or $600 fine.

The fact of the matter is they will say, 'Parliament put this down at the low end, we have limited resources, we'll go out and do something else.' I just hope that there is not an increase in the sort of activity that might lead to the encouragement of young people or people who are on hard times to enter into this unsavoury business. I am not saying I am a prohibitionist when it comes to prostitution but I do say that it is not anything but an unsavoury business.

The Hon. SANDRA KANCK: In relation to the case to which the Hon. Mr Redford has referred, the woman served three months at Northfield and three months home detention and, as he has acknowledged, it was police entrapment. The woman was completely up-front about what she was doing when the police officer phoned and said she was interested in the position. Sylvia had spelt out very clearly what it was that she was offering, and when the woman came and visited again she made it very clear, and yet that woman, as a result of that process, had to have six months detention, in one form or another, either in her own home or in a prison. I visited her at the prison and was very moved by that meeting and came away questioning why we had allowed our so-called justice system to do something like this.

I will not be supporting the amendment. I find it rather sad that the government is dancing to the tune of the Festival of Light. The bill introduced by the Attorney-General has some very clear provisions. It will be unlawful to compel someone to provide sexual services and, depending on the age of the victim, the penalties include imprisonment for life, imprisonment for 19 years and imprisonment for 15 years. To deceptively recruit or use children will attract prison terms ranging from three to nine years, once again depending on the age of the victim.

There are some very strong provisions in this bill, so it seems entirely unnecessary to have an amendment in respect of procurement. I recognise that there is a possibility that the amendment will be carried and, if that is the case, I place on record that I think this is an improvement on the current act and it is quite possible—as the Hon. Angus Redford has said—that somebody who is caught for procuring could receive a $400 fine. The Hon. Mr Redford has expressed concern that this sort of fine would result in the police not putting in the effort to prevent it. My response to that is 'that's good'. Police officers being involved in the entrapment of offenders, as in the case of Sylvia Chandra, is a stupid use of police resources. There are plenty of other crimes where there are victims that they could be out

policing. I see no good reason to include this amendment and I will therefore oppose it.

The Hon. CARMEL ZOLLO: This amendment relates to simple procurement rather than duress procurement. Will the Attorney-General give a commitment to revisit this legislation following any prostitution legislation being passed by both houses?

The Hon. K.T. GRIFFIN: I will give a commitment to review it in the light of whatever comes out of the parliamentary consideration of the bills relating to prostitution.

The Hon. R.R. Roberts: There will be a gap in between.

The Hon. K.T. GRIFFIN: That is the issue: if we repeal section 63 of the Criminal Law Consolidation Act that relates to common law procuring, there will be a gap even though a significant part of the common law relating to the procuring is already covered by the sexual servitude provisions. I am seeking to ensure that we cover the field completely. That is why, at the lower end of the scale, there are these offences which are contained in my amendment.

I will deal with a couple of the issues which have been raised. I take exception to the suggestion that the government or I might be dancing to the tune of the Festival of Light. The Festival of Light has every right—along with any other body—to lobby either for or against an issue or for something in between. If it raises an issue that objectively can be seen to have merit, who of us would want to reject it simply because it has been raised by the Festival of Light?

On the other hand, there are many other issues which have been raised in consultation on the core of this bill. It is correct, as the Hon. Angus Redford said, that this reference to the Model Criminal Code Officers Committee did to some extent deal with the issue of slavery. It all came about because the commonwealth Minister for Justice originally expressed concern about sexual servitude, in the eastern states particularly about the bringing in of illegal immigrants—women—and about keeping them against their will either with the promise of money and retransportation to their home or with some other inducement. That issue was raised publicly by her and considered by the Standing Committee of Attorneys-General. At the Standing Committee of Attorneys-General the attorneys decided it would be referred to the Model Criminal Code Officers Committee and that it would deal comprehensively not only with sexual servitude but the ancient law relating to slavery.

It is not true to say that this bill deals only with the issue of slavery in modern language. If you look at the range of offences which are covered, you see that they are very broad. They are related not only to issues that might at one time have been regarded as slavery. Some quite significant offences are as follows: a person who compels another to provide or to continue to provide commercial sexual services is guilty of the offence of inflicting sexual servitude; and a person who by undue influence gets another to provide or to continue to provide commercial sexual services is guilty of an offence. 'Commercial sexual services' means services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others.

Regardless of one's views on prostitution, I do not think anybody could quarrel with the range of offences established in this bill. I am surprised that the Hon. Sandra Kanck objects to the amendment on the basis that it is unnecessary or for other reasons to which she has referred. I am equally surprised that the Hon. Carolyn Pickles is objecting to it on the basis that it may be dealt with in the context of the prostitution bills. I can indicate that, for example, in the Summary Offences Bill relating to prostitution, there is an amendment which contains a more serious offence of employing, engaging, causing or permitting another to work or continue to work as a prostitute, and that has a penalty of $2 500 or six months imprisonment for the first offence and $5 000 or one year for the second and subsequent offences.

Those bills deal with some of these issues, but I suggest to the committee that we deal with it in this package more comprehensively. There will need to be some review, depending on what gets through, because no-one can say what will get through. I have given an undertaking that we will review these provisions, which involve offences that go up to life imprisonment as a maximum, and comprehensively cover the field. I can do no more than that. I am in the hands of the committee, but I would hope that the committee would see that, notwithstanding the various pressures being brought to bear upon us all in relation to the law relating to prostitution, this has a wider coverage than just the law relating to prostitution.

The Hon. T.G. CAMERON: Why has this amendment come forward? What is the reason for it?

The Hon. K.T. GRIFFIN: I was perfectly frank about it earlier, before the—

The Hon. T.G. Cameron interjecting:

The Hon. K.T. GRIFFIN: No, that's all right. The Festival of Light has raised the whole issue of procurement, because we proposed in this bill to repeal section 63 of the Criminal Law Consolidation Act. I have made no secret of the fact that it has expressed grave concern and is lobbying against the repeal of that provision relating to procurement. When my officers and I looked at it we did not see the point. We believed that the bill covered the field but we were persuaded that there is a gap at that lower end of simple procurement—not where there is any undue influence (that is covered) or where there is any compulsion (that is covered) but the invitation by advertisement or otherwise which might have some inducement, which might not be undue influence, and that is the reason why in order to cover the field we decided that the amendment would be appropriate, but not at the level which those who wish to retain the common law relating to procurement wished to impose, that is, seven years maximum penalty, an indictable offence. You can see that this amendment has a lower scale to fit more comfortably, in my view, into the scheme of the bill I propose.

The Hon. T.G. CAMERON: I am trying to understand exactly what is taking place here. Can a person be prosecuted under new section 25A for engaging, for example, a 16-year old in procurement for prostitution? Would they be prosecuted under new section 25A or elsewhere under the act? Where would you prosecute someone trying to procure a 16-year old?

The Hon. K.T. GRIFFIN: In the Magistrates Court.

The Hon. T.G. CAMERON: Under section 25A?

The Hon. K.T. GRIFFIN: If it is an invitation without undue influence, without compulsion, it would be under new section 25A and a prosecution in the Magistrates Court.

The Hon. T.G. CAMERON: In looking at the amendments set out under sections 66 and 67, you provide different penalties where the people are either under 12, under 18 or 18 and over. I am a little concerned that we are not doing the same thing with procurement. If you can attract a substantially harsher penalty under sections 66 and 67, why is that not following through for procurement, because I would have

thought that if the penalties as a maximum for a first offence will be only $1 250 and as the—

An honourable member interjecting:

The Hon. T.G. CAMERON: Right. Well, the Hon. Angus Redford has pointed out that a more likely fine will be in the vicinity of $300 or $400.

The Hon. K.T. Griffin: We don't know.

The Hon. T.G. CAMERON: I appreciate that we do not know, but I would have thought that it was a reasonable assertion. I am concerned that the penalties would be the same no matter if you procured someone who was 25, 15 or 5 years. I am a little bit concerned about that.

The Hon. K.T. GRIFFIN: The answer to that is section 68(2), which provides that 'a person must not ask a child to provide commercial sexual services', that is, merely ask. That does deal with the issue to which the honourable member referred: if it is a child under 12, the penalty is imprisonment for nine years; in any other case, the penalty is imprisonment for three years.

The Hon. T.G. CAMERON: With due respect to the Attorney, is that right? Section 68 uses the words 'employ, engage—

The Hon. K.T. Griffin: Subsection (2).

The Hon. T.G. CAMERON: The Attorney is saying that section 68(2), which provides that 'a person must not ask a child to provide commercial sexual services', would mean exactly the same as section 25A(1)(a), which provides that 'a person must not engage in procurement for prostitution'. I am not a lawyer but I am not sure that they would be. That is what you are saying.

The Hon. K.T. GRIFFIN: To establish or prove the offence of procuring, one has to prove both the invitation or encouragement plus the fact that, as a result of that, the person engaged in prostitution. My understanding is that it is so difficult to prove the two elements and the relationship that police generally charge attempting to procure because an attempt is much easier to procure.

The Hon. T.G. Cameron: Are you saying that they must commit a sexual act before they have engaged in procurement?

The Hon. K.T. GRIFFIN: That is right; that is procuring for the purposes of prostitution.

The Hon. T.G. Cameron: Only a lawyer could dream that up.

The Hon. K.T. GRIFFIN: Well, procuring—

The Hon. T.G. Cameron: You mean it is not an offence to go out and ask somebody to work as a prostitute unless they actually work as one.

The Hon. K.T. GRIFFIN: That is an attempt to procure.

The Hon. T.G. Cameron: Where are the offences set out for attempting to procure?

The Hon. K.T. GRIFFIN: That is under common law, under the Criminal Law Consolidation Act. The law relating to attempt is all common law. Under section 68(2), all that has to be proved with that new offence is the asking. One does not have to prove the act of prostitution or sexual servitude. Section 68(2) provides that a person must not ask a child to provide commercial sexual services. It is an easier offence to prove.

The Hon. T.G. Cameron: That is only a child?

The Hon. K.T. GRIFFIN: That is a child, yes. That is what I thought you were dealing with. A child is a person under the age of 18.

The Hon. Carmel Zollo: There is nothing for children in this schedule?

The Hon. K.T. GRIFFIN: No, because we do not need that. It is a very simple offence: to ask, 'Will you grant me sexual services?' It might not be expressed in such explicit language, but it is the asking that is the problem.

The Hon. T.G. Cameron: Are the penalties the same?

The Hon. K.T. GRIFFIN: No, they are not. The penalties for asking are quite significantly more because a child is involved. The penalties can be found at the bottom of page 3. If a child is under 12, the penalty is imprisonment for nine years; in any other case, it is imprisonment for three years. One is a major indictable offence and one is a minor indictable offence.

The Hon. T.G. Cameron: How do you engage or procure someone for prostitution unless you ask them?

The Hon. K.T. GRIFFIN: Asking is one of the elements, and the other is prostitution. We have got to have the two, and one has to follow the other and be linked.

The Hon. T. CROTHERS: What the Attorney-General is telling us is that presently as stated the two elements are asking and performing the sex act.

The Hon. K.T. Griffin: That is right.

The Hon. T. CROTHERS: That makes it difficult, so the Attorney has opted for a position which is a better, catch-all position in respect of the onus of proof. That appears to me to be very simple, so I do not know why everyone is getting their knickers in a knot over this matter. It just seems to be a simpler proposition and one that I have no problem in supporting. In fact, it might even make the litigation cheaper, as opposed to having highly paid QCs arguing the point about procurement, whereas all they have to show now is that the question was asked or the endeavour was made to ask. I am very supportive of what the Attorney-General is saying.

The Hon. K.T. GRIFFIN: The Hon. Mr Cameron asked where the law relating to attempt can be found. Section 270A of the Criminal Law Consolidation Act deals with attempts, and that does not codify the common law: it identifies the offence. A lot of common law has developed over the years about attempts. The act provides:

> (1) Subject to subsection (2), a person who attempts to commit an offence (whether the offence is constituted by statute or common law) shall be guilty of the offence of attempting to commit that offence.
>
> (2) Where under a provision of any other act, or any other provision of this act, an attempt is constituted as an offence, this section. . . does not apply in relation to that offence and does not operate to create a further or alternative offence with which a person who commits the former offence might be charged.

It then goes on to deal with issues of penalty. There is always a reduced penalty below that which is set for the principal offence.

In relation to children, ultimately we do not need section 25A to deal with children. There is an express provision in section 68, and that deals quite explicitly with children and is a much simpler offence to establish because it is the asking that is the element.

The Hon. T.G. CAMERON: If somebody was successful in a defence under section 68(5), say they had asked somebody they believed to be 18 years of age on reasonable grounds, and the court found that way, would that person then be charged under section 25A?

The Hon. K.T. GRIFFIN: If one is dealing with the element of asking, probably not, because asking is not procuring. Asking is only part of the offence of procuring. If you look at subsection (5), it is a defence, a reverse onus. The onus is on the accused, and that is common practice with all the sexual assault offences—rape and so on—where you have

that margin between 16, 17 and 18 years. It is not an uncommon provision, and that is the reason why it is here. Between 16 and 17 years it is very difficult to tell the exact age, but there has to be a reasonable ground.

The Hon. T.G. CAMERON: I am trying to understand what it is we are doing here. If they ask somebody—a minor—they would be charged under section 68. So, if somebody was 17 years and 11 months old, they could face a maximum penalty of two years.

The Hon. K.T. GRIFFIN: No; a maximum penalty of three years. It is at the bottom of page 3.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Nine for under 12 and three for above. It is on the last line of page 3.

The Hon. T.G. CAMERON: What would the offence be if the person was an adult, that is, if they were 18 years of age, and they only asked? My understanding, from what the Attorney has said, is that it would be attempted procurement.

The Hon. K.T. GRIFFIN: Procurement.

The Hon. T.G. Cameron: Procurement or attempted procurement?

The Hon. K.T. GRIFFIN: Well, if you look at section 25A you will see under subsection (2):

> A person engages in procurement for prostitution if the person—
> (c) approaches another person with a view to persuading the other person to accept employment or engagement as a prostitute.

So, there are two elements: you have to prove the approach and you have to prove that it was with a view to persuading the other person to accept employment or engagement as a prostitute. It may be that 'attempt' is more easily established than the actual two ingredients, and that relates to someone of any age. However, we do not have to worry about the child because the child is dealt with under new section 68(2).

The Hon. T. CROTHERS: Does the Attorney agree, or is my thinking correct, that because of the way in which the act is worded—and he alluded to this in answer to another question—it is difficult for the police to charge a person with procuring because a double-barrel, two-constituent position has to be proved? Does the Attorney-General agree that, under that system that presently exists, you could get the funny situation of a girl being asked to perform a sexual service when she is 17 years and 11 months but not performing the sexual service until she is over 18 years? Therefore, is the way you have now worded it not better, that the question with respect to minors is the simple use of the word 'ask'? Like my colleague the Hon. Mr Cameron, I am not a lawyer. I do not have a legally trained mind—

The Hon. T.G. Cameron: It shows, too.

The Hon. T. CROTHERS: I tell you what, if it shows in me you want to see it in you by going and looking in the mirror. You ask awful questions. So does it—

The Hon. T.G. Roberts: Split in the camp!

The Hon. T. CROTHERS: No split, just the truth. Does the Attorney agree with me that the present way in which you propose to change the act takes that element of procurement out of it, where someone might be asked at 17 years and 10 months and then not perform any sex act until they are 18 years when they are an adult? The way you now have it worded I suspect leads to some of the problems the police have in charging people with procurement as opposed to attempting to procure.

The Hon. K.T. GRIFFIN: The answer to the first part is 'yes' because if someone at 17 years and 11 months is asked then there is an offence, even if the sexual act occurs after the person turns 18 years; and you would have to worry about proving the second part of the offence. It may well be that that will fall within the category of procurement, but it is not necessary to worry about having to—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Yes.

The Hon. T.G. CAMERON: Could the Attorney tell me the penalties for attempted procurement?

The Hon. K.T. GRIFFIN: As I understand it, the maximum penalty will be about three-fifths. The maximum for attempt is reduced below the maximum for the principal offence. I am told that the normal statutory provision—and I do not have it in front of me—is about three-fifths of the maximum for an attempt. Sorry, it is two-thirds.

The committee divided on the new schedule:

AYES (13)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T. (teller)
Holloway, P.	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Roberts, R. R.	Schaefer, C. V.
Stefani, J. F.	Xenophon, N.
Zollo, C.	

NOES (6)

Cameron, T. G.	Gilfillan, I.
Kanck, S. M. (teller)	Pickles, C. A.
Roberts, T. G.	Weatherill, G.

Majority of 7 for the Ayes.

New schedule thus inserted.

Long title.

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

Long title—At the end, insert:
; and to make a related amendment to the Summary Offences Act 1953

Amendment carried; long title as amended passed.

Bill read a third time and passed.

STATUTES AMENDMENT (WARRANTS OF APPREHENSION) BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 861.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading of this bill, which seeks to empower the Parole Board and Training Review Board to issue warrants of apprehension without application to a justice. The bill also aims to address inadequacies in current legislation regarding the issue of warrants for young offenders out on, and in breach of, conditional release.

The opposition is yet to be convinced that perceived inadequacies are occurring and notes that the different issues between adult and juvenile boards need to be considered. These warrants are issued when there are reasonable grounds that conditions of release have been breached. The opposition recognises that conditional liberty is a privilege given, in certain circumstances, to persons convicted of offences that attract a period of detention. It is in the best interests of the community that this privilege not be abused.

Further, it is vital that the bodies responsible for the administration of such conditional liberty can act swiftly if a breach, or suspected breach, has occurred. Clause 4 amends section 76 of the Correctional Services Act 1982 to allow two members of the Parole Board to issue a warrant of apprehension for a person suspected, on reasonable grounds, of

breaching a condition of parole. It also amends the Correctional Services Act 1982 to allow the Parole Board to issue a warrant for the apprehension of a person who fails to appear before the board when summoned.

Another important change in clause 4 of this bill is the requirement of a justice to issue a warrant on application under the section, unless it is apparent on the face of the application that no reasonable grounds exist for the issue of the warrant. The apprehension of offenders must not be stifled by technicalities. A warrant that is issued by a justice who decides on its validity after receiving information from the board may be argued to be invalid, because the justice has not made further, independent inquiries.

The bill recognises the independence of the Parole Board and also that it is not the role of the justice to examine the reasoning behind the Parole Board's decisions. Clause 5 suggests similar changes to section 4 of the Criminal Law (Sentencing) Act 1998, this time dealing with the issue of warrants of apprehension for persons, serving sentences of indeterminate duration, who have been released from custody on licence by either the Parole Board or the Training Centre Review Board. The opposition supports a consistent approach to policy where it is appropriate.

I quote from correspondence that the opposition has received from the Youth Affairs Council of South Australia in relation to this bill, and perhaps the Attorney could comment on it. This is a letter to the Attorney, dated 13 April, and it states:

> Council notes that you have, as yet, made no request for comment from us with regard to this bill. Having obtained a copy of it and the corresponding second reading speech, we wish to raise the following concerns.
>
> The bill allows for the Parole Board and Training Centre Review Board to issue a warrant for the apprehension of an offender without recourse to a Justice of the Peace. YACSA is concerned that this will not allow for independent, third party approval of the request to apprehend a person. We raise the question of the reason for the original third party requirement in the acts. Was there an intention to provide a safeguard which you are now proposing to dispense with?
>
> By way of comparison, you note in your second reading speech to the Summary Offences (Searches) Bill that '. . . the best safeguard against impropriety or allegation of impropriety is by independent review.' If that is so, comparisons with arrangements in other states of the commonwealth and a reference to the former Prisons Act (1936) are not particularly relevant. Perhaps our system here has inbuilt checks and balances that we would be well advised to retain.
>
> YACSA understands that, in the case of the two Training Centre Review Boards (Cavan and Magill), the process for issuing warrants is considered to be working well with the involvement of a Justice of the Peace. YACSA is not aware of any pressure for change in the juvenile jurisdiction, although there may be different issues with the workings of the (adult) Parole Board.
>
> The question then arises about the desirability of a consistent process between the adult and the (two) juvenile jurisdictions. If the process is currently working smoothly for the Training Centre Review Board, why should we seek to effect change there because of the issues being experienced by the Parole Board?
>
> On a workload basis there is no comparison. Where the Parole Board may issue 10-12 warrants per week, the training boards may each process only six to eight in a year. Obviously the pressure for a 'streamlined' process is much greater from the adult system overseen by the Parole Board. Have the chairpersons from each of the training centre review boards been consulted about these proposed amendments, specifically those which would allow warrants to be issued without agreement between two members of the board?

The opposition notes with interest the figures quoted by the Youth Affairs Council of South Australia. There seems to be a large difference in the demand for warrants between the training review boards and the Parole Board. I look forward to hearing the answers the Attorney-General will give to the questions asked in this correspondence. No doubt, with such an important piece of legislation, the Attorney-General and his department will be quite thorough in their consultation process. I should hope that the oversight in relation to the number of training boards that exist is the only one that occurred during the Attorney-General's consultation process. We support the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

[Sitting suspended from 5.58 to 7.45 p.m.]

STATUTES AMENDMENT (BHP INDENTURES) BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 915.)

The Hon. IAN GILFILLAN: I indicate the Democrats' support for the bill, both at the second reading stage and in its final passage. It is a bill which is doing a rather remarkable thing in some ways: it is preparing the ground for a takeover, a succession from BHP's operations in Whyalla from BHP, the major parent company which has been there since its inception, through to a new entity which is not yet in existence. From that point of view it does have some rather idiosyncratic aspects, in dealing with the legislation as we are, preparing the scene for what is a change of structure conditional on approval by the shareholders of BHP. That does not really cause us any particular concern. It is essential that the continuation of steel making operations in Whyalla be run by a vibrant, energetic, innovative organisation and we believe that the new structure, whatever it is eventually called, Allied Steel or whatever name is chosen, offers promise of being that entity.

It is desperately sought by Whyalla. Whyalla has depended, in my view, too much in latter years on the steel industry and on BHP. Of course, we know that Whyalla would probably not exist as a city if it were not for BHP's initiative and its steelworks. We are not trying to rewrite history. It is a question of where we go from here. I have visited Whyalla several times. I have had the opportunity to have conversations with councillors, the CEO of the council, the CEO of the Economic Development Board and various other members of the community, including Geoff Buckland, the secretary of the AWU, and his assistant, and all are most insistent—they almost plead—that this legislation pass to allow this particular transfer, this particular potential to go through. That is all very well, and I certainly have great sympathy for that, but it does tend to set a scene where there could be some concessions, some compromises and some trade-offs which, were it not perceived as such a desperate situation for Whyalla, we may not have accepted or we may have been motivated to drive a harder bargain.

I have had a conversation with Mr David Goodwin from BHP and Mr Peter Lockett, Director, Strategic Projects, Department of the Premier and Cabinet. In that conversation, it was made quite clear that BHP and the government have reached agreement. Most members would have seen the Premier's earlier announcement of it, a document which has some interesting aspects but which significantly showed that

agreement had been reached between BHP and the government some time ago.

When I had the meeting with Mr Lockett and Mr Goodwin on 31 March, I raised three matters. I asked for a copy of the agreement between BHP and the Environment Protection Agency, and I have been provided with a copy of that agreement, which I will address shortly. I asked what discount BHP received for its water in Whyalla, and I will quote the answer from Mr Lockett, as it is of interest to honourable members. I have spoken to SA Water and was advised that BHP pays the same amount for water as any other industrial user in South Australia, that is, $136 per annum access fee, 36¢ per kilolitre for the first 125 kilolitres, and 92¢ per kilolitre thereafter. BHP also pays $1.0619 per kilolitre for water to Iron Knob.

I also asked what undertakings BHP had given with respect to job security, which is understandably a matter of concern to the community in Whyalla. Mr Lockett attached an article from the *Whyalla News* which quotes Bob Every, the new CEO, on this matter, and I will quote a couple of paragraphs from that. I think it is disappointing that a firmer undertaking could not be extracted from BHP. There are certainly some nice words, but nice words do not necessarily guarantee jobs. Maybe as a window to it, on the front page of the *Whyalla News* of 21 March, the managing director and chief executive officer of the new company, Dr Bob Every, is quoted as saying:

> Metropolitan media reports which forecast hundreds of job losses were based on misinformation. We intend to operate Whyalla how we have done for years. The concept of hundreds of job cuts here in Whyalla is not within our consideration, but I am equally not saying that I am guaranteeing employment. The company will have to continue to improve to meet international competition.

I have been advised that the local attitude is that it is inevitable that there will be job losses: it is just a question of how many. In fact, it is probably sensible to reflect that, as inevitably there will be job shedding, it is time for us in this place, and the government particularly, to encourage serious efforts to diversify the local economy. I have some suggestions to deal with that, and I will come back to them after I have dealt with the EPA agreement, a copy of which Mr Lockett provided to me.

I do not believe that the Environment Protection Agency agreement has been widely distributed. Certainly, there were some councillors in Whyalla who were not aware of it. I would like to make some observations about it. The document I have is in the shape of a letter addressed to Mr David Goodwin, Manager, Government Relations and Issues Management, BHP group centre in Melbourne—

Members interjecting:

The PRESIDENT: Order! There are too many audible conversations in the chamber.

The Hon. IAN GILFILLAN: —concerning BHP Whyalla operations agreement on environmental issues, and it is signed by Rob Thomas, Executive Director, Environment Protection Agency. It states in part:

> As part of the discussions on the removal of the section 7 exemption in the 1958 indenture act, we write to confirm the Environment Protection Agency's advice to BHP both in its own right and as representative of the new owner in relation to a number of environmental matters affecting the BHP Whyalla site.

It is of importance to recognise that everyone now agrees that the environmental conditions which were allowed to apply to the BHP works from its inception through until now have been extraordinary in their laxity and allowed for quite unacceptable practices in today's world. So, as to the current BHP and the new owners, nobody is actually opposing there being quite a substantial readjustment of those conditions.

I do not intend to read the whole agreement into *Hansard*. However, I do believe it is important that it be taken as a significant document in relation to this bill. I would ask for your guidance, Mr President: is it possible for me to ask that it be incorporated into *Hansard* without my reading it?

The PRESIDENT: Is it statistical?

The Hon. IAN GILFILLAN: It is the agreement on environmental issues between the government and BHP.

The PRESIDENT: The honourable member cannot incorporate it. The Hon. Mr Gilfillan can table it but it would not be inserted in *Hansard*.

The Hon. IAN GILFILLAN: I would urge all members who are interested in the background to this legislation and what has been entered into already by this arrangement to read this document. I am sure that copies would be made available through the Premier's department. If anyone wants a copy from me, I would be very happy to give it to them. I will make some comments which refer to it so, without having the whole context in *Hansard*, I will pick out a couple of issues that I do believe to be a problem. Clause 1, 'General Agreement', provides:

> We confirm our acknowledgment of and agreement to the following matters:
>
> 1.1 Section 7 of the 1958 Indenture Act will be repealed and that BHP and the new owner will continue to remain non-liable for past environmental practices in accordance with the terms of that section of the indenture.

That is a worry. Who is liable for past poor practice which, while not obvious now, could turn out to cause perhaps serious problems in the future? The Democrats would say that the liability must not be carried by the state of South Australia—that is, the taxpayer, either here or in Whyalla. The liability must rest with BHP, the present operator, who has profited from many shortcuts taken in earlier years. Clause 1.3 provides:

> The environmental authorisations for the Whyalla site, licence number EPA 1467, and all seven exemptions, will be formally granted to BHP new owner for a period of 10 years.

These seven exemptions are not spelled out verbatim in this letter. They are referred to by their number reference, but I have not had them provided to me and I have not actually seen them, so I am hoping that I will have a chance to see them before we deal with the committee stage. We have very serious concerns, and it is fair enough to ask the Treasurer to provide the Council with a summary of those seven exemptions so that there is an opportunity for all members to be aware of that when we are dealing with the bill in committee.

Particular points of concern could be that there would be an exemption which allows the discharge of dust and fumes from the pellet plant. There could also be immunity from prosecution should discharges to air, land or water be later shown to create a health problem or problems. An example of this could be the fumes from the coke ovens which are rich in phenols and which are therefore potential carcinogens. Clause 1.4 states:

> The indenture act shall be further amended so that regulation 5 of the environment protection general regulations 1994 will not apply to the Whyalla site. The authority will therefore be empowered to issue exemptions for longer than two years and acknowledges that the matters covered by the exemption authorisation referred to in paragraph 1.3 above will not be in compliance at the end of the 10 year exemption period even if they are subject to an EIP at some stage during that period.

I must confess that I do not know what regulation 5 of the EPA general regulations are, but the question stands: why should the EPA be given power to issue exemptions for more than two years and what scope is there for public input into this rather generous scope of exemptions? My colleague is expressing quite serious concern about this and so she should. Clause 1.5 states:

> If the amended 10 year authorisation, that is, the licence and the seven exemptions referred to in paragraph 1.3 are issued initially to BHP, they will be transferred on the same terms and conditions to the new owner upon receipt of an executed application from BHP and the new owner.

It transfers these exemptions to the new owner. There could be some value in doing this for five years and there could follow a ramp up to the same conditions with which all other companies have to comply. It appears to me that there is, whether deliberate or otherwise, a distinct omission of the obligation of the new owner to eventually comply with the same conditions with which other companies in Whyalla have to comply. Clause 19.1, regarding waste water discharges, states:

> Subject to compliance with this condition, the licensee may discharge waste water from the premises into the waters adjacent to the premises.

One of the problems with this arrangement is that the company is responsible for monitoring itself. It would appear, if that is the case, that it would be much better that the EPA was able and required to report at least on a three monthly basis that the water that is being discharged is of acceptable quality. That is paramount, we believe, because there has been so much irresponsible and damaging discharge into the marine environment of supposed waste water. It is ironic that, in the driest area of the driest state, it is even contemplated that waste water be pumped back into the gulf when there are processes which should be considered—and the company should be urged to consider—to take on as part of its responsibility.

The Hon. Sandra Kanck interjecting:

The Hon. IAN GILFILLAN: The interjection was, 'To whom do they report when they self monitor?' I suspect that it may be some sort of rather benign glad phrase included in their annual report. But I do not know. So let us leave that open: we may get a comforting reassurance in the Treasurer's reply in the committee stage. It must be pursued. Our eagerness to see this legislation passed and the steel works continue ought not to allow us to gloss over details as if they were not significant details that are going to be critical in the long run for an environmentally responsible practice.

I referred earlier to the loss of jobs that will occur. No-one doubts it, and there have been suggestions from Whyalla which I want to put on the record so that the government can ponder them. In some cases I am sure it has already given them some thought. If 600 jobs were lost, it is calculated that that could mean a loss of some $30 million in spending money in Whyalla, which is a very significant blip in the economic and commercial energy of a city of that size. The Whyalla Economic Development Board (WEDB) is a vital and very effective entity in Whyalla and I would suggest that $1 million of the $3 million iron ore royalties could be funded directly to WEDB. Secondly, there could be a commitment to build the Solar Oasis project. KPMG has assessed the figures and it appears viable, and an added benefit would be a reduction of water demand on the Murray from Whyalla. It is a state-of-the-art desalination and solar powered potable water project, which is well on the way to being a successful enterprise in that area.

As I have frequently stated, the government should shift a section of Mines and Energy or other government departments to Whyalla. It is a practice which is being undertaken in New South Wales and in New Zealand. In New Zealand all government data processing for the police, courts and Transport New Zealand is being done in Wanganui, a city of 20 000 on the south coast of the North Island. Another recommendation is to upgrade the gas infrastructure to Whyalla so as to provide for other industries, such as the SAMAG plant. I understand the lack of gas was a major reason for Northern Power not siting the Pelican Point power station in Whyalla. Gas is also needed to back up the Solar Oasis plant.

The government could work closely with AuIron—also known as SASE. That is the organisation that has a pilot pig iron plant located in Whyalla. In two years it wants to build a 2.4 million tonne a year plant. The people of Whyalla want it there. The company has expressed an interest in buying into Allied Steel. That is the name of the BHP successor. It could locate at Coober Pedy, but there would be a significant impact on the Great Artesian Basin. If the government was serious about encouraging a really worthwhile development in that area, it could throw its support and interest into this initiative.

Talking specifically about the government, it could work with the University of SA and with industry to set up a chair of renewable energy at the local university. It could expand the hospital services so that Whyalla Hospital becomes the regional hospital for Upper Eyre Peninsula. I am advised that two years ago the hospital board was looking to build a new hospital, and now would be a good time to show confidence in the future of Whyalla by making an announcement along those lines.

The Premier has mentioned that BHP (Allied Steel as it may well be) will be under the control of the Environment Protection Agency. The question being asked by many people in Whyalla is whether it will be required to comply immediately or whether there will be a phase-in. The agreement will answer some of those questions but I refer to this because, although desperate for the enterprise to succeed in Whyalla, the population does not want to be saddled with what are going to be environmental sores and environmental penalties that they will have to wear further down the track. So we do need to have a much clearer and firmer assurance that the EPA has a good plan in place and means business in enforcing it.

The port access is a problem and the people of Whyalla are concerned about that. I do have the BHP statement of the access requests. It is important for this Council to know that in relation to this port, which is the only significant port in Whyalla, all of the requests for access will be handled by the Vice-President of the steel works. So, BHP and its successor will virtually continue to have total control over what is allowed to happen in the port and who is allowed access to the port. The community of Whyalla and the council in particular, which I believe has expressed this, need state guarantees that will give Ports Corp control over the port. The concerns that BHP has raised, which I will mention to the Council in a moment, relate to reasonable, environmental safety issues, but the fact that it is virtually under monopoly control can make it potentially a case of dog in the manger where just at the whim of BHP it can refuse to allow access to the port by another business.

It is important to read into *Hansard* the document in regard to the port because if Whyalla does boom, even modestly improve the economic activity and diversification, the demand for access to the port will increase. The Review Process of Port Access Requests document, printed on BHP letterhead, states:

1. Any request for access to the port facilities at Whyalla would be handled by the Vice-President-Steelworks.

2. An analysis will be undertaken of the request to ascertain:

(a) nature of request—has detailed, documented information of proposed access been provided?

(b) extra details—extra documented details of the proposed access that may be necessary, i.e., timetable of use, hours, type of cargo, handling requirements;

(c) impact—impact on the operation of the steelworks;

(d) cost—will BHP be liable for any cost if permission for access is granted?

(e) appropriateness—are the port facilities appropriate to the proposed use?

(f) safety—can the port facilities safely accommodate the proposed use? What will be the operational impacts to the steelworks in the event of certain mishaps occurring?

(g) financial viability of party—should BHP require an indemnity against loss, damage or liability and, if so, is the party requesting the use financially viable?

(h) environmental impact—what are the environmental risks associated with access?

(i) community impact—what value will access give to the economy of the Whyalla and regional community?

3. If the proposed use is likely to have any detrimental effect on the operation of the steelworks, or BHP is not satisfied that the above criteria will be addressed in an acceptable manner, it is likely that access will be denied.

It reads like quite a nice document if it is in your own backyard and 'who will have access to the garden', but this is Whyalla's port and this is one privately owned commercial enterprise virtually having total dictatorship as to who, how and in what way people will have access and alternative use of the port. There needs to be a revisiting by the government of the terms under which the new entity is able to accept or reject applications for access to the port. I do not believe it is appropriate that it be left totally in the hands of BHP. There is no reason why at some stage a decision by BHP could be made on a less than objective, impartial basis. I will not go into what possible scenarios could occur where there could be prejudice and unfair discrimination, but I am sure members have a pretty clear understanding of what can happen.

The Hon. T.G. Roberts: It might breach national competition policy.

The Hon. IAN GILFILLAN: That is a very good interjection. The only thing is that if it is entirely BHP's property, if it owns the whole facility, under common law it would have the power to determine who could use it and who could not. I really think it should be revisited. However, the question remains open; it does remain of concern. The Whyalla council, although very pleased with the end result and, as I have indicated before, quite keen to see a resolution and a satisfactory continuation of the works, has asked for some specific contributions by the state government. Although not having seen the original letter, I was advised by the council of ingredients of requests that were made to the government. I will mention these in my contribution and hope that the Treasurer will be able to respond to these by indicating which the government has agreed to do, which are still being considered and which it has declined to do. That is the very least that the government owes to the Whyalla community, represented by their council.

I understand that the letter that was sent asked for the waiving of all state government fees in regard to the transfer of the land from BHP to the council. Members will know that there is a large area of land that BHP is surrendering which will go to the council. It argues that no fees should be attached to that. The letter states:

. . . enter into an agreement that in the event that the land is not transferred to council by 31 December 2000, and therefore becomes the property of the state, that the state will agree to transfer the land expeditiously to council, again, with the waiving of all state fees;

· Establish a set of guidelines for the use of the land set aside for economic/industrial development such that provided any developer meets the criteria they could expect prompt approval. The system to be followed should be similar to that used by the City of Newcastle for its 'Steel River' site;

· Fence the area to be incorporated into the Whyalla Conservation Park.

Although I have not seen it myself, I am told that the fences which BHP originally put around the area set aside for conservation park are virtually defunct and should be restored. The second point of the letter states:

2. That the state government be requested to make immediately available the $654 000 it began collecting from Marand Whyalla for the purchase of the WHYTEC equipment which was purchased on behalf of the city from the SRAP (Steel Region Assistance Plan) [from the federal government] funds, including interest accrued, to be set aside in a council trust account for economic development.

The background of this will be familiar to the government. It relates to some very valuable and good quality equipment that was purchased very cheaply by Marand Whyalla. These funds have been collected and held by the state government, and the council believes that they should be made available to it. It continues:

3. That the state government be requested to make up the balance of the BHP rate equivalent to $550 000 per annum until the rates are ramped up by the new company to that amount on the basis that this funding could be seen as an industrial assistance package for the new company.

It may sound a rather dramatic request, but the fact is that it has been agreed that at least $550 000 is a fair rate equivalent per year. BHP has not been paying it or anything like it and so as not to put undue pressure on the new entity the council has agreed, one could say reluctantly, that the rate will add up in stages only until about the year 2007. The council feels that it should have been getting and should now get that amount and has made this request to the state government on that basis. The letter continues:

4. That a grant of at least $150 000 be sought from the Office of Recreation and Sports Regional Recreation and Sports Facilities Grant Scheme towards the cost of the Whyalla Recreation and Leisure Centre.

I was advised that the application for the grant, which was for a swimming centre, was approved but that because of one of those pedantic and ridiculous red tape quibbles it was knocked out as the council had started building the swimming centre which, according to the rule book, disqualified it from getting the grant. Council believes that it was unfairly penalised and it wants that money.

Whyalla council's fifth point is that an assurance be sought from the government that it will urgently seek to attend the 10 year waiting list for villa flats in Whyalla by undertaking redevelopment of some of the South Australian Housing Trust properties on vacant land and enter into a partnership with council to develop villa flats on the Eco City site. Its final point is that the Premier be asked to place the royalties paid on the iron ore mine—roughly $3 million a year, which I referred to earlier—into a fund to be used for economic diversification of the region, with matching funds being sought from both the state and federal governments,

recognising that the resource is finite and has been mined for 100 years.

A lot of that might sound like a Christmas list, but those who are sensitive to what is required to give strong vitality to a regional centre will recognise that most of these initiatives stand out clearly as essential for Whyalla to turn around and thrive as a regional city, to give it the scope to diversify, to give it the scope to patch up its own image and feel a renewed pride in itself with funds to express that pride. All the aspects that I have raised in my second reading contribution deserve attention by the government and by this parliament but, as I said earlier, Democrats support will not hinge on the government's response. That does not let the government off the hook. As a matter of conscience and obligation to regional South Australia and the City of Whyalla, it must respond to those requests.

My final and minor point I will raise again in committee, and that is the reallocation of a road reserve on the eastern boundary of land that is being returned to the city from BHP. It has been designated as a road reserve on the boundary of the conservation park. The council believes that it is anomalous to have a buffer and a road reserve on the side of a conservation park and it has asked me to ensure that the conservation park embraces the road reserve. I have had conversations with officers of the government and I believe that can be achieved. With those remarks, I indicate Democrats support.

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

STATUTES AMENDMENT (WARRANTS OF APPREHENSION) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 985.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the second reading of this bill. The Hon. Mr Gilfillan suggested in debate that I should put on record the reasons for wishing to progress this bill quickly. The government was motivated by some concern as to the adequacy of enforcement provisions in the case where unsupervised leave is granted to a youth under section 41(1) of the Young Offenders Act because of the distinctly different nature of this leave from the conditional release granted under section 41(2). While the government is not aware of any difficulty having arisen in practice, it wishes to forestall any possible technical legal argument as to the appropriate enforcement process. It was considered desirable to spell out the consequences of breach or revocation of this leave so as to avoid doubt.

The Leader of the Opposition raised some issues focused on the correspondence from the Youth Affairs Council of South Australia. I have not yet responded to the Youth Affairs Council but I have a letter ready to go in relation to that. It might be helpful if, in relation to this matter, I were to read into *Hansard* the response I intend to give to the Youth Affairs Council in relation to the issues it raised. The letter states:

You express concern about the proposal to give power to two members of the Training Centre Review Board to issue a warrant to apprehend a youth in certain circumstances. The proposal applies to youths in the following situations:

· youths who have been convicted of murder and who are released on licence by the Supreme Court (section 37); and

· youths on conditional release from detention after serving two-thirds of a sentence (section 41).

It should be noted that in each case the youth has committed an offence serious enough to warrant an immediate sentence of detention (that is, one that the court considered could not be appropriately punished in any lesser away). They may present a danger to the community. Their liberty when released under section 37 or section 41 is conditional only.

In the case of a youth convicted of murder, the act presently provides for the issue of a warrant by a justice, in the case where the DPP or the minister applies to revoke the leave, or in the case where the youth fails to appear in response to a summons. In the case of a youth conditionally released, a warrant may be issued by a justice, where the minister believes that the youth has failed to observe the conditions of release, and the youth fails to appear in response to a summons, or cannot be found. These situations would change slightly under this bill.

In the case of a youth convicted of murder, where an application is made by the DPP or the minister for the cancellation of the licence, two members of the board would be able to issue a warrant directly without the need to apply to the justice. This could be done either in lieu of a summons to compel the youth's attendance before the board or at the time of hearing, if the youth fails to appear in response to a summons. Likewise, in the case of a youth on conditional release, it would become possible for two members of the board to issue a warrant in the case where the youth cannot be found to serve the application on him or her or where the youth has been served but fails to appear.

It should be noted that, in this situation, there is not the initial option of issuing a warrant through a justice to bring the youth before the board. A summons must be used, unless the minister considers that the service of the summons would cause the youth to abscond, in which case the minister may apply to a judge for a warrant, or for an order dispensing with service.

Some points can be made.

1. The new proposal only adds a discretionary power. It will be up to the board whether and how it decides to use it. It is likely that the board members will proceed with caution because, if the warrant is not issued lawfully, it will be invalid and may result in action for false imprisonment. Hence, I expect that the power will only be used where the need to apprehend the youth is both clear and urgent.
2. Perhaps, in practice, the additional safeguard currently provided by the justice may not be very substantial. He or she will, in most cases, be relying on the same information as the board member who applies for the warrant. There could be cases where the apprehension of the youth is urgent and the additional value added by having the justice issue the warrant is by comparison negligible.

In my view, it is unlikely that these amendments will have any adverse effect on the rights of these youths under the proposed amendments. It should be remembered that their liberty is conditional only—

and I stress that is it conditional only—

and that their enjoyment of licence or conditional release needs to be balanced against any concerns for the safety of the community. I confirm that the Senior Judge of the Youth Court (a member of the board) has been consulted and has expressed no difficulty with the proposed amendments.

I think that that addresses the issues raised by the Leader of the Opposition. I hope that we will be able to proceed with the committee consideration of the bill. If there are some outstanding concerns that I am not able to adequately address, we can finalise consideration of the bill tomorrow. However, I would prefer to push on with it now and get it off the Notice Paper. Hopefully, it will not be controversial.

Bill read a second time and taken through its remaining stages.

SUMMARY OFFENCES (SEARCHES) AMENDMENT BILL

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. CAROLYN PICKLES: The government has an amendment on file, and if the Attorney can satisfy me that it gives people the right to refuse an intimate or intrusive search I will not proceed with my amendment. Perhaps the Attorney might like to talk to his amendment, and we can deal with it in that way.

The CHAIRMAN: I indicate that the Leader of the Opposition, the Hon. I. Gilfillan and the Attorney-General have similar amendments. How would the Attorney like this handled?

The Hon. K.T. GRIFFIN: Can I suggest that we discuss our respective amendments first and then make a decision.

The Hon. IAN GILFILLAN: My analysis of the three amendments is interesting. Paragraph (e) is critical in both my and the Hon. Carolyn Pickles' amendment, because that is where the major difference lies. The paragraph provides:

> (e) except where the detainee objects or it is not reasonably practicable to do so, an intimate search must be recorded on videotape.

This is a point I feel most strongly about, that the detainee should have the right to say 'No'. However, under the bill every detainee, where there is an intimate search, by law, would be videotaped.

As far as I am concerned, that is a major point in this legislation. I regard that as the most important aspect of my amendments. Interestingly though, after that provision we have some give and take. My amendment, which asked for there to be a document read aloud to the detainee (with the assistance of an interpreter if one is to be present during the search) in a form approved by the minister, explaining the various aspects of the videotape, has been picked up by the Attorney. I think that is very sensible of him, but it was not included in the Hon. Carolyn Pickles' amendment, although I am sure that she would not object to it.

The provision makes sure that a detainee is fully briefed as to the circumstances in which they find themselves. I think that paragraph (e) is critical. Many of my amendments are consequential on the success or otherwise of paragraph (e), which is exactly the same wording as that in the Hon. Carolyn Pickles' amendment.

The Hon. K.T. GRIFFIN: This issue is very important for the government. The whole premise of this legislation is that intimate searches will be videotaped but that there is a right to object to an intimate intrusive search. If one looks at the definitions, the clause provides:

> 'Intimate search' means a search of the body that involves exposure of, or contact with the skin of, the genital or anal area, the buttocks or, in the case of a female, the breasts, and includes an intimate intrusive search.

We then go to 'intrusive search', which means:

> . . . an internal search involving the introduction of anything into a bodily orifice;

And then we go further to 'intimate intrusive search', which means:

> . . . an intrusive search of the rectum or vagina;

It is the intimate intrusive search where under the bill there is a right to object, because they can be conducted only by a medical practitioner or a registered nurse. So, a third party will be present.

The Hon. T. Crothers: Will they be videotaped, too?

The Hon. K.T. GRIFFIN: In respect of an intimate intrusive search, if the defendant objects they will not then be videotaped.

The Hon. T. Crothers: But if they do not object, they will be videotaped.

The Hon. Ian Gilfillan: That is for an intrusive search.

The Hon. K.T. GRIFFIN: That is what I said: an intimate intrusive search will be videotaped unless the defendant objects. If the defendant objects, it will not be videotaped. The rationale for that is that an independent third person will be present, and that independent third person will be a medical practitioner or a registered nurse. The whole object of this is to provide independent evidence that will avoid a challenge to the integrity of the search or to the behaviour of the searching officer.

There are other protections in the legislation in relation to an endeavour to have a same sex person searching rather than mixed sex searches. The amendment proposed by the Hon. Mr Gilfillan is not acceptable to the government because it undermines the whole basis upon which this bill is premised and avoids appropriately addressing the harm that we are seeking to protect against.

If a defendant has a right to object to any intimate search—putting aside the issue of the intimate intrusive search—there is no point in having the bill, because if there are general pat-downs or other searches that are not intimate searches, if they are conducted in a general search area of a police station, they will be videotaped as a matter of course and there is no new issue in relation to those.

However, in relation to intimate searches, if a defendant is able to object—putting aside, as I say, intimate intrusive searches—it opens the way for the evidence of the search to be challenged. My concern is that there is an undue sensitivity in relation to intimate searches; that it seems to avoid coming to grips with the protections that are built into the bill and the principal act in relation to the conduct of searches and the circumstances in which they are conducted, and I suggest that it ignores the benefits that are likely to flow.

As a result of the bill being left on the table after it was introduced in August or September, the issue of the security of the videotapes was addressed and additional protections were built into the bill. In those circumstances, I submit to the committee that there are adequate protections and accordingly we ought to move to reject the proposed amendments of the Hon. Mr Gilfillan and the Hon. Carolyn Pickles and we ought to go with the original intention of the bill in the way in which it was drafted, subject to the amendments that I have on file, which merely seek to address the other issue that has been raised; that is, what does a police officer do in respect of explaining a person's rights?

We recognise that there are some difficulties in relation to the way in which it was originally framed and are seeking to have, in a sense, a pro forma available to police, which the police officer will present to the detainee and will be required to read to the detainee, with the assistance of an interpreter if one is to be present during a search. So, we have picked up a couple of the significant issues that have been addressed, but I strongly and vigorously oppose the amendments in relation to the right to object.

The Hon. T. CROTHERS: I do not have a sensitive bone in my body if it comes to intimate searching, because I understand the way that the rectal and vaginal areas have been used for thousands of years by different couriers as places of intimate concealment, but certain things do concern me, in respect of civil liberties, with the videotape.

Within the past week or so we have observed one of the police departments in that state, I think it was Ohio, where the mass murders occurred at the high school, and I think it was

the fire department which took pictures of the charnel-house that remained after the bodies were removed. Subsequently, those tapes were sold and shown on television. A similar position could develop in this case as well. One can imagine people selling tapes of vaginal and rectal examinations for which there would be, as small as it might be, a ready market.

Will the Attorney-General assuage my fears—and if he can I am inclined to support his amendments—by indicating how many copies of the videotape will be made; whether more than one copy will be made; and whether a senior officer only will have the authority to keep that tape safely under lock and key at all times? The Attorney-General has not addressed that matter—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Well, I have not heard you address it. It is a matter which concerns me. Otherwise, I would feel constrained to support your amendments because I understand the problems with concealed weapons; I understand the problems with concealed drugs; I understand the problem of concealed weapons particularly in prison; and I understand the drug problems in our gaols because of corrupt officials and the capacity of new prisoners to hide things in those orifices which I have mentioned when they first come into the gaol. I know we have provision for inspections in that regard, but it is amazing what some drug couriers have shown you can do in respect of smuggling drugs in condoms into the country. Now, if the Attorney-General can assuage my fears, I shall support his measure. If not, I will support the Gilfillan amendment.

The Hon. K.T. GRIFFIN: I draw the Hon. Mr Crothers' attention to new subsection (3c) of section 81, which provides:

> Arrangements must be made, at the request of a detainee, for the playing of a videotape at a reasonable time and place to be nominated by the member of the police force.

So, there is one copy of the tape. There can be a viewing by the defendant—

The Hon. T. Crothers: But you are assuming the police give the defendants their rights, and that is not always the case.

The Hon. K.T. GRIFFIN: There is an obligation—

The Hon. T. Crothers: But it is not always the case that it happens.

The Hon. K.T. GRIFFIN: They have to because, if they do not, in court there will be the issue about the availability of the evidence to the accused.

The Hon. T. Crothers: Assuming the accused has legal advice.

The Hon. K.T. GRIFFIN: Regardless. If it is an indictable offence, the Director of Public Prosecutions is required to disclose all the evidence, including the videotape that might have been taken and, if the law has not been complied with, there will be a very real question about admissibility of the evidence. New subsection (3d) provides that a detainee must be provided, on request and on payment of the fee, with a copy of the videotape.

The Hon. T. Crothers: Is there a provision for making copies?

The Hon. K.T. GRIFFIN: For the accused.

The Hon. T. Crothers: The act provides 'for the accused'. The fact is that there is a provision to make copies.

The Hon. K.T. GRIFFIN: There is, if the accused wants it. New subsection (3e) provides:

> A person (other than the detainee) must not play, or cause to be played, a videotape recording made under this section except
>
> (a) for purposes related to the investigation of an offence or alleged misconduct to which the person reasonably believes the recording may be relevant; or
>
> (b) for the purposes of, or purposes related to, legal proceedings, or proposed legal proceedings, to which the recording is relevant.

The penalty is a maximum fine of $10 000. New subsection (3f) provides:

> A videotape recording made under this section or a written record of an intimate search—

because if no videotape facilities are available, then there must be a handwritten record of what is done in the course of the search—

> must be destroyed—
>
> (a) if the Commissioner of Police is satisfied that it is not likely to be required for any of the purposes referred to in subsection (3e) [that is, for the purposes of litigation]; or
>
> (b) if a court or tribunal so orders.

New subsection (3g) provides:

> The Governor may, by regulation, provide for the storage, control, movement or destruction of videotape recordings and written records made of intimate searches under this section.

As I indicated when the bill was introduced, and then subsequently, it is intended that comprehensive regulations will be prepared to deal with all the minutiae including the keeping of the records, the security of the tape and the dealing with the tape. Of course, the act cannot come into operation until the regulations have been made. The regulations are subject to scrutiny by both the Legislative Review Committee and, of course, each house. It is also mandated that a procedure—which is not just the videotaping but the actual search—must be carried out humanely and with care to avoid, as far as reasonably practicable, offending genuinely held cultural values or religious beliefs and to avoid inflicting unnecessary physical harm, humiliation or embarrassment, and must not be carried out—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: —no, I am filling you in—in the presence or view of more than persons that are necessary for properly carrying out the procedure and satisfying any relevant statutory requirements.

The Hon. T. CROTHERS: The Attorney-General has still not satisfied me. At this stage I will be supporting the Gilfillan-Pickles amendment. The tape passes through too many hands and, without my having those regulations at my disposal to read the minutiae of the regulations in respect to safeguards, I cannot vote—and I do trust the Attorney—on the basis of 'live old horse and you'll eat grass'. He has not convinced me. The tape passes through far too many hands. Our public servants have been known to sell information before. All sorts of things have happened, not too often, fortunately, but things have happened in the Public Service that are not according to Hoyle. We have had corrupt prison officers and police before and I have no doubt that those tapes could fall into the wrong hands, given that they must pass through so many hands. That is too great a risk for me to take to support this bill. Perhaps if the bill is defeated the Attorney-General will revisit it but this time he will revisit it with a set of regulations that he proposes to insert should his proposition be put and carried. I shall be supporting the Gilfillan-Pickles amendment.

The Hon. IAN GILFILLAN: A lot of what the Attorney has identified as being the cautions and the appropriate procedures are laudable and supportable. That is not the issue. The issue is whether the person who has not been found guilty and who is actually being exposed to an intimate search

(which has been a procedure practised for many years) has the right to say 'No' to the option of having that procedure videotaped. The anomaly is if it is an intrusive search, they do. The Attorney has argued that, under those circumstances, there is a third person and therefore the detainee has this luxury of being able to say yes or no to being videotaped because having another person present guarantees that no abuse will be made and there will be no misappropriation of the videotape.

The Hon. T. Crothers interjecting:

The Hon. IAN GILFILLAN: Yes, it is, and it is important to realise that whatever small number it may be, the abuse of and embarrassment and injustice of that material being compulsory taken is far too high a price to pay for what I statistically put into *Hansard*—and I have not had a response from the Attorney. This whole issue is being put into place to deal with eight complaints over four years—an average of two a year.

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: If we were to have strictures in place to prevent any complaints under any circumstances, we would be hard bound with them, and there is no guarantee that the same number of complaints would not take place with the videotaping. We are denying people a basic human right on the basis of what were eight complaints laid over four years. I do not know the results of those eight—some of them may have been dismissed as being trivial or not appropriate, I do not know. But what a price to pay: to deny all detainees the right of saying, 'No, I choose not to have this videotaped.' Many will say yes, because they see it in their own protective interest to do so.

The Hon. T. Crothers interjecting:

The Hon. IAN GILFILLAN: Part of the amendments that we will be bringing in will ensure they are given a written instruction as to what it is about. That is another very constructive amendment that we will put in place. By far the most critical issue is whether we will deny the detainee the right to say, 'I choose not to have this procedure of an intimate search videotaped.'

The Hon. CAROLYN PICKLES: The opposition thanks all parties concerned; they have actually clarified our position on this. I now move:

Page 2, lines 22 to 25—leave out proposed paragraph (e) and insert:

(e) except where the detainee objects or it is not reasonably practicable to do so, an intimate search must be recorded on videotape;

We are not convinced by the Attorney-General's argument, although on the face of it, it did seem that it would be satisfactory to the proposals we were trying to support by way of this amendment. We are not convinced by it and we will be proceeding with our amendment.

The Hon. K.T. GRIFFIN: The government vigorously opposes the amendment. I understand that the numbers are against me but I will divide on it. I feel very strongly that this is an important measure—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I understand that but, with respect, there is a quite significant and unrealistic fear of what may happen with a videotape when in fact there are quite significant—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Well, that can happen, but at the moment there is nothing in place to deal with these sorts of searches. The police can now videotape an intimate search if a person consents, so there will not be any change to the current situation by passing the amendment. What the government will have to do is give consideration as to whether it is worth proceeding with the bill. We will pass it in some amended form in the Council. I expect that we will make that decision in the House of Assembly, but there is no good purpose being served in passing the bill with that amendment in it. At least with the government's bill, it does mean that there is a clear legislatively-based regime in place which deals with intimate intrusive searches, and whilst there may have been—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: A $10 000 fine plus all the consequences of inadmissibility, criticisms in court, police disciplinary proceedings are all very real consequences which flow. Obviously I will not be able to persuade members opposite to reject the amendment. I think, with respect, they are ill-advised but, as I say, we will have to make some decision as to whether or not it is worth proceeding with this bill which is designed to protect the accused as much as it is designed to protect the police against whom unfounded complaints may well be made and have been made in the past. I think there is a matter of public importance, and it is in the public interest to provide the safeguards which this bill unamended will provide for. If we cannot, we will give consideration as to whether it is worth proceeding.

The Hon. T. CROTHERS: If the government decides that it will not proceed with the bill in the lower house, I would suggest there is a strong risk being run of some private member in the upper house introducing it as a private member's bill which, in all probability, would be carried in this Council.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Then the government would have to publicly reject the safety measures contained in that private member's bill and suffer any electoral consequences that may flow from that with respect to civil liberties.

The Hon. NICK XENOPHON: I have a question of both the Hon. Carolyn Pickles and the Hon. Ian Gilfillan in relation to the amendment in the name of the Hon. Carolyn Pickles, which I understand is identical with the amendment of the Hon. Ian Gilfillan. The amendment provides:

except where the detainee objects or it is not reasonably practicable to do so, an intimate search must be recorded on videotape.

First, in terms of the manner of the objection—and I am sympathetic to the amendment—my concern is how is it proposed that that objection be recorded, because there could well be a factual dispute down the track as to whether there was an objection. It could be the word of the police officer against that of the detainee. I could see there may be some practical difficulties in that regard. I can understand the basis of the proposed amendment.

It seems to me there could be some evidential issues raised by virtue of the manner of objections. In other words, how do either the Hon. Carolyn Pickles or the Hon. Ian Gilfillan envisage an objection would take place? Would it be in writing or recorded in any way? What would be the protocol with respect to the objection, and ought any protocol envisaged be in some way included in this amendment?

The Hon. IAN GILFILLAN: The question is quite simply answered by indicating that, with this amendment, the law still remains that if the detainee does not object, the intimate search must be recorded on videotape. So, for a police officer not to have videotaped an intimate search, he

or she will have committed an offence unless they can show evidence that the detainee objected. So, the searching officer or officers would not leave themselves without a defence to the charge, 'You did not videotape that search,' unless they had in hand irrefutable evidence of the statement signed or recorded on video, as suggested, or on a tape indicating that the detainee had declined or objected to being videotaped.

Although I can see that it was a question that needed addressing, I cannot imagine any police officer who has not videotaped an intimate search not being sure that he or she did not have in hand tangible, irrefutable evidence that they did not videotape because the detainee had clearly said 'I object'. The ways of saying that you object are either by a signed statement or a tape recording, or if it is appropriate even a videotaped statement.

The Hon. NICK XENOPHON: Does the Hon. Ian Gilfillan concede that that is not necessarily the case? It could boil down to the word of the police officer as opposed to the word of the detainee. Whilst I understand the approach of the Hon. Ian Gilfillan, as the amendment is currently drafted there is still potential for an evidentiary argument in respect of the police officer's word as opposed to the word of the detainee. By virtue of the statutory regime in place here, it does not necessarily imply that there ought to be anything in writing or recorded. It could still boil down to an argument between the word of a police officer and the word of a detainee. That could potentially pose some difficulties for this amendment, notwithstanding the significant degree of sympathy I have for it. I am just concerned about the practicalities of—

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: The Attorney interjects and asks whether a person who was drunk could give a valid objection. I guess that is where I have some concern. There could be a question mark over the validity of an objection or the validity of someone declining to consent to a videotape, whether there could be a real issue there. But, on the other hand, and the concern has been expressed eloquently by the Hon. Ian Gilfillan, there is an argument against someone having a compulsory regime of videotaping. I am just trying to trawl through the difficulties and I would appreciate the Hon. Ian Gilfillan's response.

The Hon. IAN GILFILLAN: The concern that the Hon. Nick Xenophon expresses is rather a paradox because such an occurrence is most unlikely. In fact, I cannot even foresee the circumstances in which the detainee and the police officer would have different points of view. If the detainee does not object, the videotaping will go ahead and, if it does not go ahead, the police officer can be charged for not complying with the law. That may be an argument but, if the police officer wants to have a defence because he or she did not videotape, they have to be able to produce the evidence to show that the detainee objected. If the detainee objects and the police officer videotapes, there are grounds for a complaint to be lodged against the police officer or for destruction of the tape. The consequences of that do not, as I see it, impose any particular dilemma on the detainee insofar as the detainee has had the option but the police officer has not followed the instruction of the detainee.

The point raised by the Hon. Nick Xenophon is that, because it is not clear whether there has been fabrication of either the detainee's view of what happened or the police officer's view of what happened, the only time that that would come to a critical issue would be if there was a complaint lodged against the police officer and there was no videotape to indicate whether there were some grounds for the complaint.

If there is no videotape, it is as a result of either of two things. If the detainee objects to it, he or she will have that mitigating against their position on the complaint—they chose not to have a video and they lodged a complaint. Anyone who is listening to that would realise that there is some disadvantage in the detainee's argument because they said, 'I don't want to be videotaped but I have hence got a complaint'. Or, if there is no videotape and the detainee did not object, it is the fault of the police force and appropriate action should be taken. But those sorts of hazards will apply even if it is a compulsory regime, as the Attorney wants to see implemented under this bill. Nothing is ever perfect. As I have said before, we are going to replace eight complaints in four years under the current system with compulsory videotaping and, unless my amendment is successful, charges will be imposed on any one of those people who want a copy of the video.

It is loading a whole paraphernalia unnecessarily, in my view, and unjustly into a system that, in many circumstances, one could say is fixed. I do not know whether the Attorney realises it but we have 1 200 to 1 500 complaints about the police in general terms, only eight of which are related to this area, and we are going to throw away a basic human right of a person to say, 'No, I do not want this intimate search to be videoed', on the basis that we might reduce this number of two a year to say, one a year.

The Hon. NICK XENOPHON: Further to the amendment moved by the Hon. Carolyn Pickles, which is identical in terms to the Hon. Ian Gilfillan's amendment, reference is made to 'or it is not reasonably practicable to do so'. I ask either the Hon. Ian Gilfillan or the Hon. Carolyn Pickles in what circumstances they envisage it would not be reasonably practicable to do so, and whether they see any potential hazard as to an area of dispute being opened up in that regard? I will not pursue that matter any further.

The Hon. K.T. GRIFFIN: I object to the Hon. Mr Gilfillan's assertion that the bill is unjust. It is not unjust. There is no issue of justice in it. It is a question of how one can best record the events which occur and which might be the subject either of complaint or a challenge to the validity of the search at some time in the future. There is nothing unjust either about the way in which this bill is drafted or the government has sought to deal with the issue. It is a straightforward matter of video recording the best evidence possible, with significant protections in place, to ensure the integrity of the search and the behaviour of the police officer conducting the search.

The Hon. Mr Xenophon is raising some interesting issues about how one establishes that an objection has been made. I suppose you transfer the point of complaint from the conduct of the search to the point of the objection and then, rather than eliminating some of the areas of potential complaint, we merely translate them to some other part of the procedure. I suppose, under the Hon. Ian Gilfillan's proposal, there is a right to object if the person is non compos, under the influence of alcohol or a drug, mentally impaired, does not object and cannot legally object, presumably: then it is okay to go ahead. I would have thought that there was as much injustice in that as there is in dealing with it in the way in which we propose under the bill. So, the amendment is vigorously opposed for the reasons that I have indicated.

The Hon. T. CROTHERS: As an Independent member considering the Attorney's amendment and the Gilfillan-

Pickles amendment free of any party-political ties, it is not a question of injustice: it is a question of which of the amendments under the present circumstances and without the minutiae of the regulations that the honourable member says will follow once the bill is passed are most just for the citizens of this state. Without those regulations I say that the Pickles-Gilfillan amendments are more just than the Attorney's amendment. I do not say there is injustice at all. I think the honourable member is trying to be just, too.

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Well, he may have done but I want the—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: But I don't want to be tarred with that brush when people read *Hansard* and see the votes.

The Hon. K.T. Griffin: I won't tar you with that brush.

The Hon. T. CROTHERS: You may not but they may well see that so and so has voted, because you will divide on this. I do not want to be tarred with that brush. It is not a question of justice or injustice: it is a question of which of the amendments under the present circumstances are more just. I believe the Gilfillan-Pickles amendments under the present circumstances and without the minutiae of the regulations are more just than the ones the honourable member has tried to move obviously to correct all the circumstances in relation to the questions directed to him when we last were in committee on this matter. I am still in support of the Gilfillan-Pickles amendments, but I just thought that I would put that on record so that when heads are counted and names are entered into the *Hansard* my position in respect of justice or injustice will at least be clear.

The Hon. K.T. GRIFFIN: I certainly was not suggesting that the honourable member was unjust: I was responding to what the Hon. Mr Gilfillan had said. The honourable member had asserted that there was an injustice, and I took exception to that. I understand the Hon. Mr Crothers' point about the regulations and I am prepared to give some further consideration to that, certainly to the way in which they will be put together. In those circumstances there is some value in my seeking to have progress reported with the committee to have leave to sit again.

Progress reported; committee to sit again.

CORPORATIONS (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 917.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading of this bill. I understand that it is a very simple bill designed to enable South Australia, like all other states and the Northern Territory, to comply with its national corporations law obligations. According to the corporations agreement, which all of the above are party to, the Ministerial Council for Corporations oversees the operation of the corporations legislative scheme and legislative initiatives emerging from such a scheme. Therefore, according to this agreement, each state and territory is obliged to respond to commonwealth corporations legislation initiatives by enacting complementary legislation. This bill does not debate the merit of the most recent legislative initiatives as that debate has already occurred at ministerial council level. The bill simply enables the agreed processes to take place. Importantly, I note the amendments provided in this bill are consistent with those occurring in the commonwealth, the other states and the Northern Territory.

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

STATUTES AMENDMENT (PUBLIC TRUSTEE AND TRUSTEE COMPANIES—GST) BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 917.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. We understand that the purpose of this legislation is to accommodate the effect of the GST. I might add that the GST is a disastrous tax that the opposition does not support. In any case, it is important that goods and services legally bound by the GST do not slip through the net and suffer the costs of associated disadvantages of the GST without being able to claim any benefit in return. I certainly appreciate that fees payable by the public trustee and private trustee companies are limited by a statutory maximum, therefore making it difficult for these organisations to respond to the GST. I refer to the comments of the Law Society which were provided with a copy of this bill. Having examined the bill, the Law Society supports the proposal.

The Hon. T. CROTHERS secured the adjournment of the debate.

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

Second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this bill be now read a second time.

I seek leave to have the second reading report and detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

In August 1999, the Select Committee on Water Allocations in the South-East tabled its report.

The Select Committee investigated community views on water allocation and found that two clearly polarised views existed. One view advocates the allocation of water 'on demand', with the capability to transfer water allocations on a permanent or temporary basis. The other view advocates that water allocation must be related to landholding, which has become commonly referred to as pro rata.

The Select Committee considered that the 'on demand' system did not allocate the resource fairly nor did it ensure that water is available to meet the needs of future generations.

The Select Committee found that many people within the South-East believe that they have a right to the water located under their land and that their right to the water resource should not diminish when that water resource is prescribed. They also believe that past land values in the South-East were influenced by the ability to freely access the groundwater resource, and that they consequently paid a premium for their land.

Conversely, numerous people suggested an 'on demand' system is most effective in encouraging development and investment in the South-East as it allows water to be available for persons who are able and are prepared to develop the resource.

As a result of these findings and with a view to establishing a total market based approach to foster the most productive use of available water, the Select Committee recommended the allocation of all the remaining unallocated water on a pro rata basis. The allocations will be levied and it is hoped that this will provide

sufficient incentive for those who do not want to, or cannot, use the water, to transfer their licensed water allocation, either through sale or lease.

The Government supported the Select Committee's recommendations, with one exception and agreed to implement the recommendations, starting with the allocation of the remaining unallocated water in the five prescribed wells areas in the South-East on a pro rata basis.

On 3 August 1999, the Water Resources Act 1997 was amended to give the Minister authority to vary the existing South-East water allocation plans and to freeze any further consideration of applications for water in the five prescribed wells areas in the South-East until the Minister has varied the plans. That amendment gave the Minister the ability to vary the existing plans to provide a policy framework for the pro rata roll out. The freezing of further consideration of applications for water maximised the amount of water that will be available for the pro rata allocations and allows time for the pro rata allocation process to be undertaken.

The Select Committee recommended that the pro rata allocations be held with no requirement for the water to be developed, and to be transferable within the constraints of resource sustainability. It also recommended that before such an allocation could be used in any particular location, it would need to satisfy a hydrogeological assessment. This proposed further amendment, the Water Resources (Water Allocations) Amendment Bill 2000, will enable the issuing of the pro rata allocations in the way that the Select Committee intended.

The Water Resources (Water Allocations) Amendment Bill 2000 will amend the Water Resources Act 1997 by varying the provisions for water allocations to provide for two types of water allocations, namely water (taking) allocations and water (holding) allocations. The pro rata allocations will be issued as water (holding) allocations unless the applicant specifically requests a water (taking) allocation, in which case there will be specific requirements to be met before such a water (taking) licensed allocation can be issued.

Both types of allocations will be levied, but to provide flexibility for how such levies are set, an amendment has been included that provides the opportunity for different levies to be set for water (taking) allocations and water (holding) allocations from the one resource.

The freeze on water allocations came into effect on 3 August 1999, some eight months ago. There has been a halt on development opportunities while the pro rata process is being implemented. It is now time to finalise the pro rata allocations and to issue the licences. The variations to the existing water allocation plans need to be finalised so that the pro rata allocations have a policy base. The variations to the plans cannot be finalised until this Bill is passed.

Approval of this Bill will allow the pro rata allocation period to be completed as soon as possible, following which any water not allocated through the pro rata process will be available for allocation subject to the policies in the water allocation plans as varied.

I am aware that some members believe that other amendments should be made to the Water Resources Act 1997 at this time. However, the time needed to draft and debate additional amendments will significantly delay the pro rata allocation of water, and also hold up the opportunities for a number of proposed developments in the South-East.

In summary, this Bill will provide the amendments to the Water Resources Act 1997 that are necessary to enable the pro rata allocation of water in the South-East to be undertaken.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 3—Interpretation

This clause inserts definitions of 'water (holding) allocation' and 'water (taking) allocation' and makes other consequential changes to the interpretive provision of the principal Act.

Clause 3: Amendment of s. 29—Licences

This clause amends section 29 of the principal Act to accommodate the two kinds of water allocation that can be endorsed on licences.

Clause 4: Amendment of s. 33—Method of fixing water (taking) allocations

This clause makes a consequential amendment to section 33 of the principal Act.

Clause 5: Amendment of s. 34—Allocation of water

This clause makes a consequential amendment to section 34 of the principal Act.

Clause 6: Insertion of s. 35A and 35B

This clause inserts new sections 35A and 35B. Section 35A provides for water (holding) allocations. A water (holding) allocation preserves a part of the available water in a water resource for the holder of the licence on which the allocation is for the time being endorsed. Water cannot be taken pursuant to a water (holding) allocation but the licensee can request that the Minister convert the allocation to a water (taking) allocation at any time—*see* subsection (7).

A water (holding) allocation can only be endorsed on a licence if the relevant water allocation plan provides for the endorsement of such allocations.

Section 35B enable a water allocation plan to provide for preference to be given to certain landowners in the allocation of unallocated water from its water resource.

Clauses 7 and *8:*

These clauses make consequential changes to section 36 and 37 respectively of the principal Act.

Clause 9: Amendment of s. 120—Interpretation

This clause amends section 120 of the principal Act. Division 1 of Part 8 of the principal Act provides for a levy based on the right to take water or on the quantity of water actually taken. Subsection (2) inserted by this clause provides that a licence endorsed with a water (holding) allocation will be taken to confer the right to take water for the purposes of that Division thereby enabling the imposition of the levy in respect of that allocation. The other two subsections inserted by this clause are consequential.

Clause 10: Amendment of s. 122—Declaration of levies by the Minister

This clause amends section 122 of the principal Act to enable different levies to be imposed in respect of water (taking) allocations and water (holding) allocations.

Clause 11: Amendment of s. 138—Imposition of levy by constituent councils

This clause replaces paragraph *(b)* of subsection (5) of section 138 and adds new paragraph *(c)* to subsection (5). Paragraph *(b)* now provides that if contiguous land is owned or occupied by the same person and is in the area of the same council it must be regarded as a single parcel for the purposes of a levy based on a fixed amount. New paragraph *(c)* provides that where land is not contiguous but is owned or occupied by the same person, is used for primary production and is managed as a single unit for that purpose it too must be regarded as a single parcel for a levy based on a fixed amount.

Clause 12: Insertion of s. 159

This clause inserts a new section into the principal Act that requires the Minister to review the operation of the Act before 1 July 2002.

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

SOUTH AUSTRALIAN HEALTH COMMISSION (DIRECTION OF HOSPITALS AND HEALTH CENTRES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) AMENDMENT BILL

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

ADJOURNMENT

At 9.29 p.m. the Council adjourned until Wednesday 3 May at 2.15 p.m.